



Federal Register

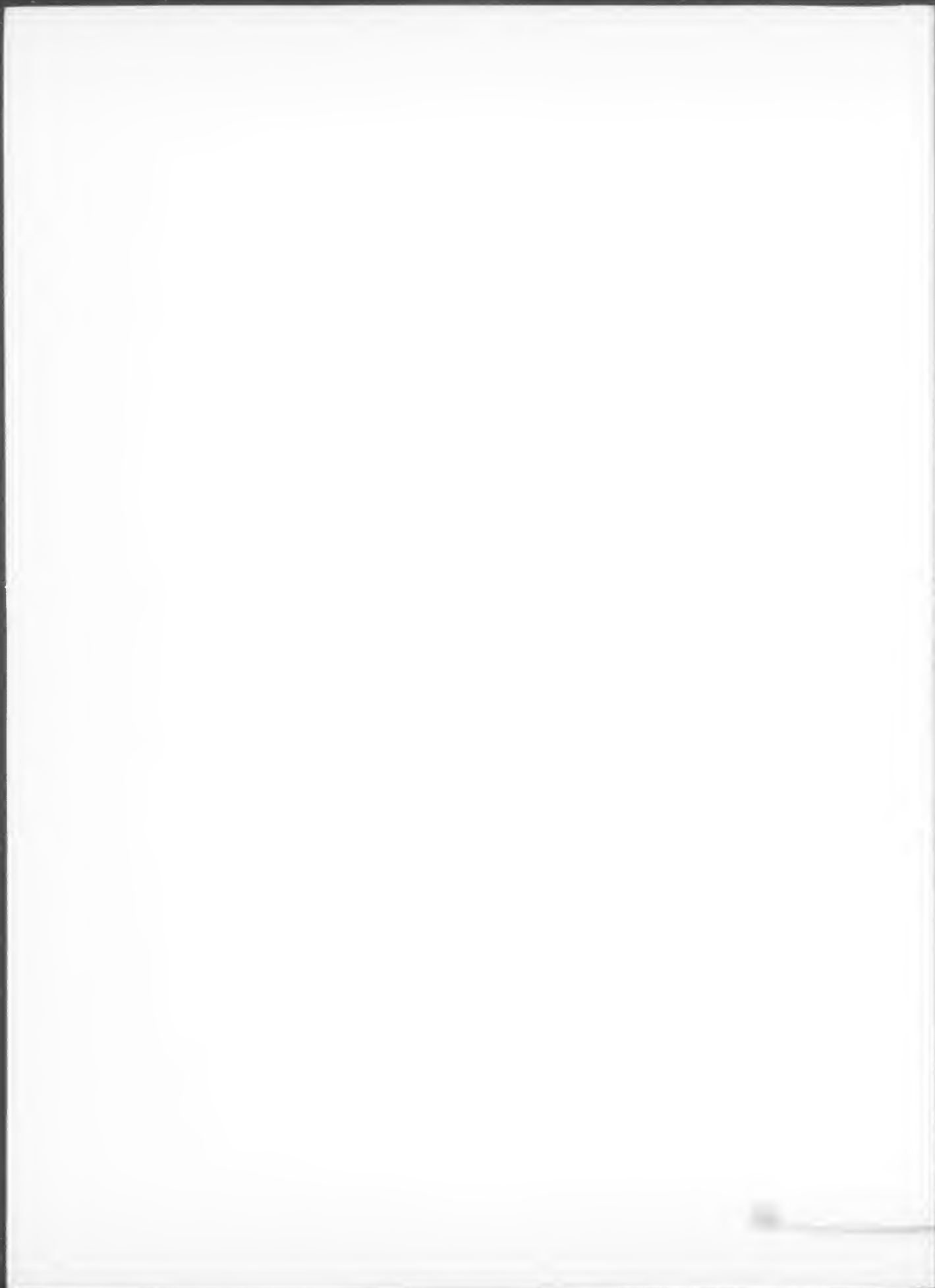
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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

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

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
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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, May 9, 2006
 9:00 a.m.-Noon

WHERE: Office of the Federal Register
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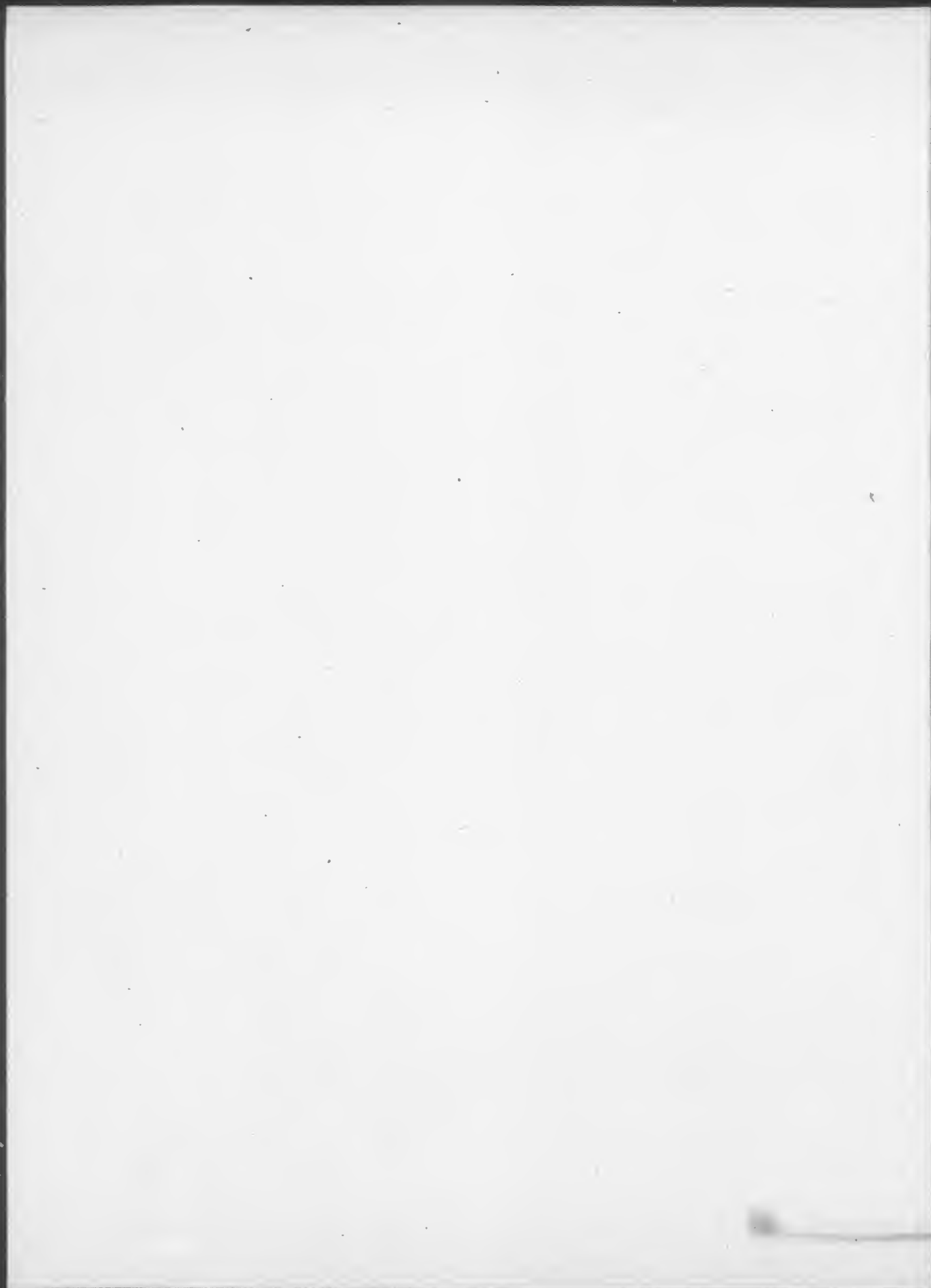
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Federal Register

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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.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 1924

RIN 0575-AC63

Surety Requirements

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service is amending its regulations to change the threshold for surety requirements guaranteeing payment and performance from a \$100,000 contract amount to the maximum Rural Development Single Family Housing area lending limit. This limit will vary by locality. This will liberalize the requirement for surety and take into account the increased construction cost of single family homes in Rural Development's Single Family Housing Program. This will ease the burden on small contractors for whom obtaining surety is difficult and expensive, thereby reducing costs to our single family housing borrowers.

On August 26, 2005 (70 FR 50222), the Rural Housing Service proposed to change the surety requirements for Single Family Housing loans under Section 502 of the Housing Act of 1949 (42 U.S.C. 1472). The rule, open for comment for a period of 60 days, received two comments regarding its implementation in Rural Housing procedure. The first comment is in favor of this final rule, thus reinforcing the idea that reducing costs for the contractor by raising the threshold at which surety is required, ultimately benefits the borrower through greater cost savings. The second comment does not favor the proposed rule. The essence of this argument is based upon protecting federal funds, by providing surety (performance and payment bonds). The cost of surety places a greater financial burden on the

borrower, as well as making it more difficult for small contractors in rural areas to service RHS borrowers. RHS oversees the construction process until the project is complete, insuring that Federal funds are properly disbursed for the adequate amount of completed construction demonstrated by the contractor. In addition, surety requirements are not entirely eliminated in Single Family Housing. If the borrower requests surety or the loan official feels that additional security is needed for a specific project, then surety will be provided.

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

FOR FURTHER INFORMATION CONTACT: Michel Mitias, Technical Support Branch, Program Support Staff, Rural Housing Service, U.S. Department of Agriculture, STOP 0761, 1400 Independence Avenue, SW., Washington, DC 20250-0761; Telephone: 202-720-9653; FAX: 202-690-4335; E-mail: michel.mitias@wdc.usda.gov.

SUPPLEMENTARY INFORMATION:

Classification

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

Civil Justice Reform

In accordance with this rule: (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 in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule, unless those regulations specifically allow bringing suit at an earlier time.

Regulatory Flexibility Act

The Administrator of the Rural Housing Service has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

Paperwork Reduction Act

There are no new reporting and recordkeeping requirements associated with this rule.

Unfunded Mandates Reform Act

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." RHS has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Programs Affected

The programs affected are listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very Low to Moderate Income Housing Loans, and Number 10.415, Rural Rental Housing Loans. Rural Rental Housing Loans will be affected for those construction contracts above the applicable Rural Development area loan limit.

Intergovernmental Review

RHS conducts intergovernmental consultation in the manner delineated in RD Instruction 1940-J, "Intergovernmental Review of Rural Development Programs and Activities," and in 7 CFR part 3015, subpart V. The Very Low to Moderate Income Housing Loans Program, Number 10.410, is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. Rural Rental Housing Loans Program, Number 10.415, conducts intergovernmental reviews on a case-by-case basis. An intergovernmental review for this revision is not required or applicable.

Background

RHS administers the Direct Single Family Housing Loan and Grant program pursuant to 7 CFR part 3550,

designed to assist very low and low-income households to obtain modest, decent, safe, and sanitary housing for use as permanent residences in rural areas. Direct loans may be used to buy, build, or improve the applicant's permanent residence. RHS regulations in 7 CFR part 1924, subpart A, contain requirements for construction which is funded with direct RHS loans, including direct single family housing loans. The regulation also applies to larger direct funded construction projects by other programs in the Rural Development mission area. This regulation was originally promulgated on March 13, 1987 in 52 FR 41833. One of the requirements in this regulation is that for construction work performed by the contract method (where the borrower contracts with a builder for the construction), the builder must obtain a surety bond guaranteeing payment and performance in the amount of the contract when the contract exceeds \$100,000. This amount has remained unchanged since 1987. In 1987, a single family house constructed and financed under the direct single family housing loan program would not exceed \$100,000. Since 1987, construction costs for single family houses financed by RHS have dramatically increased so that now construction costs frequently exceed \$100,000. The requirement that builders obtain surety bonds when the construction contract exceeds \$100,000 has made it difficult for contractors to compete for direct single family housing projects financed by RHS. While the regulation contains internal exceptions for the \$100,000 requirement, none of these exceptions satisfactorily resolves the cost burden for builders of direct single family housing.

The revision to 7 CFR 1924.6(a)(3)(i)(A) will facilitate the process of construction by raising the threshold when the contractor must acquire surety bonds. The purpose of this regulation is to revise the existing surety bond requirement for direct funded single family housing. The new threshold will be when the contract exceeds the applicable RHS area single family housing loan limit as established pursuant to 7 CFR 3550.63. The limit for any particular area is available from any Rural Development office.

The provisions in 7 CFR 1924.6(a)(3)(i) that require payment and performance bonds when construction is under this threshold amount remain unchanged. RHS has determined that changing the threshold for payment and performance bonds provides for more flexibility, is locality based, borrowers are adequately protected, and housing costs are reduced.

List of Subjects in 7 CFR Part 1924

Agriculture, Construction management, Construction and repair, Energy conservation, Housing, Loan programs—Agriculture, Low and moderate income housing.

■ For the reasons set forth in the preamble, chapter XVIII, title 7, of the Code of Federal Regulations is amended as follows:

PART 1924—CONSTRUCTION AND REPAIR

■ 1. The authority citation for part 1924 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart A—Planning and Performing Construction and Other Development

■ 2. Section 1924.6 is amended by revising paragraph (a)(3)(i)(A) to read as follows:

§ 1924.6 Performing development work.

* * * * *

(a) * * *

(3) * * *

(i) * * *

(A) The contract exceeds the applicable Rural Development Single Family Housing area loan limit as per 7 CFR 3550.63. (Loan limits are available at the local Rural Development field office.)

* * * * *

Dated: March 30, 2006.

Russell T. Davis,

Administrator, Rural Housing Service.

[FR Doc. 06-4089 Filed 5-1-06; 8:45 am]

BILLING CODE 3410-XV-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AH93

List of Approved Spent Fuel Storage Casks: NUHOMS® HD Addition

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to add the NUHOMS® HD cask system to the list of approved spent fuel storage casks. This direct final rule allows the holders of power reactor operating licenses to store spent fuel in this approved cask system under a general license.

DATES: The final rule is effective July 17, 2006, unless significant adverse

comments are received by June 1, 2006. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150-AH93) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comment will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; e-mail cag@nrc.gov. Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays [telephone (301) 415-1966].

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/index.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and

Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov. An electronic copy of the proposed Certificate of Compliance (CoC), TS, and preliminary safety evaluation report (SER) can be found under ADAMS Accession Nos. ML052860036, ML052860043, and ML052860049, respectively.

CoC No. 1030, the TS, the underlying SER, and the Environmental Assessment (EA) are available for inspection at the NRC PDR, 11555 Rockville Pike, Rockville, MD. Single copies of these documents may be obtained from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982; as amended (NWPAA), requires that "[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission." Section 133 of the NWPAA states, in part, that "[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor."

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR Part 72 entitled "General License for Storage of Spent Fuel at Power Reactor Sites" (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR Part 72, entitled "Approval of Spent Fuel

Storage Casks," containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs.

Discussion

On May 5, 2004, and as supplemented on July 6, August 16, October 11, October 28, November 19, 2004; February 18, March 7, April 14, May 20, May 24, August 16, 2005; and January 24 and February 15, 2006, the certificate holder, Transnuclear, Inc. (TN), submitted an application to the NRC to add the NUHOMS® HD cask system to the list of NRC approved casks for spent fuel storage in 10 CFR 72.214. The NUHOMS® HD System provides for the horizontal storage of high burnup spent pressurized water reactor fuel assemblies in a dry shielded canister that is placed in a horizontal storage module utilizing an OS187H transfer cask. The system is an improved version of the Standardized NUHOMS® System described in CoC 1004. The NUHOMS® HD System has been optimized for high thermal loads, limited space, and radiation shielding performance. The -32PTH dry shielded canister (DSC) included in this system is similar to the -24PTH DSC submitted for licensing as Amendment No. 8 to the Standardized NUHOMS® System. The -32PTH DSC will be transferred during loading operations using the OS-187H transfer cask (TC). The OS-187H TC is very similar to the OS-197 and OS-197 TCs described in the final safety analysis report for the Standardized NUHOMS® System. The -32PTH DSC will be stored in a horizontal storage module (HSM), designated the HSM-H. The HSM-H is virtually identical to the HSM-H submitted for licensing as Amendment No. 8 to the Standardized NUHOMS® System. The NRC finds that the TN NUHOMS® HD cask system, as designed and when fabricated and used in accordance with the conditions specified in its CoC, meets the requirements of 10 CFR Part 72. Thus, use of the TN NUHOMS® HD cask system, as approved by the NRC, will provide adequate protection of public health and safety and the environment. Simultaneously, the NRC is issuing a final SER and CoC that will be effective on July 17, 2006. Single copies of the CoC and SER are available for public inspection and/or copying for a fee at the NRC Public Document Room, O-1F21, 11555 Rockville Pike, Rockville, MD.

This direct final rule adds the NUHOMS® HD Storage System to the listing in 10 CFR 72.214 by adding CoC No. 1030.

The NUHOMS® HD Storage System, when used under the conditions

specified in the CoC, the TS, and NRC regulations, will meet the requirements of Part 72; thus, adequate protection of public health and safety will continue to be ensured.

Discussion of Amendments by Section

Section 72.214 List of Approved Spent Fuel Storage Casks

CoC No. 1030 is added to the list of approved spent fuel storage casks.

Procedural Background

This rule is limited to the conditions contained in CoC No. 1030. The NRC is using the "direct final rule procedure" to issue this addition because it represents an improved version of the Standardized NUHOMS® System described in existing CoC 1004, and its addition to the list of approved spent fuel storage casks is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on July 17, 2006. However, if the NRC receives significant adverse comments by June 1, 2006, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments, published elsewhere in this issue of the **Federal Register**, in a subsequent final rule. The NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the CoC or TS.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will add the NUHOMS® HD System to the listing in § 72.214 (List of NRC-approved spent fuel storage cask designs). This action does not constitute the establishment of a standard that establishes generally applicable requirements.

Agreement State Compatibility

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the *Federal Register* on September 3, 1997 (62 FR 46517), this rule is classified as Compatibility Category "NRC." Compatibility is not required for Category "NRC" regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws but does not confer regulatory authority on the State.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled "Plain Language in Government Writing," directed that the Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading ADDRESSES above.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in subpart A of 10 CFR part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule will add the CoC for the NUHOMS® HD System within the

list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. The NUHOMS® HD System provides for the horizontal storage of high burnup spent pressurized water reactor fuel assemblies in a dry shielded canister that is placed in a horizontal storage module utilizing an OS187H transfer cask. The system is an improved version of the Standardized NUHOMS® System described in CoC 1004. The NUHOMS® HD System has been optimized for high thermal loads, limited space, and radiation shielding performance. The -32PTH dry shielded canister (DSC) included in this system is similar to the -24PTH DSC submitted for licensing as Amendment No. 8 to the Standardized NUHOMS® System. The -32PTH DSC will be transferred during loading operations using the OS-187H transfer cask (TC). The OS-187H TC is very similar to the OS-197 and OS-197 TCs described in the final safety analysis report for the Standardized NUHOMS® System. The -32PTH DSC will be stored in a horizontal storage module (HSM), designated the HSM-H. The HSM-H is virtually identical to the HSM-H submitted for licensing as Amendment No. 8 to the Standardized NUHOMS® System. The EA and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the EA and finding of no significant impact are available from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement 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 Number 3150-0132.

Public Protection Notification

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

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the Commission issued an amendment to 10 CFR Part 72. The amendment provided

for the storage of spent nuclear fuel in cask systems with designs approved by the NRC under a general license. Any nuclear power reactor licensee can use cask systems with designs approved by the NRC to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. In that rule, four spent fuel storage casks were approved for use at reactor sites and were listed in 10 CFR 72.214. That rule envisioned that storage casks certified in the future could be routinely added to the listing in 10 CFR 72.214 through the rulemaking process. Procedures and criteria for obtaining NRC approval of new spent fuel storage cask designs were provided in 10 CFR part 72, subpart L.

The alternative to this action is to withhold approval of this new design and issue a site-specific license to each utility that proposes to use the casks. This alternative would cost both the NRC and utilities more time and money for each site-specific license. Conducting site-specific reviews would ignore the procedures and criteria currently in place for the addition of new cask designs that can be used under a general license, and would be in conflict with NWPA direction to the Commission to approve technologies for the use of spent fuel storage at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site reviews. This alternative also would tend to exclude new vendors from the business market without cause and would arbitrarily limit the choice of cask designs available to power reactor licensees. This final rulemaking will eliminate the above problems and is consistent with previous Commission actions. Further, the rule will have no adverse effect on public health and safety.

The benefit of this rule to nuclear power reactor licensees is to make available a greater choice of spent fuel storage cask designs that can be used under a general license. The new cask vendors with casks to be listed in 10 CFR 72.214 benefit by having to obtain NRC certificates only once for a design that can then be used by more than one power reactor licensee. The NRC also benefits because it will need to certify a cask design only once for use by multiple licensees. Casks approved through rulemaking are to be suitable for use under a range of environmental conditions sufficiently broad to encompass multiple nuclear power plants in the United States without the need for further site-specific approval

by NRC. Vendors with cask designs already listed may be adversely impacted because power reactor licensees may choose a newly listed design over an existing one. However, the NRC is required by its regulations and NWPAs to direct to certify and list approved casks. This rule has no significant identifiable impact or benefit on other Government agencies.

Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the final rule are commensurate with the Commission's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and TN. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

Congressional Review Act

Under the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

■ For the reasons set out 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 part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109-58, 119 Stat. 806-10 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance 1030 is added to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1030.
Initial Certificate Effective Date: July 17, 2006.

SAR Submitted by: Transnuclear, Inc.
SAR Title: Final Safety Analysis Report for the NUHOMS® HD Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72-1030.
Certificate Expiration Date: July 17, 2026.

Model Number: NUHOMS® HD-32PTH.

* * * * *

Dated at Rockville, Maryland, this 13th day of April, 2006.

For the Nuclear Regulatory Commission.
William F. Kane,
Acting Executive Director for Operations.
[FR Doc. 06-4115 Filed 5-1-06; 8:45 am]

BILLING CODE 7590-01-P

FARM CREDIT SYSTEM INSURANCE CORPORATION

12 CFR Part 1412

RIN 3055-AA08

Golden Parachute and Indemnification Payments

AGENCY: Farm Credit System Insurance Corporation (FCSIC or Corporation).

ACTION: Notice of effective date.

SUMMARY: The Corporation published a final rule under part 1412 on February 13, 2006 (71 FR 7402) limiting golden parachute and indemnification payments to institution-related parties (IRPs) by Farm Credit System institutions, including their subsidiaries, service corporations and affiliates. The purpose of the rule is to prevent abuses in golden parachute and indemnity payments and to protect the assets of the institution and the Farm Credit System Insurance Fund. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the *Federal Register* during which either or both Houses of Congress are in session. Based on the records of Congress, the effective date of the regulation is April 26, 2006.

EFFECTIVE DATE: The regulation adding 12 CFR part 1412 published on February 13, 2006 (71 FR 7402) is effective April 26, 2006.

FOR FURTHER INFORMATION CONTACT: Dorothy L. Nichols, Chief Operating Officer, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, VA 22102, 703-883-4211, TTY 703-883-4390, Fax 703-790-9088.

Dated: April 26, 2006.

Roland E. Smith,
Secretary to the Board, Farm Credit System Insurance Corporation.

[FR Doc. 06-4095 Filed 5-1-06; 8:45 am]

BILLING CODE 6710-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-23820; Directorate Identifier 2005-NM-249-AD; Amendment 39-14578; AD 2004-03-15 R1]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is revising an existing airworthiness directive (AD) that applies to certain Bombardier Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 airplanes. That AD currently requires performing a one-time inspection to detect chafing of electrical wires in the cable trough below the cabin floor; repairing, if necessary; installing additional tie-mounts and tie-wraps; applying sealant to rivet heads; and modifying electrical wires in certain sections. We issued that AD to prevent chafing of electrical wires. This new AD, for certain airplanes, eliminates the requirement to modify electrical wires in certain sections. This AD results from a report indicating that the modification of electrical wires does not need to be done on certain airplanes subject to the existing AD. We are issuing this AD to prevent chafing of electrical wires, which could result in an uncommanded shutdown of an engine during flight.

DATES: The effective date of this AD is March 19, 2004.

On March 19, 2004 (69 FR 7111, February 13, 2004), the Director of the Federal Register approved the incorporation by reference of Bombardier Service Bulletin 8-53-80, Revision "A", dated July 25, 2000.

On October 27, 1998 (63 FR 50501, September 22, 1998) the Director of the Federal Register approved the incorporation by reference of Bombardier Service Bulletin S.B. 8-53-66, dated March 27, 1998.

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

Contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K

1Y5, Canada, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Douglas G. Wagner, Aerospace Engineer, Systems and Flight Test Branch, ANE-172, New York Aircraft Certification Office, FAA, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7306; fax (516) 794-5531.

SUPPLEMENTARY INFORMATION:

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 street address stated in the **ADDRESSES** section.

Discussion

The FAA proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with an airworthiness directive (AD) to revise AD 2004-03-15, amendment 39-13459 (69 FR 7111, February 13, 2004). The existing AD applies to certain Bombardier Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 airplanes. The proposed AD was published in the **Federal Register** on February 8, 2006 (71 FR 6408) to, for certain airplanes, eliminate the requirement to modify electrical wires in certain sections.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Changes to NPRM

We have corrected a typographical error in paragraph (i) of the NPRM by changing the date of the Canadian airworthiness directive.

We have also revised the model designations in the NPRM to match the format of the model designations in AD 2004-03-15.

Conclusion

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

Costs of Compliance

This new AD adds no new costs to affected operators; in fact, it reduces the costs for airplanes that are not subject to the modification of certain wiring.

We estimate that 173 airplanes of U.S. registry will be subject to the inspection, installation of additional tie-mounts and tie-wraps, and application of sealant to rivet heads that are currently required by AD 2004-03-15. These actions take between 80 and 100 work hours per airplane, at an average labor rate of \$65 per work hour. Required parts are provided by the manufacturer at no cost to the operator. Based on these figures, the estimated cost of these actions on U.S. operators is between \$899,600 and \$1,124,500, or between \$5,200 and \$6,500 per airplane.

We estimate that 103 airplanes of U.S. registry are subject to the modification of certain wiring that is currently required by AD 2004-03-15. This action takes approximately 10 work hours per airplane, at an average labor rate of \$65 per work hour. Required parts are provided by the manufacturer at no cost to the operator. Based on these figures, the estimated cost of the modification on U.S. operators is \$66,950, or \$650 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 removing amendment 39-13459 (69 FR 7111, February 13, 2004) and adding the following new airworthiness directive (AD):

2004-03-15 R1 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39-14578. Docket No. FAA-2006-23820; Directorate Identifier 2005-NM-249-AD.

Effective Date

(a) The effective date of this AD is March 19, 2004.

Affected ADs

(b) This AD revises AD 2004-03-15.

Applicability

(c) This AD applies to Bombardier Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 airplanes; certificated in any category; serial numbers 3 through 540 inclusive, excluding serial number 462.

Unsafe Condition

(d) This AD results from a report indicating that the modification of electrical wires does not need to be done on certain airplanes subject to the existing AD. We are issuing this AD to prevent chafing of electrical wires, which could result in an uncommanded shutdown of an engine during flight.

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.

Requirements of AD 2004-03-15

One-time Inspection, Corrective Action, and Modification

(f) Perform a one-time general visual inspection to detect chafing of electrical wires in the cable trough below the cabin floor; install additional tie-mounts and tie-wraps; and apply sealant to rivet heads (reference Bombardier Modification 8/2705); in accordance with Bombardier Service Bulletin S.B. 8-53-66, dated March 27, 1998, at the time specified in paragraph (f)(1) or (f)(2) of this AD, as applicable. If any chafing is detected during the inspection required by this paragraph, prior to further flight, repair in accordance with the service bulletin.

Note 1: For the purposes of this AD, a general visual inspection is defined as: "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."

(1) For airplanes having serial numbers 3 through 518 inclusive, excluding serial number 462: Inspect within 36 months after October 27, 1998 (the effective date of AD 98-20-14, amendment 39-10781).

(2) For airplanes having serial numbers 519 through 540 inclusive: Inspect within 36 months after November 10, 1999 (the effective date of AD 99-21-09, amendment 39-11352, which superseded AD 98-20-14), or at the next "C" check, whichever occurs first.

Modification

(g) For Model DHC-8-102, -103, and -106 airplanes; and Model DHC-8-201 and -202 series airplanes: Within 36 months after March 19, 2004 (the effective date of AD 2004-03-15), modify the electrical wires in the cable trough below the cabin floor at Sections X510.00 to X580.50 (including performing a general visual inspection and any applicable repair), in accordance with Part III, paragraphs 1 through 9 and 12 through 20, of the Accomplishment Instructions of Bombardier Service Bulletin 8-53-80, Revision "A," dated July 25, 2000. Any applicable repair must be done before further flight. Accomplishment of these actions before March 19, 2004, in accordance with Bombardier Service Bulletin 8-53-80, dated December 22, 1999, is considered acceptable for compliance with the actions required by this paragraph.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, New York Aircraft Certification Office, FAA, has the authority to

approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

Related Information

(i) Canadian airworthiness directive CF-1998-08R2, dated July 12, 2000, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use Bombardier Service Bulletin S.B. 8-53-66, dated March 27, 1998; and Bombardier Service Bulletin 8-53-80, Revision "A," dated July 25, 2000; as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) On March 19, 2004 (69 FR 7111, February 13, 2004), the Director of the Federal Register approved the incorporation by reference of Bombardier Service Bulletin 8-53-80, Revision "A," dated July 25, 2000.

(2) The incorporation by reference of Bombardier Service Bulletin S.B. 8-53-66, dated March 27, 1998, was approved previously by the Director of the Federal Register as of October 27, 1998 (63 FR 50501, September 22, 1998).

(3) Contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL-401, Nassif Building, Washington, DC; on the Internet at <http://dms.dot.gov>; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741-6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Renton, Washington, on April 19, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 06-4050 Filed 5-1-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 060404096-6112-02]

RIN 0694-AD66

Implementation of New Formula for Calculating Computer Performance: Adjusted Peak Performance (APP) in Weighted TeraFLOPS; Bulgaria; XP and MT Controls

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Correcting amendments.

SUMMARY: This document corrects four errors that appeared in a rule published by the Bureau of Industry and Security on April 24, 2006 (71 FR 20876). That rule implemented a new formula for computer performance as agreed to by the Wassenaar Arrangement, moved Bulgaria from Computer Tier 3 to Computer Tier 1, and made other related technical changes.

DATES: Effective May 2, 2006.

FOR FURTHER INFORMATION CONTACT: For questions of a general nature contact Sharron Cook, Office of Exporter Services, Regulatory Policy Division at (202) 482-2440 or e-mail: scook@bis.doc.gov.

For questions of a technical nature contact: Joseph Young, Office of National Security and Technology Transfer Controls at 202-482-4197 or e-mail: jyoung@bis.doc.gov.

SUPPLEMENTARY INFORMATION:**Background**

On April 24, 2006, the Bureau of Industry and Security published a final rule to implement the Wassenaar Arrangement's December 2005 agreement to revise the formula for calculating computer performance from Composite Theoretical Performance (CTP) measured in Millions of Theoretical Operations Per Second (MTOPS) to Adjusted Peak Performance (APP) measured in Weighted TeraFLOPS (Trillion Floating point Operations Per Second) (WT) (71 FR 20876) and to make certain other technical changes to the EAR. One such change was to remove missile technology as a reason for control from some Export Control Classification Numbers (ECCNs). In the preamble to the rule, the discussion of the changes made to Missile Technology Controls contained two typographical errors. In the second sentence under the heading "Missile Technology Controls" in the third column on page 20878, the word

"applies" should have been "applied" and the second reference to "9B005" should have been "9B006." ECCN 9B006 controls certain acoustic vibration test equipment.

The rule also revised Export Control Classification Number (ECCN) 4E001. The regulatory text for ECCN 4E001 appeared on page 20894 and contained two errors. The first error was in the License Exception TSR paragraph of the License Exceptions section. The phrase "'Adjusted Peak Performance' ('APP') exceeding 0.1 Weighted TeraFLOPS (WT)" should have stated "'Adjusted Peak Performance' ('APP') not exceeding 0.1 Weighted TeraFLOPS (WT)" (emphasis added). The second error occurred in paragraph .b.2 of the *Items* paragraph in the "List of Items Controlled" section. The reference to "4D001.b.1" should have stated "4E001.b.1." ECCN 4E001.b.1 controls certain technology that is specially designed or modified for the development or production of certain digital computers.

This document corrects all four errors.

Rulemaking Requirements

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

2. 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 Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves three collections of information subject to the PRA. The first collection has been approved by OMB under control number 0694-0088, "Multi-Purpose Application," and carries a burden hour estimate of 58 minutes for a manual or electronic submission. The second collection has been approved by OMB under control number 0694-0106, "Reporting and Recordkeeping Requirements under the Wassenaar Arrangement," and carries a burden hour estimate of 21 minutes for a manual or electronic submission. The third collection has been approved by OMB under control number 0694-0073, "Export Controls of High Performance Computers," and carries a burden hour estimate of 78 hours for a manual or electronic submission. This rule is expected to result in an immediate decrease in license applications, and in associated reporting and support documentation requirements, for high performance computers; however, this

decrease may be reduced over time as higher performance systems are marketed. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6883, Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 15 CFR part 774 is corrected by making the following correcting amendments:

PART 774—[CORRECTED]

■ 1. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901-911, Pub. L. 106-387; Sec. 221, Pub. L. 107-56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p.

228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

**Supplement No. 1 to Part 774
[Corrected]**

■ 2. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4E001 the "TSR" paragraph of the License Exceptions section, and the "items" paragraph in the List of Items Controlled section, are corrected to read as follows:

4E001 "Technology" according to the General Technology Note, for the "development", "production" or "use" of equipment or "software" controlled by 4A (except 4A980, 4A993 or 4A994) or 4D (except 4D980, 4D993, 4D994), and other specified technology, see List of Items Controlled.

* * * * *

License Exceptions

CIV: * * *

TSR: Yes, except technology for commodities controlled by ECCN 4A003.b or ECCN 4A003.c is limited to technology for computers or electronic assemblies with an "Adjusted Peak Performance" ("APP") not exceeding 0.1 Weighted TeraFLOPS (WT).
APP: * * *

List of Items Controlled

Unit: * * *

Related Controls: * * *

Related Definitions: * * *

Items:

a. "Technology" according to the General Technology Note, for the "development," "production," or "use" of equipment or "software" controlled by 4A (except 4A980, 4A993 or 4A994) or 4D (except 4D980, 4D993, 4D994).

b. "Technology", other than that controlled by 4E001.a, specially designed or modified for the "development" or "production" of:

b.1. "Digital computers" having an "Adjusted Peak Performance" ("APP") exceeding 0.04 Weighted TeraFLOPS (WT); or

b.2. "Electronic assemblies" specially designed or modified for enhancing performance by aggregation of processors so that the "APP" of the aggregation exceeds the limit in 4E001.b.1.

Dated: April 27, 2006.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 06-4123 Filed 5-1-06; 8:45 am]

BILLING CODE 3510-33-P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

Food and Drug Administration

21 CFR Part 210

[Docket No. 2005N-0285]

**Current Good Manufacturing Practice
Regulation and Investigational New
Drugs; Withdrawal**

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; withdrawal!

SUMMARY: The Food and Drug Administration (FDA) is withdrawing the direct final rule that published in the *Federal Register* of January 17, 2006, to amend its current good manufacturing practice (CGMP) regulations for human drugs, including biological products, to exempt most investigational "Phase 1" drugs from complying with the requirements in FDA's regulations. FDA is withdrawing the rule because significant adverse comments were received.

DATES: The revision of 21 CFR part 210, published at 71 FR 2458 (January 17, 2006), is withdrawn as of May 2, 2006.

FOR FURTHER INFORMATION CONTACT:

Monica Caphart, Center for Drug Evaluation and Research (HFD-320), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-9047, or

Christopher Joneckis, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-1), 1401 Rockville Pike, Rockville, MD 20852, 301-435-5681.

SUPPLEMENTARY INFORMATION: FDA published a direct final rule on January 17, 2006 (71 FR 2458), that was intended to revise the current good manufacturing practice (CGMP) regulations for human drugs, including biological products, to exempt most investigational "Phase 1" drugs from complying with the requirements in FDA's regulations. In response to the direct final rule, the agency received significant adverse comments about the proposed revisions to the rule.

Under FDA's direct final rule procedures, the receipt of any significant adverse comment will result in the withdrawal of the direct final rule. Thus, this direct final rule is being withdrawn, effective immediately. Comments received by the agency regarding the withdrawn rule will be considered in developing a final rule using the usual Administrative Procedure Act notice-and-comment procedures.

For the reasons set forth in the preamble of this notice, and under the authority of the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, the revision of 21 CFR part 210, published at 71 FR 2458 (January 17, 2006), is withdrawn.

Dated: April 25, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 06-4091 Filed 5-1-06; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9253]

RIN 1545-AY92

**Revisions to Regulations Relating to
Withholding of Tax on Certain U.S.
Source Income Paid to Foreign
Persons and Revisions of Information
Reporting Regulations; Correction**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document corrects final regulations and removal of temporary regulations (TD 9253) that was published in the *Federal Register* on Tuesday, March 14, 2006 (71 FR 13003) relating to the withholding of tax under section 1441 on certain U.S. source income paid to foreign persons and related requirements governing collection, deposit, refunds, and credits of withheld amounts under sections 1461 through 1463.

DATES: This correction is effective March 14, 2006.

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

SUPPLEMENTARY INFORMATION:

Background

The final regulations and removal of temporary regulations (TD 9253) that is the subject of this correction are under section 1441 of the Internal Revenue Code.

Need for Correction

As published, TD 9253 contains an error that may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

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

PART 1—INCOME TAXES

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

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

§ 1.1441-6 [Corrected]

■ **Par. 2.** Section 1.1441-6(b)(1) is amended by removing the language "If the beneficial owner is related to the person obligated to pay the income, within the meaning of section 267(b) or 707(b), the withholding certificate must also contain a representation that the beneficial owner will file the statement required under § 301.6114-1(d) of this chapter (if applicable). The requirement to file an information statement under section 6114 for income subject to withholding applies only to amounts received during the taxpayer's taxable year that, in the aggregate, exceed \$500,000. See § 301.6114-1(d) of this chapter."

Guy R. Traynor,

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

[FR Doc. 06-4088 Filed 5-1-06; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY**Alcohol and Tobacco Tax and Trade Bureau****27 CFR Part 4**

[T.D. TTB-45; Re: Notice No. 49]

RIN 1513-AB11

Change to Vintage Date Requirements (2005R-212P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau is adopting as a final rule, with some changes, a proposed amendment to the regulations pertaining to wine vintage date labeling.

DATES: Effective date: June 1, 2006.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Washington, DC 20220; telephone 202-927-8202.

SUPPLEMENTARY INFORMATION:**Background on Wine Labeling****TTB Authority**

The Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) gives the Secretary of the Treasury the authority to issue regulations with respect to the labeling and advertising of wines, distilled spirits, and malt beverages. In particular, section 105(e) of the FAA Act, 27 U.S.C. 205(e), provides that such alcohol beverages must be labeled in compliance with regulations that prohibit deception of the consumer, provide the consumer with "adequate information" as to the identity and quality of the product, and prohibit false or misleading statements. The Secretary's authority to administer these regulations has been delegated to the Alcohol and Tobacco Tax and Trade Bureau (TTB).

Current Vintage Date Requirements

Part 4 of the TTB regulations (27 CFR part 4) contains the rules governing labeling of wine. The current rules for the use of a vintage date on a wine label are found at 27 CFR 4.27. Section 4.27(a) provides that at least 95 percent of a vintage-dated wine must have been derived from grapes harvested in the calendar year shown on the label and, further, that the wine must be labeled with an appellation of origin other than a country (which does not qualify for vintage labeling).

Before 1972, regulations in part 4 defined the phrase "vintage wine" as wine that was made "wholly from grapes gathered in the same calendar year and grown and fermented in the same viticultural area, and conforming to the standards prescribed in Classes 1, 2, and 3 of § 4.21." In T.D. 7185 (37 FR 7974), published on April 22, 1972, the Internal Revenue Service (IRS), which administered the FAA Act at the time, amended that definition to allow the addition of up to 5 percent of other wines to vintage wine. An industry association had requested this change in order to allow producers to replace wine lost by evaporation and leakage during the aging period. In adopting the change, the IRS recognized that requiring vintage wine to be derived wholly from grapes gathered in the stated year was "unnecessarily restrictive when viewed in the light of practices in some of the principal wine producing countries of the world." The IRS also concluded that liberalization of the vintage date regulations "would not be adverse to the consumer interest."

On August 23, 1978, our predecessor Agency, the Bureau of Alcohol, Tobacco and Firearms (ATF), again amended the vintage date regulations to remove the

requirement that 95 percent of the grapes be grown in the same viticultural area. See T.D. ATF-53 (43 FR 37672). ATF stated, "We concur that the two provisions should be divorced, and that vintage should refer only to the year of harvest. * * * The percentage required to come from the labeled appellation of origin will vary with the type of appellation * * *"

Vintage Date Petition

On April 12, 2005, the Wine Institute, a trade association of California wineries, submitted a petition to TTB to amend § 4.27(a) to allow wine labeled with a State, multistate, county, or multicounty appellation of origin (or the foreign equivalent of a State or county) to bear a vintage date if at least 85 percent of the wine is derived from grapes harvested in the labeled calendar year. In the case of wine with an American viticultural area (or its foreign equivalent) as an appellation of origin, the petitioner proposed to retain the current requirement that at least 95 percent of the grapes in a vintage-dated wine be harvested in the year shown on the label. The petitioner noted that TTB already set separate standards for viticultural areas and other appellations of origin with regard to the percentage of grapes that must be grown in the labeled appellation. We note in this regard that, pursuant to 27 CFR 4.25, wine is qualified for a country, State, or county appellation of origin if at least 75 percent of the wine is derived from grapes grown in the labeled area and other conditions are met, while the requirement for viticultural area appellations of origin is 85 percent.

In support of its request, the petitioner provided information on the vintage date labeling requirements of other wine producing countries. According to this material, Australia, New Zealand, and the Member States of the European Union have an 85-percent, same-year content requirement for vintage-dated wine, while Chile and South Africa require only that 75 percent of the grapes in a vintage-dated wine be grown in the year shown on the label. In addition to showing the widespread use of the 85-percent standard in other wine-producing countries, the petitioner stated that the disparity in standards raised a concern that domestic vintage wines may be competing with imported vintage wines that do not conform to the 95-percent standard.

The petitioner asserted that the proposed amendment would benefit both U.S. winemakers and American consumers because of the advantage derived from being able to use either a

younger or older wine in a blend. The petitioner explained this advantage as follows:

For instance, 15% of a wine from an older riper vintage will assist in achieving a style target when the current vintage has produced thinner, more acid wines. An 85% vintage date regulation, as proposed, would lead to improved taste appeal and quality perception of many wines. Young red wines would be smoother and less "green" and would be more consistent across vintages. Older white wines would be fresher and fruitier and more consistent across vintages as well.

The petitioner concluded that "[i]n the end, consumers would benefit from the U.S. winemaker's ability to produce better quality wine at the same cost."

Notice of Proposed Rulemaking and Public Response

On July 1, 2005, TTB published in the *Federal Register* (70 FR 38058) a notice of proposed rulemaking, Notice No. 49, setting forth a proposed revision of § 4.27(a) substantively as set forth in the petition. Notice No. 49 invited comments from the public on the proposed regulatory change, and the public comment period closed on August 30, 2005.

TTB received 98 comments on Notice No. 49. A total of 37 commenters identified themselves as growers, 33 commenters identified themselves as representing wineries, and nine industry associations commented. The remaining commenters who could be identified as a particular type of commenter included two consumers, two brokers, a foreign government official, a journalist, and a retailer. Of the total comments received, 64 comments opposed the proposed change, 30 of which appeared to be form letters from growers. There were 32 comments in support of the proposal, and 2 commenters discussed issues in the rulemaking without taking a position. The submitted comments are discussed in more detail below.

Discussion of Comments Received

Import Issues

Before discussing the substantive comments received in response to the proposal set forth in Notice No. 49, TTB will address some issues about imported vintage-dated wines that were reflected in the comments.

TTB first notes that the conditions for use of a vintage date on imported wine are set forth in § 4.27(c)(1), (2), and (3). Under paragraph (c)(1), the wine must be made in compliance with § 4.27(a). Under paragraph (c)(2), the wine must be bottled in containers of 5 liters or less before importation, or bottled in the United States from the original

container showing a vintage date. Finally, under paragraph (c)(3), there must be a certificate issued in the country of origin that the wine conforms to the vintage date standards of the country of origin (if the country of origin authorizes the issuance of such a certificate).

A comment in response to Notice No. 49 from Argentina's Director for Multilateral Economic Negotiations noted that "Argentina is making use of the third option" for content of vintage wines, suggesting that Argentina views the three conditions for use of vintage dates on imported wines set forth in § 4.27(c) as separate options.

We wish to make it clear that these three conditions are to be read as connected requirements, rather than separate options. Therefore, if a standard in a foreign country is lower than the U.S. standard, the wine imported from the country must conform to the U.S. standard. TTB is not altering this longstanding position in this rulemaking proceeding.

On another point, several commenters interpreted the petition as arguing that the standards for vintage wines should be lowered because TTB is unable to enforce the current 95-percent standard applicable to both imported and domestic wines. These commenters called on TTB to better enforce the current rules with respect to imports rather than adopt a lower standard.

TTB must emphasize that this rulemaking initiative is not based on enforceability issues. The purpose of Notice No. 49 was to propose, and elicit comments on, a regulatory change to give greater flexibility to domestic industry members in blending wine to suit consumer tastes. Nonetheless, we believe it is important to point out that TTB has several tools at its disposal to enforce the current standards for imported wines. Although we do not have the same opportunity to visit producers of imported wine to verify records that we have in the case of domestic producers, we note that importers of wines are permittees and are responsible for ensuring compliance for the products they import. We also note in this regard that we have the authority under 27 CFR 4.38(h) to request substantiating information from importers about the contents of the containers to which labels are affixed. In addition, on the application for a certificate of label approval (COLA), the importer must certify, under penalties of perjury, that representations on the label "correctly represent the content of the containers to which these labels will be applied." Importers who willfully violate these requirements may be

subject to suspension or revocation of their permits or even, in appropriate cases, criminal sanctions.

TTB also investigates third-party complaints about specific labels, and we conduct field investigations and audits to verify wine label information. We also contact foreign governments to aid in our investigations of complaints regarding imported products. We therefore believe our enforcement framework is adequate to ensure the voluntary compliance of most importers and to correct instances of mislabeled wine when they are discovered.

Economic Impact on Growers

Some commenters opposed to the proposed regulatory change expressed the belief that reducing the percentage of grapes from the labeled year in a vintage wine would harm growers by allowing wineries to use more grapes "from high production, lower priced years" in vintage wines. On the other hand, a comment in support of the petition from a California winegrape growers association suggested that if the rule change lowered the price of grapes in a year with high demand, it should also moderate the "downward market pressure" in years of greater supply, and provide a "stabilizing effect in the marketplace."

TTB concludes from these comments that any overall effect our proposed rule change may have on grape prices is at best debatable and thus should not be a controlling factor in this rulemaking.

Technical or Commercial Reasons for Adopting the Proposed 85-Percent Standard

In Notice No. 49, TTB recited the technical or commercial reasons given by the petitioner for requesting amendment of § 4.27, specifically, that producers wish to make more consistent wines and that using small amounts of wines from different vintages can improve the flavor of the base wine. Many comments from wineries agreed with these reasons for amending the regulations. For example, one winery noted:

The majority of our wines are made to be popularly priced and widely available to consumers. We are proud that all of our wines are vintage-dated and labeled with an appellation of origin. * * * Allowing us to blend our wines to an 85% vintage-date standard will enable us to produce an even better and more competitive product.

Other commenters suggested that the commercial issues raised by wineries in support of the proposed rule were not relevant to a rulemaking under the FAA Act. We disagree. Our predecessor Agency, the IRS, considered similar

issues when it adopted the 95-percent standard in 1972. The issue of whether the current standard unnecessarily restricts the flexibility of winemakers in blending wines from different vintage dates is one that impacts both the industry and consumers, and it is not inappropriate to consider the impact of such a standard on winemakers as well as consumers.

Many commenters suggested that increased flexibility would allow wineries to produce a better quality vintage dated wine. As one commenter said:

The most important reason for this change is wine quality. Having participated in blending trials with many winemakers over the last 28 years, I am convinced that the ability to blend up to 15% of aged red wine into a young red wine and to blend up to 15% of a fresh, fruity white wine into an older white wine will result in wine blends with greater consumer appeal. This will benefit the consumer as well as the producer.

Other commenters supported the proposed change because they believed it would bring the United States in line with a *de facto* international standard, and thus enhance the competitiveness of U.S. wines in a global marketplace. For example, the petitioner commented that "American winemakers are at a considerable disadvantage compared to their colleagues in most of the world's major wine producing countries in being able to use only 5 percent of wine from another vintage in the blend. The outcome is that U.S. wineries are placed at a competitive disadvantage in the global market because it is more costly and challenging to make wines of consistent quality at a given price point as compared to other countries * * *". The petitioner also commented that the current vintage date regulations result in increased production costs, because of less efficient tank utilization, and argued that pursuant to the proposed change in the regulations, "better tank efficiency would lead to lower production costs for these wineries, which will support more competitive pricing."

A winery that commented in support of the proposed rule noted that increased flexibility allows wineries to respond better to crop and market changes, explaining as follows:

If there is an unusually large or small crop in a given vintage, allowing the blending of up to 15% of wines from a previous or later vintage may allow a winery to keep wine available in a normal vintage cycle. Similarly, if economic or other market conditions raise or lower the sales of a wine, the winery is better able to respond in a way that protects the quality of wine at the consumer level.

TTB concludes that the current regulations for use of a vintage date on a wine label unnecessarily restrict the flexibility of wineries, especially when compared to the vintage date standards of many other major wine-producing countries. The proposed amendment would provide greater leeway for wineries to blend relatively small quantities of wines from a different vintage into a vintage-dated wine labeled with an appellation of origin other than a country or a viticultural area. The comments support the conclusion that the revised standard would allow wineries to maintain the quality of their vintage-dated wines in response to fluctuations in grape harvests, and would generally enhance the competitiveness of U.S. wineries in a global marketplace.

Consumer Issues

We note that only two commenters identified themselves as consumers; both opposed the change to the vintage date requirements. A number of other commenters argued that lowering the percentage of grapes from the year on the label in vintage wine would be seen as a lowering of quality standards in the press, public opinion, or consumer perception, and some of these commenters called our proposal a "race to the bottom" or a "slippery slope."

The California Association of Winegrowers (CAWG) submitted a summary of a consumer survey, without providing the full results of the survey. The summary states that while 71 percent of consumers place value on the presence of a vintage date, only a third of the consumers surveyed knew that the vintage date was the year in which the grapes were harvested. Asked to choose from 100, 95, 85, or less than 50 percent as the percentage of a vintage wine that must be derived from grapes grown in the labeled year, 52 percent of those surveyed chose "Don't know" as the answer, 23 percent answered 100 percent, and only 11 percent of the core group correctly answered 95 percent. The summary did not state how many consumers chose 85 percent or less than 50 percent as the answer. CAWG opposed the proposed change to the vintage date rules and commented that "[d]iluting the restrictions and meaning of the vintage date will only further contribute to consumer confusion."

One commenter who expressed strong opposition to our proposal stated:

Each vintage of wine has a unique character dictated in substantial part by the growing conditions that prevailed during that specific growing year in a particular growing region. Authentic vintage character is part of what gives wine bottles true individuality. Wine

critics often advise their readers that one vintage is better or worse than another and that one vintage should be purchased more heavily or avoided.

On the other hand, a commenter who wrote in support of the proposed change stated: "With the exception of the luxury-priced wine market where a particular vintage is often celebrated for its uniqueness, nearly all other wine consumers, both domestically and abroad, have specific style and quality expectations that are consistent from purchase to purchase."

Other commenters noted that there were other ways consumers might use vintage date information. A commenter who partially supported the proposal said:

* * * consumers do not always use vintage dates to gain information about the climatic conditions that prevailed in the place where a wine was produced. In many cases, consumers use the vintage date for other reasons such as to determine whether a wine is for current drinking, too old or too young. This is particularly the case in wines that are made in a younger drinking style, where wines that are more than a year or two old will no longer be at their peak.

Another commenter similarly pointed out that consumers of moderately priced wines made with State or county appellations choose a brand first, and then "use the vintage date to ensure that they are not purchasing excessively old or unreasonably young wines based on their own preferences."

Several wine producers discussed the comparable nature of vintage, varietal, and appellation of origin claims. One commenter noted, "If a wine that is 85% derived from Napa Valley grapes taste[s] like wine from Napa Valley, and is not misleading, it stands to reason that a wine that is 85% derived from the 2002 vintage will taste like wine from 2002, and will not be misleading." Another commenter made a similar point:

Some argue that a change to baseline vintage requirements could cause consumer deception. TTB determined some time ago that varietal and appellation requirements placed at 75% allows [sic] blending flexibility for improved wines without creating consumer confusion or deception. Why then would reducing the baseline vintage requirement to the global 85% standard create consumer confusion or deception? In fact, this is a win for consumers in better quality wines and greater clarity as to the definition of vintage across international wines.

The latter comment refers to T.D. ATF-53, in which our predecessor Agency adopted the current rules for varietal and appellation of origin labeling.

After carefully reviewing the comments on this issue, we conclude

that the record does not support a conclusion that adoption of the 85-percent standard for vintage-dated wines labeled with an appellation of origin other than a viticultural area is likely to mislead consumers. The results of the consumer survey, as provided by CAWG in summary form, are incomplete, and are at best inconclusive on this issue. While those results purport to show that consumers are not aware of the current standards for use of a vintage date, they do not provide a basis for concluding that an 85-percent standard would mislead or confuse consumers. As illustrated by the other comments, vintage date information may be used by consumers in various ways. We believe the standard as proposed would continue to provide consumers with adequate information about the vintage date of the wine.

Dual Standard

Many of the commenters who opposed the proposed rule expressed concern that the dual standard, one for wines labeled with a viticultural area and the other for wines labeled with other appellations of origin such as a county or State, would confuse or mislead consumers. Two commenters who favored the 85-percent rule said it should be applied to all wine, including wine from viticultural areas. However, most of the comments supported the 95-percent standard for wines labeled with a viticultural area, in that they either supported the proposed amendment or they supported retention of the 95-percent standard for all wines.

In the original petition, and again in its comment, the petitioner pointed out that there is a precedent for holding viticultural areas to a higher standard in TTB appellation of origin regulations. Pursuant to the provisions of 27 CFR 4.25, a grape wine is entitled to a country, State, or county appellation of origin if, among other things, at least 75 percent of the wine is derived from grapes grown in the labeled appellation area. In the case of a wine labeled with a viticultural area, at least 85 percent of the wine must be derived from grapes grown within the boundaries of the viticultural area. Furthermore, one of the commenters who generally opposed the proposal stated that while "the EU standard is 85% * * * member states are free to impose higher standards. We have been advised that some member states * * * set standards for some appellations ranging from 85% to 95%."

After careful consideration of all the comments, TTB has concluded that the dual standard, as proposed, will not mislead consumers. There is nothing inherently misleading about having

different vintage date standards for wines labeled with viticultural area appellations of origin, as these wines are already subject to more stringent standards. Furthermore, there was significant support among the commenters for retaining the current 95-percent standard for wines labeled with an American viticultural area or its foreign equivalent.

We do not believe that the current record supports adoption of a flat 85-percent standard for all wines, as suggested by two commenters. Furthermore, we note that this issue was not specifically aired for comment in this rulemaking proceeding. We would, of course, consider initiating a rulemaking action in response to a future petition for adoption of such a standard.

Additional Comments

Several commenters noted that, if we adopt the 85-percent standard, winemakers could elect to use a higher percentage of grapes from the labeled vintage and make a claim to that effect in other information on their labels. In response, we note that 27 CFR 4.38(f) allows for additional information on labels, as long as it is truthful, accurate, and specific and is not misleading to the consumer. Accordingly, our practice is to consider the propriety of label usages such as this on a case-by-case basis.

One commenter suggested that if winemakers believe they can produce a better wine by blending vintages, they should do so but should tell the consumer, and another commenter suggested that we allow bottlers to show multiple vintage dates on the label. In regard to the latter comment, we note that in 1980, in response to a petition, ATF aired a proposal to allow multiple vintage dates in an advance notice of proposed rulemaking, (Notice No. 357, November 13, 1980, 45 FR 74942). Comments on that notice were evenly divided, and subsequently ATF issued a notice of proposed rulemaking setting forth specific proposals (Notice No. 378, August 5, 1981, 46 FR 39850). Because only a few comments (mainly opposed to allowing multiple vintage dates on labels) were received in response to that notice, on May 18, 1984, ATF published a Notice No. 529 withdrawing the proposal (49 FR 21083). We do not intend to reopen this issue at the present time.

In its comment, New Zealand Winegrowers, an association that represents the interests of New Zealand grape growers and wine makers, argued in favor of allowing vintage dates on the labels of wine with a country as the appellation of origin. They noted that

"New Zealand is a long and narrow land mass of around the same size as California," and added: "There are many other wine-producing countries of comparable size with USA appellations of origin that are similarly restricted." In response, because we did not solicit comments on such a change in Notice No. 49, we believe this request is beyond the scope of the current rulemaking.

Comments on Effective Date

Only one commenter discussed the effective date issue raised in the comment solicitation portion of Notice No. 49. This commenter suggested that, as a general rule, new rules not dealing with health issues or mandated effective dates should have an effective date that takes into account the time needed to use up inventories of labels.

On further consideration of this matter, we conclude that, because wine that meets the current 95-percent standard will automatically meet the new 85-percent standard, there is no need for an effective date transition period.

TTB Finding

Based on the above comment discussion and as a result of further review of this matter, TTB has decided to adopt the regulatory change as proposed in Notice No. 49 and to make some additional technical changes to the regulation in question. We believe that adopting the proposed change will allow an appropriate amount of flexibility for wineries that produce vintage wines, especially when compared to the vintage date standards of many other major wine-producing countries. We also believe that the amended standard will continue to provide consumers with adequate information about the vintage date of the wine, while maintaining the identity of the vintage dated wine.

Accordingly, in this document, TTB is adopting the proposal (1) to allow wine labeled with an appellation of origin other than a country or viticultural area to bear a vintage date if at least 85 percent of the wine is derived from grapes harvested in the labeled calendar year and (2) to retain the current requirement that at least 95 percent of the grapes in a vintage-dated wine be harvested in the year shown on the label for wine with an American viticultural area (or its foreign equivalent) as an appellation of origin.

In addition, we are revising § 4.27(c) to enhance its clarity, and we are removing from § 4.27 the outdated references to gallons. The metric standard has been in place since 1979,

so we believe the references to gallons are no longer needed.

Finally, we are issuing this final rule with a 30-day delayed effective date. As stated above, we believe a longer transition period is not necessary because wines that meet the vintage date labeling requirement under the current rules will meet the requirement under the new standard.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation provides greater flexibility to wine producers and importers without imposing any new reporting, recordkeeping, or other administrative requirement. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

Marjorie D. Ruhf of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document. However, other personnel participated in its development.

List of Subjects in 27 CFR Part 4

Advertising, Customs duties and inspection, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices, Wine.

Amendment to the Regulations

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter 1, part 4, as follows:

PART 4—LABELING AND ADVERTISING OF WINE

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

■ 2. In section 4.27, paragraph (a) is revised, paragraph (b) is amended by removing the parenthetical reference "(or 1-gallon before January 1, 1979)", and paragraph (c) is revised to read as follows:

§ 4.27 Vintage wine.

(a) *General.* Vintage wine is wine labeled with the year of harvest of the grapes and made in accordance with the standards prescribed in classes 1, 2, or

3 of § 4.21. The wine must be labeled with an appellation of origin other than a country (which does not qualify for vintage labeling). The appellation must be shown in direct conjunction with the designation required by § 4.32(a)(2), in lettering substantially as conspicuous as that designation. In no event may the quantity of wine removed from the producing winery, under labels bearing a vintage date, exceed the volume of vintage wine produced in that winery during the year indicated by the vintage date. The following additional rules apply to vintage labeling:

(1) If an American or imported wine is labeled with a viticultural area appellation of origin (or its foreign equivalent), at least 95 percent of the wine must have been derived from grapes harvested in the labeled calendar year; or

(2) If an American or imported wine is labeled with an appellation of origin other than a country or viticultural area (or its foreign equivalent), at least 85 percent of the wine must have been derived from grapes harvested in the labeled calendar year.

* * * * *

(c) *Imported wine.* Imported wine may bear a vintage date if all of the following conditions are met:

(1) It is made in compliance with the provisions of paragraph (a) of this section;

(2) It is bottled in containers of 5 liters or less prior to importation, or it is bottled in the United States from the original container of the product (showing a vintage date); and

(3) The invoice is accompanied by, or the American bottler possesses, a certificate issued by a duly authorized official of the country of origin (if the country of origin authorizes the issuance of such certificates) certifying that the wine is of the vintage shown, that the laws of the country regulate the appearance of vintage dates upon the labels of wine produced for consumption within the country of origin, that the wine has been produced in conformity with those laws, and that the wine would be entitled to bear the vintage date if it had been sold within the country of origin.

Signed: March 29, 2006.

John J. Manfreda,
Administrator.

Approved: April 7, 2006.

Timothy E. Skud,
Deputy Assistant Secretary (Tax, Trade, and
Tariff Policy).

[FR Doc. 06-4074 Filed 5-1-06; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 19 and 40

[Re: T.D. TTB-44]

RIN 1513-AA80

Administrative Changes to Alcohol, Tobacco and Firearms Regulations Due to the Homeland Security Act of 2002; Correction

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Final rule; correction.

SUMMARY: On April 4, 2006, TTB published a final rule in the *Federal Register* making administrative changes to its regulations due to the Homeland Security Act of 2002, which divided the former Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, into two separate agencies, the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice, and the Alcohol and Tobacco Tax and Trade Bureau in the Department of the Treasury. That final rule contained two incorrect amendatory instructions; this document corrects those errors.

DATES: *Effective Date:* March 31, 2005.

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, telephone 202-927-8076.

SUPPLEMENTARY INFORMATION: Effective January 24, 2003, section 1111 of the Homeland Security Act of 2002 divided the former Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury, into two separate agencies, the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice, and the Alcohol and Tobacco Tax and Trade Bureau in the Department of the Treasury. On January 24, 2003, the two Departments published a joint final rule in the *Federal Register* (68 FR 3744) that divided the ATF regulations contained in title 27, Code of Federal Regulations, between the two new agencies. That final rule placed the regulations administered by the Bureau of Alcohol, Tobacco, Firearms and Explosives in a newly created 27 CFR chapter II, while the regulations administered by the Alcohol and Tobacco Tax and Trade Bureau (TTB) remained in 27 CFR chapter I.

On April 4, 2006, TTB published a final rule in the *Federal Register* making administrative changes to the majority of its regulations in 27 CFR

chapter I, as a consequence of the changes made by section 1111 of the Homeland Security Act of 2002. With the exception of 27 CFR parts 28, 31, and 41, for which administrative changes were previously made, the final rule amended the remaining parts of 27 CFR chapter I that required nomenclature, organizational, and other administrative changes to conform them to the current name and organizational structure of TTB. For example, the final rule replaced references to ATF and its officers with appropriate TTB references. The final rule made no substantive change to the regulations in question.

After the publication of the final rule, two amendatory instructions were found to contain inadvertent errors. First, amendatory instruction 67a, regarding 27 CFR 19.11, referred to "Area Supervisor" and "Regional Director" when it should have referred to, respectively, "Atea supervisor" and "Region director (compliance)." Second, amendatory instruction 131a, regarding section 40.11, referred to "Regions" and "Regional director" when it should have referred to "Region" and Regional Director (compliance)," respectively.

■ Therefore, in the **Federal Register** of April 4, 2006, the following corrections are made:

■ (1) On page 16928, in the second column, paragraph "a" of amendatory instruction 67 is corrected to read as follows:

■ a. Remove the definitions of "Area supervisor", "ATF bond", "ATF officer", "Director", "Region", and "Region director (compliance)".

■ (2) On page 16948, in the first column, paragraph "a" of amendatory instruction 131 is corrected to read as follows:

■ a. Remove the definitions of "Appropriate ATF officer", "Associate Director (Compliance Operations)", "ATF", "ATF officer", "Director", "Region", and "Regional Director (compliance)".

Dated: April 25, 2006.

Francis W. Foote,

Director, Regulations and Rulings Division.
[FR Doc. 06-4073 Filed 5-1-06; 8:45 am]

BILLING CODE 4810-31-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-R06-OAR-2005-TX-0034; FRL-8164-6]

National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; delegation of authority.

SUMMARY: The Texas Commission on Environmental Quality (TCEQ) has submitted updated regulations for receiving delegation of EPA authority for National Emission Standards for Hazardous Air Pollutants (NESHAPs) for certain sources (both part 70 and non-part 70 sources). These regulations apply to certain NESHAPs promulgated by EPA, as adopted by the TCEQ. The delegation of authority under this action does not apply to sources located in Indian Country. EPA is taking direct final action to approve the delegation of certain NESHAPs to TCEQ.

DATES: This rule is effective on July 3, 2006 without further notice, unless EPA receives relevant adverse comment by June 1, 2006. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R06-OAR-2005-TX-0034, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- U.S. EPA Region 6 "Contact Us" Web site: <http://epa.gov/region6/r6coment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- E-mail: Jeff Robinson at robinson.jeffrey@epa.gov.
- Fax: Mr. Jeff Robinson, Air Permits Section (6PD-R), at fax number 214-665-7263.

- Mail: Mr. Jeff Robinson, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- Hand or Courier Delivery: Mr. Jeff Robinson, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements

should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2005-TX-0034. 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://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through www.regulations.gov, or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air Permitting Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will

be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12100 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Robinson, U.S. EPA, Region 6, Multimedia Planning and Permitting Division (6PD), 1445 Ross Avenue, Dallas, TX 75202-2733, telephone (214) 665-6435; fax number 214-665-7263; or electronic mail at robinson.jeffrey@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

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I. General Information

A. Tips for Preparing Your Comments

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
2. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

B. Submitting Confidential Business Information (CBI)

Do not submit this information to EPA through 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.

II. What Does This Action Do?

EPA is taking direct final action to approve the delegation of certain NESHAPs to TCEQ. With this delegation, TCEQ has the primary responsibility to implement and enforce the delegated standards. See sections VI and VII, below, for a complete discussion of which standards are being delegated and which are not being delegated.

III. What Is the Authority for Delegation?

Section 112(l) of the CAA and 40 CFR part 63, subpart E, authorizes EPA to delegate authority to any state or local agency which submits adequate regulatory procedures for implementation and enforcement of emission standards for hazardous air pollutants. The hazardous air pollutant standards are codified at 40 CFR part 63.

IV. What Criteria Must Texas' Program Meet To Be Approved?

Section 112(l) of the CAA enables EPA to approve State air toxics programs or rules to operate in place of the Federal air toxics program or rules. 40 CFR part 63, subpart E (subpart E)

governs EPA's approval of State rules or programs under section 112(l).

EPA will approve an air toxics program if we find that:

- (1) The State program is "no less stringent" than the corresponding Federal program or rule;
- (2) The State has adequate authority and resources to implement the program;
- (3) The schedule for implementation and compliance is sufficiently expeditious; and
- (4) The program otherwise complies with Federal guidance.

In order to obtain approval of its program to implement and enforce Federal section 112 rules as promulgated without changes (straight delegation), only the criteria of 40 CFR 63.91(d) must be met. 40 CFR 63.91(d)(3) provides that interim or final Title V program approval will satisfy the criteria of 40 CFR 63.91(d) for part 70 sources.

V. How Did TCEQ Meet the Subpart E Approval Criteria?

As part of its Title V submission, TCEQ stated that it intended to use the mechanism of incorporation by reference to adopt unchanged Federal section 112 into its regulations. This applied to both existing and future standards as they applied to part 70 sources ((60 FR 30444 (June 7, 1995) and 61 FR 32699 (June 25, 1996)). On December 6, 2001, EPA promulgated final full approval of the State's operating permits program effective November 30, 2001 (66 FR 63318). The TCEQ was originally delegated the authority to implement certain NESHAPs effective May 17, 2005 (70 FR 13018). Under 40 CFR 63.91(d)(2), once a state has satisfied up-front approval criteria, it needs only to reference the previous demonstration and reaffirm that it still meets the criteria for any subsequent submittals. TCEQ has affirmed that it still meets the up-front approval criteria.

VI. What Is Being Delegated?

EPA received a request from TCEQ to update its existing delegation of certain NESHAP subparts on July 26, 2005. The TCEQ requests delegation of certain NESHAP for all sources (both part 70 and non-part 70 sources). For the part 63 NESHAPs, Texas' request included the newly incorporated NESHAPs set forth in Table 1 below, and amendments to existing standards that are currently delegated.

TABLE 1.—40 CFR PART 63 NESHAP FOR SOURCE CATEGORIES

Subpart	Source category
EEEE	Organic Liquids Distribution (Non-Gasoline).
FFFF	Miscellaneous Organic Chemical Manufacturing (MON).
IIII	Surface Coating of Automobiles and Light-Duty Trucks.
KKKK	Surface Coating of Metal Cans.
MMMM	Surface Coating of Miscellaneous Metal Parts and Products.
OOOO	Printing, Coating, and Dyeing of Fabrics and Other Textiles.
PPPP	Surface Coating of Plastic Parts and Products.
QQQQ	Surface Coating of Wood Building Products.
RRRR	Surface Coating of Metal Furniture.
WWWW	Reinforced Plastic Composites Production.
YYYY	Stationary Combustion Turbines.
ZZZZ	Stationary Reciprocating Internal Combustion Engines (RICE).
AAAA	Lime Manufacturing Plants.
BBBB	Semiconductor Manufacturing.
CCCC	Coke Ovens: Pushing, Quenching, and Battery Stacks
EEEE	Iron and Steel Foundries.
FFFF	Integrated Iron and Steel Manufacturing Facilities.
GGGG	Site Remediation.
HHHH	Miscellaneous Coating Manufacturing.
IIII	Mercury Emissions from Mercury Cell Chlor-Alkali Plants.
JJJJ	Brick and Structural Clay Products Manufacturing.
KKKK	Clay Ceramics Manufacturing.
LLLL	Asphalt Processing and Asphalt Roofing Manufacturing.
MMMM	Flexible Polyurethane Foam Fabrication Operations.
NNNN	Hydrochloric Acid Production.
PPPP	Engine Test Cells/Stand.
RRRR	Taconite Iron Ore Processing.
SSSS	Refractory Products Manufacturing.
TTTT	Primary Magnesium Refining.

VII. What Is Not Being Delegated?

EPA cannot delegate to a State any of the Category II Subpart A authorities set forth in 40 CFR 63.91(g)(2). These include the following provisions: § 63.6(g), Approval of Alternative Non-Opacity Standards; § 63.6(h)(9), Approval of Alternative Opacity Standards; § 63.7(e)(2)(ii) and (f), Approval of Major Alternatives to Test Methods; § 63.8(f), Approval of Major Alternatives to Monitoring; and § 63.10(f), Approval of Major Alternatives to Recordkeeping and Reporting. In addition, some MACT standards have certain provisions that cannot be delegated to the States. Therefore, any MACT standard that EPA is delegating to TCEQ that provides that certain authorities cannot be delegated are retained by EPA and not delegated. Furthermore, no authorities are delegated that require rulemaking in the Federal Register to implement, or where Federal overview is the only way to ensure national consistency in the application of the standards or requirements of CAA section 112. Finally, section 112(r), the accidental release program authority, is not being delegated by this approval.

All of the inquiries and requests concerning implementation and enforcement of the excluded standards in the State of Texas should be directed to the EPA Region 6 Office.

EPA must change the delegation status of part 63—Subpart J standards for Polyvinyl Chloride and Copolymers Production in this delegation action. This subpart was vacated by *Mossville Environmental Action Now v. EPA*, 370 F. 3d 1232 (D.C. Cir. 2004), and EPA's petition for rehearing was denied by the Court of Appeals for the D.C. Circuit on April 15, 2005. This subpart was previously delegated to TCEQ. In addition, this delegation to TCEQ to implement and enforce certain NESHAPs does not extend to sources or activities located in Indian country, as defined in 18 U.S.C. 1151. Under this definition, EPA treats as reservations, trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation. Consistent with previous federal program approvals or delegations, EPA will continue to implement the NESHAPs in Indian country because TCEQ has not submitted information to demonstrate authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

VIII. How Will Applicability Determinations Under Section 112 Be Made?

In approving this delegation, TCEQ will obtain concurrence from EPA on

any matter involving the interpretation of section 112 of the CAA or 40 CFR part 63 to the extent that implementation, administration, or enforcement of these sections have not been covered by EPA determinations or guidance.

IX. What Authority Does EPA Have?

We retain the right, as provided by CAA section 112(l)(7), to enforce any applicable emission standard or requirement under section 112. EPA also has the authority to make certain decisions under the General Provisions (subpart A) of part 63. We are granting TCEQ some of these authorities, and retaining others, as explained in sections VI and VII above. In addition, EPA may review and disapprove of State determinations and subsequently require corrections. (See 40 CFR 63.91(g) and 65 FR 55810, 55823, September 14, 2000.)

Furthermore, we retain any authority in an individual emission standard that may not be delegated according to provisions of the standard. Also, listed in the footnotes of the part 63 delegation table at the end of this rule are the authorities that cannot be delegated to any State or local agency which we therefore retain.

X. What Information Must TCEQ Provide to EPA?

In delegating the authority to implement and enforce these rules and in granting a waiver of EPA notification requirements, we require TCEQ to input all source information into the Aerometric Information Retrieval System (AIRS) for both point and area sources. TCEQ must enter this information into the AIRS system and update the information by September 30 of every year. TCEQ must provide any additional compliance related information to EPA, Region 6, Office of Enforcement and Compliance Assurance within 45 days of a request under 40 CFR 63.96(a).

In receiving delegation for specific General Provisions authorities, TCEQ must submit to EPA Region 6 on a semi-annual basis, copies of determinations issued under these authorities. For part 63 standards, these determinations include: Applicability determinations (§ 63.1); approval/disapprovals of construction and reconstruction (§ 63.5(e) and (f)); notifications regarding the use of a continuous opacity monitoring system (§ 63.6(h)(7)(ii)); finding of compliance (§ 63.6(h)(8)); approval/disapprovals of compliance extensions (§ 63.6(i)); approvals/disapprovals of minor (§ 63.7(e)(2)(i)) or intermediate (§ 63.7(e)(2)(ii) and (f)) alternative test methods; approval of shorter sampling times and volumes (§ 63.7(e)(2)(iii)); waiver of performance testing (§ 63.7(e)(2)(iv) and (h)(2), (3)); approvals/disapprovals of minor or intermediate alternative monitoring methods (§ 63.8(f)); approval of adjustments to time periods for submitting reports (§ 63.9 and 63.10); and approvals/disapprovals of minor alternatives to recordkeeping and reporting (§ 63.10(f)).

Additionally, EPA's Emissions, Monitoring, and Analysis Division must receive copies of any approved intermediate changes to test methods or monitoring. (Please note that intermediate changes to test methods must be demonstrated as equivalent through the procedures set out in EPA method 301.) This information on approved intermediate changes to test methods and monitoring will be used to compile a database of decisions that will be accessible to State and local agencies and EPA Regions for reference in making future decisions. (For definitions of major, intermediate and minor alternative test methods or monitoring methods, see 40 CFR 63.90). The TCEQ should forward these intermediate test methods or monitoring

changes via mail or facsimile to: Chief, Air Measurements and Quality Group, Emissions Monitoring and Analysis Division, Office of Air Quality Planning and Standards, Mailcode D205-02, Research Triangle Park, NC 27711, Facsimile telephone number: (919) 541-0516.

XI. What Is EPA's Oversight of This Delegation to TCEQ?

EPA must oversee TCEQ's decisions to ensure the delegated authorities are being adequately implemented and enforced. We will integrate oversight of the delegated authorities into the existing mechanisms and resources for oversight currently in place. If, during oversight, we determine that TCEQ made decisions that decreased the stringency of the delegated standards, then TCEQ shall be required to take corrective actions and the source(s) affected by the decisions will be notified, as required by 40 CFR 63.91(g)(1)(ii). We will initiate withdrawal of the program or rule if the corrective actions taken are insufficient.

XII. Should Sources Submit Notices to EPA or TCEQ?

For the NESHAPS being delegated and included in the table above, all of the information required pursuant to the general provisions and the relevant subpart of the Federal NESHAP (40 CFR part 63) should be submitted by sources located outside of Indian country, directly to the TCEQ at the following address: Texas Commission on Environmental Quality, Office of Permitting, Remediation and Registration, Air Permits Division (MC 163), P.O. Box 13087, Austin, Texas 78711-3087. The TCEQ is the primary point of contact with respect to delegated NESHAPS. Sources do not need to send a copy to EPA. EPA Region 6 waives the requirement that notifications and reports for delegated standards be submitted to EPA in addition to TCEQ in accordance with 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii). For those standards that are not delegated, sources must continue to submit all appropriate information to EPA.

XIII. How Will Unchanged Authorities Be Delegated to TCEQ in the Future?

In the future, TCEQ will only need to send a letter of request to EPA, Region 6, for NESHAP regulations that TCEQ has adopted by reference. The letter must reference the previous up-front approval demonstration and reaffirm that it still meets the up-front approval criteria. We will respond in writing to the request stating that the request for delegation is either granted or denied. A

Federal Register action will be published to inform the public and affected sources of the delegation, indicate where source notifications and reports should be sent, and to amend the relevant portions of the Code of Federal Regulations showing which NESHAP standards have been delegated to TCEQ.

XIV. Final Action

The public was provided the opportunity to comment on the proposed approval of the program and mechanism for delegation of section 112 standards, as they apply to part 70 sources, on June 7, 1995, for the proposed interim approval of TCEQ's Title V operating permits program; and on October 11, 2001, for the proposed final approval of TCEQ's Title V operating permits program. In EPA's final full approval of Texas' Operating Permits Program on December 6, 2001, (66 FR 63318), the EPA discussed the public comments on the proposed final delegation of the Title V operating permits program. In today's action, the public is given the opportunity to comment on the approval of TCEQ's request for delegation of authority to implement and enforce certain section 112 standards for all sources (both part 70 and non-part 70 sources) which have been adopted by reference into Texas' state regulations. However, the Agency views the approval of these requests as a noncontroversial action and anticipates no adverse comments. Therefore, EPA is publishing this rule without prior proposal. However, in the "Proposed Rules" section of today's Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the program and delegation of authority described in this action if adverse comments are received. This action will be effective July 3, 2006 without further notice unless the Agency receives relevant adverse comments by June 1, 2006.

If EPA receives relevant adverse comments, we will publish a timely withdrawal in the Federal Register informing the public the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if we receive relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions

of the rule that are not the subject of a relevant adverse comment.

XVI. 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 July 3, 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 63

Environmental protection, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: April 24, 2006.

Richard E. Greene,
Regional Administrator, Region 6.

■ 40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart E—Approval of State Programs and Delegation of Federal Authorities

■ 2. Section 63.99 is amended by revising paragraph (a)(43)(i) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(43) * * *

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the Texas Commission on Environmental Quality for all sources. The "X" symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set forth in Federal law, regulations, policy, guidance, and determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards. Any amendments made to these rules after the effective date are not delegated.

DELEGATION STATUS FOR PART 63 STANDARDS:—STATE OF TEXAS¹

Subpart	Source category	TCEQ ²
F	Hazardous Organic NESHAP (HON)—Synthetic Organic Chemical Manufacturing Industry (SOCMI)	X
G	HON—SOCMI Process Vents, Storage Vessels, Transfer Operations and Wastewater	X
H	HON—Equipment Leaks	X
I	HON—Certain Processes Negotiated Equipment Leak Regulation	X
J	Polyvinyl Chloride and Copolymers Production	3X
K	(Reserved)	
L	Coke Oven Batteries	X

DELEGATION STATUS FOR PART 63 STANDARDS.—STATE OF TEXAS¹—Continued

Subpart	Source category	TCEQ ²
M	Perchloroethylene Dry Cleaning	X
N	Chromium Electroplating and Chromium Anodizing Tanks	X
O	Ethylene Oxide Sterilizers	X
P	(Reserved)	
Q	Industrial Process Cooling Towers	X
R	Gasoline Distribution	X
S	Pulp and Paper Industry	X
T	Halogenated Solvent Cleaning	X
U	Group I Polymers and Resins	X
V	(Reserved)	
W	Epoxy Resins Production and Non-Nylon Polyamides Production	X
X	Secondary Lead Smelting	X
Y	Marine Tank Vessel Loading	X
Z	(Reserved)	
AA	Phosphoric Acid Manufacturing Plants	X
BB	Phosphate Fertilizers Production Plants	X
CC	Petroleum Refineries	X
DD	Off-Site Waste and Recovery Operations	X
EE	Magnetic Tape Manufacturing	X
FF	(Reserved)	
GG	Aerospace Manufacturing and Rework Facilities	X
HH	Oil and Natural Gas Production Facilities	X
II	Shipbuilding and Ship Repair Facilities	X
JJ	Wood Furniture Manufacturing Operations	X
KK	Printing and Publishing Industry	X
LL	Primary Aluminum Reduction Plants	X
MM	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfide, and Stand-Alone Semichemical Pulp Mills	X
NN	(Reserved)	
OO	Tanks—Level 1	X
PP	Containers	X
QQ	Surface Impoundments	X
RR	Individual Drain Systems	X
SS	Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process	
TT	Equipment Leaks—Control Level 1	X
UU	Equipment Leaks—Control Level 2 Standards	X
VV	Oil-Water Separators and Organic-Water Separators	X
WW	Storage Vessels (Tanks)—Control Level 2	X
XX	(Reserved)	
YY	Generic Maximum Achievable Control Technology Standards	X
ZZ-BBB	(Reserved)	
CCC	Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration	X
DDD	Mineral Wool Production	X
EEE	Hazardous Waste Combustors	X
FFF	(Reserved)	
GGG	Pharmaceuticals Production	X
HHH	Natural Gas Transmission and Storage Facilities	X
III	Flexible Polyurethane Foam Production	X
JJJ	Group IV Polymers and Resins	X
KKK	(Reserved)	
LLL	Portland Cement Manufacturing	X
MMM	Pesticide Active Ingredient Production	X
NNN	Wool Fiberglass Manufacturing	X
OOO	Amino/Phenolic Resins	X
PPP	Polyether Polyols Production	X
QQQ	Primary Copper Smelting	X
RRR	Secondary Aluminum Production	X
SSS	(Reserved)	
TTT	Primary Lead Smelting	X
UUU	Petroleum Refineries—Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Recovery Plants	X
VVV	Publicly Owned Treatment Works (POTW)	X
WWW	(Reserved)	
XXX	Ferrous Alloys Production: Ferromanganese and Silicomanganese	X
AAAA	Municipal Solid Waste Landfills	X
CCCC	Nutritional Yeast Manufacturing	X
DDDD	Plywood and Composite Wood Products	
EEEE	Organic Liquids Distribution	X
FFFF	Miscellaneous Organic Chemical Manufacturing (MON)	X
GGGG	Solvent Extraction for Vegetable Oil Production	X
HHHH	Wet Formed Fiberglass Mat Production	X
IIII	Auto & Light Duty Truck	X
JJJJ	Paper and other Web (Surface Coating)	X
KKKK	Surface Coating of Metal Cans	X

DELEGATION STATUS FOR PART 63 STANDARDS.—STATE OF TEXAS¹—Continued

Subpart	Source category	TCEQ ²
MMMM	Miscellaneous Metal Parts and Products Surface Coating	X
NNNN	Surface Coating of Large Appliances	X
Oooo	Fabric Printing Coating and Dyeing	X
PPPP	Surface Coating of Plastic Parts and Products	X
QQQQ	Surface Coating of Wood Building Products	X
RRRR	Surface Coating of Metal Furniture	X
SSSS	Surface Coating for Metal Coil	X
TTTT	Leather Finishing Operations	X
UUUU	Cellulose Production Manufacture	X
VVVV	Boat Manufacturing	X
WWWW	Reinforced Plastic Composites Production	X
XXXX	Tire Manufacturing	X
YYYY	Stationary Combustion Turbines	X
ZZZZ	Reciprocating Internal Combustion Engines	X
AAAAA	Lime Manufacturing	X
BBBBB	Semiconductor Manufacturing	X
CCCCC	Coke Ovens: Pushing, Quenching and Battery Stacks	X
DDDDD	Industrial, Commercial, and Institutional Boilers and Process Heaters	X
EEEEE	Iron and Steel Foundries	X
FFFFF	Integrated Iron and Steel	X
GGGGG	Site Remediation	X
HHHHH	Miscellaneous Coating Manufacturing	X
IIIII	Mercury Cell Chlor-Alkali Plants	X
JJJJJ	Brick and Structural Clay Products Manufacturing	X
KKKKK	Clay Ceramics Manufacturing	X
LLLLL	Asphalt Roofing and Processing	X
MMMMM	Flexible Polyurethane Foam Fabrication Operation	X
NNNNN	Hydrochloric Acid Production, Fumed Silica Production	X
PPPPP	Engine Test Facilities	X
QQQQQ	Friction Materials Manufacturing	X
RRRRR	Taconite Iron Ore Processing	X
SSSSS	Refractory Products Manufacture	X
TTTTT	Primary Magnesium Refining	X

¹ Program delegated to Texas Commission on Environmental Quality (TCEQ).

² Authorities which may not be delegated include: § 63.6(g), Approval of Alternative Non-Opacity Emission Standards; § 63.6(h)(9), Approval of Alternative Opacity Standards; § 63.7(e)(2)(ii) and (f), Approval of Major Alternatives to Test Methods; § 63.8(f), Approval of Major Alternatives to Monitoring; § 63.10(f), Approval of Major Alternatives to Recordkeeping and Reporting; and all authorities identified in the subparts (e.g., under "Delegation of Authority") that cannot be delegated.

³ The TCEQ was previously delegated this subpart on May 17, 2005 (70 FR 13018). The subpart was vacated and remanded to EPA by the United States Court of Appeals for the District of Columbia Circuit. See, *Mossville Environmental Action Network v. EPA*, 370 F. 3d 1232 (D.C. Cir. 2004). Because of the D.C. Court's holding this subpart is not delegated to TCEQ at this time.

* * * * *

[FR Doc. 06-4114 Filed 5-1-06; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

48 CFR Chapter 30

RIN 1601-AA16

Revision of Department of Homeland Security Acquisition Regulation

AGENCY: Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This final rule adopts, with specified changes, the interim rule establishing the Department of Homeland Security Acquisition Regulation (HSAR). This regulation supplements the Federal Acquisition Regulation (FAR) and provides a uniform department-wide acquisition

regulation for the Department of Homeland Security (DHS). The HSAR provides specificity about the Department's organization, policies, procedures, and delegations of authority. The FAR and HSAR apply to all DHS entities, except the Transportation Security Administration (TSA).

DATES: This rule is effective on June 1, 2006.

FOR FURTHER INFORMATION CONTACT: Kathy Strouss, Office of the Chief Procurement Officer, Department of Homeland Security: (202) 205-0141.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Discussion of Public Comments
- III. Additional Technical Changes
- IV. Regulatory Requirements
 - A. Executive Order 12866 Assessment
 - B. Regulatory Flexibility Act
 - C. Paperwork Reduction Act
 - D. Executive Order 13132 Federalism

I. Background

On December 4, 2003, the HSAR was published in the *Federal Register* (68 FR 67867) as an interim rule and request for comment. Simultaneously, DHS promulgated the Homeland Security Acquisition Manual (HSAM), which provides procedural guidance on internal acquisition matters that need not be set out in a regulation.

The numbering scheme of the HSAR and HSAM parallels that of the FAR. The purpose of the HSAR is not to duplicate the FAR text. Instead, the HSAR supplements the FAR by providing specificity regarding DHS's organization, policies, procedures, and delegations, and by implementing unique authorities provided by the Homeland Security Act, Public Law 107-296, as amended. These authorities include: (1) Increased use of FAR part 12, simplified acquisition, and micro-purchase procedures where the Department's mission would be

seriously impaired otherwise; (2) a prohibition against most contracts with corporate expatriates, also referred to as inverted domestic corporations; and (3) personal services contracting authority, including waiver of pay limitations when necessary for urgent homeland security purposes.

The HSAR (1) establishes the DHS Mentor Protégé Program to develop small business sources; (2) designates the Department of Transportation Board of Contract Appeals as the DHS Board of Contract Appeals; (3) creates uniform DHS provisions and clauses, as well as Organizational Element (OE) unique clauses; and (4) identifies OEs with procurement authority. There are no HSAR parts relating to FAR parts 7, 8, 10, 12, 14, 18, 20, 21, 25, 26, 29, 34, 38, 39, 40, 41, 43, 44, 48, 49, 50, or 51.

The final rule amends the HSAR in order to incorporate changes resulting from the comments, changes resulting from statutory requirements, and changes to carry out the intent of the interim rule. General changes made to HSAR by this rulemaking are provided in the list below. Of particular note, the rule—

- Revises (HSAR) 48 CFR 3001.104 to provide a forum for resolutions of Non-appropriated Fund Instrumentality (NAFI) contract disputes and to provide the option for appropriated fund contracting officers to follow the procurement regulations where feasible, even when the resulting contract does not use appropriated funds.
- Revises (HSAR) 48 CFR 3001.301-71 to include language similar to FAR 1.108 regarding application of regulatory changes to existing solicitations and contracts.
- Revises (HSAR) 48 CFR 3001.404 to include a requirement to consult with the Civilian Agency Acquisition Council Chairperson prior to issuing non-emergency FAR class deviations.
- Adds a definition for "sensitive information" in (HSAR) 48 CFR 3002.101 and (HSAR) 48 CFR 3052.204-71.
- Revises (HSAR) 48 CFR 3004.470 to prescribe clauses regarding security requirements for sensitive but unclassified information and contractor access to Information Technology resources.
- Adds (HSAR) 48 CFR 3006.1 and 3006.101-70 to define the terms "Agency Competition Advocate" and "Competition Advocate for the Procuring Activity."
- Amends (HSAR) 48 CFR 3009.104-72, 3009.104-73, and 3009.104-74 to comport with statutory changes regarding the prohibition against contracting with companies treated as

inverted domestic corporations and waivers to that prohibition.

- Removes the previous prescription at (HSAR) 48 CFR 3009.507, regarding (HSAR) 48 CFR 3052.209-72, which addressed organizational conflicts of interest, and inserts two new subsections, 3009.507-1 and 3009.507-2, which provide prescriptions for a revised provision at (HSAR) 48 CFR 3052.209-72 and a new clause at (HSAR) 48 CFR 3052.209-71.
- Removes (HSAR) 48 CFR 3011.204-90, 3013.106-190, and 3013.302-590 and the corresponding clauses at (HSAR) 48 CFR 3052.211-90 and 3052.213-90, which contained obsolete references and content.
- Removes (HSAR) 48 CFR 3015.404-470, which required withholding profit and fee payments until after definitization of a letter contract.
- Adds text at (HSAR) 48 CFR 3016.505(b)(5)(ii) to identify the DHS Task and Delivery Order Ombudsman as the Senior Competition Advocate.
- Adds a new subpart at (HSAR) 48 CFR 3017.204-90 to implement Public Law 106-553, Title I, Section 119, regarding contracts for detention and incarceration facilities for Immigration and Customs Enforcement (ICE).
- Corrects the text at (HSAR) 48 CFR 3019.201 to include all the current small business categories listed in (FAR) 48 CFR 19.201(a).
- Revises (HSAR) 48 CFR 3022.101-70(a) to distinguish between non-employee and contractor union employee representatives and to ensure appropriate access to facilities.
- Adds a new section at (HSAR) 48 CFR 3035.017 regarding Federally Funded Research and Development Centers (FFRDCs).
- Removes internal procedural matters in (HSAR) 48 CFR 3037.104-70 relating to personal services contracts.
- Amends (HSAR) 48 CFR 3046.7, regarding warranties, by removing the sections applying to DHS and all OEs other than the Coast Guard, and by clarifying the use of warranties in major systems acquisitions for the USCG.
- Removes the certification requirement from (HSAR) 48 CFR 3052.223-70 relating to the licenses and permits required by Federal, state, and local laws to perform hazardous substance(s) removal or disposal services.
- Redesignates (HSAR) 48 CFR 3052.237-70, Qualifications of Contractor Employees, as (HSAR) 48 CFR 3052.204-71, Contractor Employee Access, and revises the content of the redesignated clause with regard to access to sensitive information and to information technology resources.

II. Discussion of Public Comments

Sixty-six sources submitted comments on the interim rule. All comments were considered in developing the final rule. The public comments received, and the actions taken, are summarized below:

Small Entities and Small Business Administration Office of Advocacy Comments

We received comments from forty-seven small business entities and the Small Business Administration Office of Advocacy. Thirty of these small businesses submitted general comments expressing concern that the rule would have a negative impact on small businesses, without specifying how. These comments may have originated from an analysis posted on a private sector Web site, whose authors apparently believed that the HSAR excluded small businesses from competing for prime contracts and that DHS's small business programs included only those specifically set out in the HSAR.

Our response to these general comments is that the HSAR supplements, rather than replaces the FAR, and that DHS has implemented the FAR's small business programs. The additional small business programs in the HSAR, especially the Mentor-Protégé program, are expected to have a positive impact on small business subcontracting opportunities without adversely affecting prime contracting opportunities. We have included additional discussion under the Regulatory Flexibility Act section of this preamble.

The eighteen remaining commenters addressed specific small business issues, which we have summarized as follows:

1. *Comment:* Several comments expressed concern that the incentives provided to a large contractor participating as a mentor may actually penalize small business subcontractors that do not desire to participate in the program as protégés. Several comments recommended that DHS revise paragraph (d) of (HSAR) 48 CFR 3052.219-71 to clarify whether DHS will permit mentors to satisfy their subcontracting plans solely by awarding contracts and development assistance to protégés, and recommended that DHS perform a regulatory flexibility analysis. The Small Business Administration's Office of Advocacy letter of January 5, 2004, specifically questioned this same issue and recommended DHS provide the factual basis to support its decision to certify the rule under the Regulatory Flexibility Act.

Response: We disagree that, as a practical matter, large businesses can fulfill their entire subcontracting plan goals for a contract through Mentor-Protégé agreements, nor does DHS intend to approve any subcontracting plan that solely relies on Mentor-Protégé agreements. Because DHS intends the Mentor-Protégé Program as an extension of its Small Business Program—not its replacement—we have clarified (HSAR) 48 CFR 3052.219-71(d) regarding the limitations of the individual Mentor-Protégé agreements. DHS will use the Mentor-Protégé program in addition to the small business programs in (FAR) 48 CFR part 19: The business development program established under section 8(a) of the Small Business Act, 15 U.S.C. section 637(a) (the “8(a) program”), the HUBZone program, the service disabled veteran small business program, the traditional small business set-aside program, and the small business subcontracting program. It is expected that the protégé entities will directly benefit from the forms of mentoring provided for in this rule. Hence, the rule will not have a significant economic impact on a substantial number of small entities in the sense envisioned by the Regulatory Flexibility Act.

2. *Comment:* Several comments expressed concerns about TSA’s exemption from the FAR and the HSAR, particularly from the small business requirements.

Response: TSA is statutorily exempt from the FAR, HSAR, and Small Business Act, under the Aviation and Transportation Security Act of 2001, and is bound instead by the Federal Aviation Administration (FAA) Acquisition Management System (AMS). Section 3.6.1 of the AMS, “Small Business Utilization,” sets out TSA’s requirements with regard to small business acquisition programs. Nonetheless, TSA actively participates in DHS’s small business programs, including taking part in small business outreach events, setting small business goals, and providing information for the annual Forecast of Contract Opportunities.

3. *Comment:* Fourteen comments requested language granting priority for small business prime contract acquisition in the HSAR.

Response: The requested language would unnecessarily duplicate (FAR) 48 CFR 19.201(a) and the “Rule of Two” set out at (FAR) 48 CFR 19.505-2, which require exclusive set-asides for small businesses in certain circumstances.

4. *Comment:* Multiple comments requested that “the DHS Director, Small Business Entities, be given the authority and responsibility for the final

execution and management of subcontracting plans and program contracts. Such contracts must require the DHS contracting officer to include the Small Business Entity and the DHS Director, Small Business Entities, a place at the negotiating and evaluation table with the Large Prime Contractor.”

Response: We interpret the comments as requesting authority for small business offerors on DHS subcontracts and DHS’s Director of Small and Disadvantaged Business Utilization to participate in contracting officers’ discussions and negotiations with large business prime contract offerors. We believe that such a change would exceed the scope of the interim rule, and would require modification to statutory authority or the FAR.

5. *Comment:* DHS received multiple requests for a DHS-wide pilot to provide funds for small business demonstration projects, including financial incentives for individual small businesses and groups of small businesses to compete.

Response: DHS believes the requested demonstration projects would constitute financial assistance, and would require statutory authority.

Specific Comments Relating to HSAR Parts

6. *Comment:* DHS received several comments dealing with the structure of the regulations. One comment recommended clarification of the order of precedence to include court and administrative decisions. Another comment suggested including a cross reference between the FAR and the HSAR to minimize confusion over precedence, and an instruction to follow the FAR unless the HSAR provides specific supplemental regulations. One comment asked why the regulation is focused on U.S. Coast Guard acquisitions.

Response: The HSAM and HSAR, like other regulatory and administrative documents, implicitly incorporate interpretations from courts and administrative bodies. We do not believe that the HSAR needs additional cross references to the FAR; HSAR numbering corresponds to the FAR citations addressing the same subject matter, with the HSAR providing more specificity. Some HSAR numbers have no parallel FAR citations because they address issues unique to DHS. We have placed such regulations in HSAR parts that relate generally to the subject matter and numbered them with the suffix “70”, for example: 3019.70 (a DHS unique subpart), 3004.470-3 (a DHS unique section), or 3019.708-70 (a DHS unique subsection). Unique requirements applying to a particular

Organizational Element, such as the U.S. Coast Guard, are numbered similarly, except that their suffixes begin with “90”, instead of “70”, for example, 3028.106-490 (unique section) and 3037.104-91 (unique subsection). Finally, as a uniformed service, the Coast Guard is subject to unique statutory requirements. Hence, the HSAR contains several sections specific to the Coast Guard.

7. *Comment:* Two comments recommended that (HSAR) 48 CFR 3001.104(c) should be revised to explicitly provide a forum for resolution of Non-appropriated Funded Instrumentality (NAFI) contract disputes.

Response: We agree. The (HSAR) 48 CFR 3001.104(c) was revised to provide for appeal of NAFI contract disputes to the Department of Transportation Board of Contract Appeals.

8. *Comment:* The requirement at (HSAR) 48 CFR 3001.301-71(b) to obtain the Chief of the Contracting Office’s (COCO’s) determination to include new HSAR provisions in previously issued solicitations is “too inflexible.”

Response: We agree. The (HSAR) 48 CFR 3001.301-71 was revised to contain language similar to (FAR) 48 CFR 1.108 regarding effective dates and application of regulatory changes.

9. *Comment:* The final rule should include language similar to (FAR) 48 CFR 1.404(a)(2) that states, “An agency official who may authorize a class deviation, before doing so, shall consult with the chairperson of the Civilian Agency Acquisition Council (CAA Council), unless that agency official determines that urgency precludes such consultation.”

Response: We agree. (HSAR) 48 CFR 3001.404(a) was modified to include the requirement to consult with the CAA Council Chairperson for FAR class deviations.

10. *Comment:* One comment suggested addressing the “Special Emergency Procurement Authority,” granted by section 1443 of the Services Acquisition Reform Act of 2003, enacted as title XIV of the fiscal year 2004 National Defense Authorization Act (Pub. L. 108-136), in (HSAR) 48 CFR 3013.7004.

Response: We disagree. Federal Acquisition Circular (FAC) 2001-022, published on February 23, 2004, incorporated the new authorities listed in section 1443 of the Services Acquisition Reform Act (SARA) into the FAR. The authorities in section 1443 of SARA overlap the special authorities set out in section 833 of the Homeland Security Act, 6 U.S.C. 393. The

definitions of "micro-purchase threshold," at (HSAR) 48 CFR 3013.7003, and "simplified acquisition threshold," at (HSAR) 48 CFR 3013.7004, apply only to DHS procurements that take place under the streamlined authority in section 833 of the Homeland Security Act, and not those under the similar authority in section 1443 of SARA. Any internal DHS requirements associated with the FAR rule will be addressed in the HSAM.

11. *Comment:* One comment recommended that the HSAR address DHS's Procurement Instrument Identification Descriptions (PIID) (contract numbers).

Response: DHS's PIID scheme is addressed in section 3004.602-71 of the HSAM.

12. *Comment:* Some of the comments indicated confusion over use of different terms in different places to refer to the Departmental and OE competition advocates, specifically in (HSAR) 48 CFR 3006.501 and 3006.502, FAR 6.5, and the office of Federal Procurement Policy (OFPP) Act.

Response: We have amended the HSAR to include language at 3006.1 and 3006.101-70 (previously located in the HSAM, at section 3006.101-70) to make clear that the different titles refer to the same individual.

13. *Comment:* The term "Departmental Advocates for Competition" should be replaced with "DHS SCA" at (HSAR) 48 CFR 3006.502 to be consistent with the title established in (HSAR) 48 CFR 3006.501 "Competition Advocates."

Response: We agree. However, we have removed (HSAR) 48 CFR 3006.502 and included provisions in the HSAM because the procedures identified are internal policy matters.

14. *Comment:* DHS should provide additional details regarding bundled procurements in accordance with (FAR) 48 CFR 7.107(c), which states, "Without power of delegation, * * * the Deputy Secretary or equivalent for the civilian agencies may determine that bundling is necessary and justified when * * *"

Response: The (FAR) 48 CFR 7.107(c) specifies that the Deputy Secretary of DHS must make the necessary determinations. The specific procedures for making such determinations are internal matters that are addressed in HSAM 3007.107(e).

15. *Comment:* The HSAR does not provide Departmental procedure to ensure compliance with section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107-107), which applies to orders for services over \$100,000 placed by non-Department of

Defense (DoD) agencies on behalf of DoD.

Response: DHS believes that the General Services Administration's (GSA) special ordering procedures for the Federal Supply Schedules and Defense Federal Acquisition Regulation Supplement (DFARS) 48 CFR 208.404-70, "Additional Ordering Procedures for Services," adequately set out DHS's requirements when ordering off the schedules on behalf of DoD components.

16. *Comment:* The prohibition at (HSAR) 48 CFR 3009.104-71 implementing section 835(b) of the Homeland Security Act (HSA), 6 U.S.C. section 395(b), against contracting with a foreign incorporated entity treated as an inverted domestic corporation, does not state how it is to be applied with regard to purchases at or below the simplified acquisition threshold, or to task and delivery orders issued under contracts with other agencies.

Response: The HSA states, "The Secretary may not enter into any contract" with a company deemed under the statute to be an "inverted domestic corporation." The statute provides a waiver for specific contracts if the Secretary determines that such a waiver is in the interests of national security. DHS employees and officials exercising the Secretary's delegated authority to enter into contracts are bound by this requirement. OEs are advised to consult with legal counsel if questions exist regarding the application of the language of section 835.

17. *Comment:* One comment recommended revising (HSAR) 48 CFR 3009.104-71 because it fails to recognize the Homeland Security Act's explicit authority to waive the prohibition in appropriate circumstances against contracting with corporate expatriates. The comment suggested adding a new lead-in phrase stating "Except as provided in (HSAR) 48 CFR 3009.104-74."

Response: We modified (HSAR) 48 CFR 3009.104-71 as recommended. Also, we modified the text of (HSAR) 48 CFR 3009.104-72 to comport with changes in the 2005 Homeland Security Appropriations Act, Public Law 108-334, section 523 (General Provisions), regarding companies that are to be treated as inverted domestic corporations.

18. *Comment:* One comment recommended changing the heading of (HSAR) 48 CFR 3009.104, the text of (HSAR) 48 CFR 3009.104-75, and the section heading and the title of (HSAR) 48 CFR 3052.209-70 to refer to "Inverted Domestic Corporations," instead of "corporate-expatriates."

Response: The current heading is consistent with section 835 of the Homeland Security Act, 6 U.S.C. 395, "Prohibition on Contracts with Corporate Expatriates."

19. *Comment:* Several comments were submitted regarding (HSAR) 48 CFR 3009.104-74 and the clause, Prohibition on Contracts with Expatriates at (HSAR) 48 CFR 3052.209-70, which implement the Secretary's authority to waive the prohibition on contracting with inverted domestic corporations. The specific recommendations included referring to the substantive provisions of the HSAR rather than to the substantive provisions of the statute; adding language that encourages the contractor to submit waiver requests at the earliest time practicable; adding language permitting an offeror to submit an offer at its risk before a waiver has been granted; and adding an alternate certification permitting a company to state that it is an inverted corporation pursuant to the criteria of the Act but has submitted a request for waiver pursuant to (HSAR) 48 CFR 3009.104-74. Also, one comment noted that Public Law 108-7, Div. L, section 101(2), 117 Stat. 528 (February 20, 2003), limited waivers to those "in the interest of homeland security," and suggested amending the regulation accordingly.

Response: We adopt the recommendation to cite the regulation rather than the Homeland Security Act and have also changed (HSAR) 48 CFR 3009.104-74(a) to comport with amendments to the Act. Additionally, we have amended (HSAR) 48 CFR 3052.209-70(f) to provide for offerors to submit one of three alternative representations: That the offeror is not an inverted domestic corporation, that the offeror should be treated as an inverted domestic corporation but has submitted a waiver request, and that the offeror should be treated as an inverted domestic corporation but plans to apply for a waiver. Adding such a representation will allow entities that do not meet the requirements to remain in line for award while their waiver requests are processed. We do not adopt recommendations to add language suggesting offerors submit waiver requests as early as possible or language allowing submission of an offer at the offeror's risk before a waiver is granted. In both cases, we believe that the suggested wording is common sense advice that need not be codified in formal regulations.

20. *Comment:* DHS received comments objecting to the burdens imposed by the Disclosure of Conflicts of Interest provision at (HSAR) 48 CFR 3052.209-72 and the lack of clarity at

(HSAR) 48 CFR 3009.507 regarding the conditions for the provision's use.

Response: We have deleted the prescription in the interim rule at (HSAR) 48 CFR 3009.507 and the clause at (HSAR) 48 CFR 3052.209-72 and replaced them with a new prescription at (HSAR) 48 CFR 3009.507-1 and provision at (HSAR) 48 CFR 3052.209-72. Additionally, DHS has inserted a new clause at (HSAR) 48 CFR 3052.209-73, Limitation on Future Contracting, which the contracting officer shall insert into solicitations and contracts according to the new prescription at (HSAR) 48 CFR 3009.507-2. We believe that the new procedures will reduce the burden on offerors.

21. *Comment:* One comment recommended adding language to HSAR subpart 3010 to implement section 509(2) of the Homeland Security Act, 6 U.S.C. 319(2), which provides: "It is the sense of Congress that in order to further the policy of the United States to avoid competing commercially with the private sector, the Secretary should rely on commercial sources to supply the goods and services needed by the Department."

Response: We have not added language to the HSAR for this purpose because we believe (FAR) 48 CFR parts 7, 10, and 11 adequately implement the Homeland Security Act's policy in favor of private sector performance of commercial functions.

22. *Comment:* One comment suggested including a statement at (HSAR) 48 CFR 3012.303 instructing contracting officers in commercial item acquisitions to use the format set out at (FAR) 48 CFR 12.303, instead of the uniform contract format.

Response: We disagree that additional regulatory language is required beyond the FAR. However, we will consider placing recommended language in the HSAM as internal guidance to DHS contracting officers.

23. *Comment:* One comment suggested adding special provisions for large dollar expedited acquisitions under emergency circumstances, to facilitate the ability for a quick national recovery.

Response: The special acquisition provisions found in (HSAR) 48 CFR parts 3002 (Definitions) and 3013.7000 through 3013.7005, which implement statutory authority in section 833 of the Homeland Security Act, 6 U.S.C. 393, address such acquisitions designed to facilitate quick national recovery.

24. *Comment:* One comment recommended referring to the FAR in (HSAR) 48 CFR subpart 3013.70 instead of including the specific micro-purchase

and Simplified Acquisition Procedures dollar amounts.

Response: We agree. We changed (HSAR) 48 CFR 3013.7005 accordingly.

25. *Comment:* Several comments expressed concern regarding (HSAR) 48 CFR 3015.207-70(b), which allows releasing proposals and information outside the government "for evaluation and similar purposes if qualified personnel are not available" within the government to analyze the submissions. The comments included urging DHS to require a non-disclosure agreement for those outside the Department, asking DHS to establish qualifications for contractors and consultants to receive such material, and seeking establishment of an additional level of review before allowing such release.

Response: We do not believe that the regulation needs to be changed. (HSAR) 48 CFR 3009.507, 3052.204-70, 3052.204-74, and 3052.209-72 restrict the conditions under which the government may release contractor or offeror information. Furthermore, the HSAM requires DHS personnel to ensure that contractors receiving sensitive information execute non-disclosure agreements.

26. *Comment:* The (HSAR) 48 CFR 3015.404-470 imposes an unnecessary and unfair hardship on the contractor by withholding profit or fee payments until after definitization of a letter contract.

Response: We agree. We removed (HSAR) 48 CFR 3015.404-470.

27. *Comment:* One comment objected to the (HSAR) 48 CFR 3015.603(a) language stating costs associated with proposal preparation are solely the responsibility of the offeror submitting the proposal. Another comment stated that such costs should be reimbursable if a contract is awarded to that contractor.

Response: We agree in part. We removed (HSAR) 48 CFR 3015.603(a) because it potentially contradicts the FAR.

28. *Comment:* One comment recommended establishing a uniform Departmental policy for unsolicited proposals, to avoid separate requirements applicable to each OE.

Response: DHS issued Management Directive (MD) 0750.1, "Responding to Unsolicited Proposals" to provide uniform procedures. DHS will consider incorporating appropriate procedures into the HSAM.

29. *Comment:* (HSAR) 48 CFR 3016.505(b)(5)(iii) provides for complaint referrals from each OE Task and Delivery Order Ombudsman to the DHS Task and Delivery Order Ombudsman. Comments suggested that the regulations identify the DHS

position title and organization of the individuals whose duties will include serving as DHS Task and Delivery Order Ombudsmen.

Response: We agree. We modified (HSAR) 48 CFR 3016.505(b)(5)(ii) to include the reporting requirements and to identify the DHS Task and Delivery Order Ombudsman as the Senior Competition Advocate.

30. *Comment:* One comment expressed concern that the term "definitized letter contracts" in the prescription at (HSAR) 48 CFR 3016.603-4, Contract clauses, has no meaning. The comment states that letter contracts and definitized contracts exist, but not "definitized letter contracts."

Response: Although the term "definitized letter contract" is not described in the FAR, we believe the term is widely used to describe the act of completing the definitization (negotiation) of the preliminary contractual instrument (i.e., letter contract.) We have used the term "definitized letter contract" in the contract clause prescription to refer to the negotiated contractual instrument with agreed-to prices, terms and conditions.

31. *Comment:* Several comments addressed energy savings performance contracts. One comment noted that the statutory authority to engage in energy savings performance contracts, 42 U.S.C. 8287, expired on October 1, 2003.

Response: We removed (HSAR) 48 CFR 3017.7000, which addressed internal procedural matters pertaining to energy savings contracts. DHS will amend the HSAM to address internal procedural matters pertaining to the program's administration, reauthorized through Fiscal Year 2006 by the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Public Law No. 108-375, section 1090, 118 Stat 1811 (2004).

32. *Comment:* The clauses and provisions listed in 3017.9000(a) apply to "sealed bid fixed-price solicitations and contracts * * * to be performed within the United States, its possessions, or Puerto Rico." The clauses and provisions listed in 3017.9000(b) apply to "* * * negotiated solicitations and contracts to be performed outside the United States." What are the clauses applicable to sealed bid fixed-price solicitations and contracts to be performed outside the United States, its possessions, or Puerto Rico? What are the clauses applicable to negotiated solicitations and contracts to be performed inside the United States?

Response: There are no specific clauses and provisions required for sealed bid solicitations and contracts

outside the United States or negotiated solicitations and contracts inside the United States. The contracting officer retains discretion to include the clauses and provisions listed in 3017.9000, if appropriate, for such solicitations and contracts.

33. *Comment:* One comment suggested that the HSAR implement section 119 of Public Law 106-553. That section authorizes the Bureau of Immigration and Customs Enforcement (ICE) to enter into Federal procurement contracts for detention or incarceration space or facilities, including related services, for any reasonable duration and on any reasonable basis "notwithstanding any other provision of law, including section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d))."

Response: We agree. Public Law 106-553, Title I, section 119, 18 U.S.C.A. 4013 note (redesignated as section 118 by Public Law 106-554, section 213), authorized the Attorney General of the United States to enter into contracts exceeding five years in duration, notwithstanding any other provision of law, including section 4(d) of the Service Contract Act of 1965, 41 U.S.C. 353(d). As a result of sections 441 and 1511(d)(2) of the Homeland Security Act, 6 U.S.C. 251 and 551(d)(2), the Department of Homeland Security may exercise that authority. Accordingly, we added a new section, (HSAR) 48 CFR 3017.204-90, to implement the statutory authority for ICE.

34. *Comment:* One comment stated that the list of small business categories in (HSAR) 48 CFR 3019.201(d), assigning responsibility to the Director, Office of Small and Disadvantaged Business Utilization for small business programs, includes only small and small disadvantaged businesses, and should also include veteran-owned small businesses, service-disabled veteran-owned small businesses, HUBZone businesses, and women-owned small business concerns.

Response: We agree. We corrected the text at (HSAR) 48 CFR 3019.201(d) to include the business categories listed in (FAR) 48 CFR 19.201(a).

35. *Comment:* We received numerous comments regarding subpart 3019.7 and its associated provisions and clauses. One comment stated that (HSAR) 48 CFR subpart 3019.705-1 should begin with the phrase "Except when otherwise required," to indicate that a subcontracting plan is mandatory in some circumstances and inappropriate in others. The comment continued that evaluation factors should focus on the plan's details, rewarding good faith efforts rather than only results. In

contrast, another comment argued that (FAR) 48 CFR 42.1502 requires consideration of the offeror's past performance regarding previous subcontracting goals. Two other comments suggested changes to (HSAR) 48 CFR 3019.708-70, one to ensure the contracting officer includes an evaluation factor for Mentor-Protégé participation and one suggesting an addition to paragraph (c) requiring inclusion of (HSAR) 48 CFR 3052.219-71 and 3052.219-72 only "where involvement in subcontracting to small and disadvantaged businesses will be considered as a source selection evaluation factor." Another comment recommended that (HSAR) 48 CFR 3052.219-71 be clarified by adding the word "additional" before the phrase "credit for purposes of determining" in paragraph (d), and address the Department's intent to permit a protégé to have more than one mentor. Finally, a comment recommended modifying (HSAR) 48 CFR 3052.219-72, which another comment noted is a provision—not a clause—to include a representation that an offeror has submitted a Mentor-Protégé agreement that has not yet been approved.

Response: DHS has adopted some of the recommendations. We have rewritten: (HSAR) 48 CFR 3019.705-1 to clarify the contracting officer's responsibility involving evaluation factors; (HSAR) 48 CFR 3019.708(a) and (c) to correct names of clauses and provisions; (HSAR) 48 CFR 3052.219-71(d) to include the word "additional" as suggested; and (HSAR) 48 CFR 3052.219-72 to clarify contracting officer's discretion for approval of credits. We have not adopted the suggestion to give automatic evaluation credit if the offeror receives approval of a Mentor-Protégé agreement before the final evaluation of proposals, because such a rigid requirement could lead to unfairness to other competitors. However, we believe that the contracting officer should have the discretion to grant such credit if appropriate, and have amended (HSAR) 48 CFR 3052.219-72 accordingly. We do not adopt the comment to affirm that a protégé may have more than one mentor. While we have permitted multiple mentors on a case-by-case basis through Mentor-Protégé Agreements, we have not yet decided whether to make this policy permanent and plan to address this matter through future rulemaking. Neither have we adopted the comment to incorporate (FAR) 48 CFR 42.1502, requiring past performance evaluations regarding subcontracting plans, into (HSAR) 48

CFR 3019.705-1 because we believe (FAR) 48 CFR part 42 applies during contract administration and not pre-award. Reports generated under (FAR) 48 CFR part 42 should be considered during evaluations on the same basis as other past performance information.

36. *Comment:* One comment suggested clarifying the term "union representative" in (HSAR) 48 CFR 3022.101-70 to distinguish between outside union representatives and contractor employee union representatives to ensure access for union representatives who are contractor employees. The same comment also expressed concerns about unlawful surveillance of union activities and urged adoption of a governmental appeal process for contractor employees who lose their jobs.

Response: We have amended (HSAR) 3022.101-70(a) to distinguish between non-employee and contractor union employee representatives, and to ensure appropriate access. With regard to concerns about unlawful investigation or surveillance of union activity, DHS does not believe that it has directly or indirectly proposed investigation or surveillance. We do not adopt the suggestion to provide an appeal process for aggrieved contractor employees in the acquisition regulations, because DHS believes the question of appeal rights is best addressed through other means.

37. *Comment:* One comment questioned the need for (HSAR) 48 CFR 3023.501(d) to delegate authority to the head of law enforcement Organizational Elements to determine that the Drug-Free Workplace requirements do not apply in particular circumstances.

Response: We disagree, but have reworded the (HSAR) 48 CFR 3023.501(d) for clarity.

38. *Comment:* Two comments sought incorporation of (FAR) 48 CFR part 25 and (DFARS) 48 CFR part 225 into the HSAR to assure compliance with procurement treaties. Another comment sought the adoption of provisions similar to (DFARS) 48 CFR 225.870 to allow DHS to contract with the Canadian Commercial Corporation, using individual Canadian companies to perform the actual contract work as subcontractors.

Response: We do not adopt these comments at this time. DHS plans to abide by applicable procurement treaties, and believes that the FAR provides sufficient protection for foreign companies seeking to do business with DHS. While DHS is not averse to amending the HSAR to address the role of the Canadian Commercial Corporation explicitly, the Department

believes that such a change is not appropriate in a final rule.

39. *Comment:* One comment expressed concern that universities will be able to participate only in research contracts, and not in service contracts because of the contractor qualification requirements limiting access to information technology systems and other sensitive information. The same comment suggested deleting or modifying (HSAR) 48 CFR 3052.242-70(c) to permit press releases by universities without pre-clearance by DHS.

Response: The requirements of (HSAR) 48 CFR part 3037 (moved to subpart 3004.4), regarding contractor employee access and security matters involving sensitive but unclassified information, will not ordinarily apply to universities. We have included language to that effect in HSAR 48 CFR 3004.470-3(b). Because we agree that press releases from universities should not require pre-clearance, we have deleted (HSAR) 48 CFR 3052.242-70(c). Additionally, we have moved the prescription at (HSAR) 48 CFR 3042.202-70(a) to a new HSAR subpart 3035.70 and moved the clause to (HSAR) 48 CFR 3052.235-70.

40. *Comment:* One comment stated that (FAR) 48 CFR 31.205-32 adequately addresses the allowability of precontract costs and that (HSAR) 48 CFR 3031.205-32(a) is unnecessary.

Response: We disagree. DHS believes that the additional information contained in the HSAR will provide further clarification regarding precontract costs.

41. *Comment:* One comment recommended that the HSAR include guidance regarding the "other transaction" authority in section 831 of the Homeland Security Act, 6 U.S.C. 391. The comment also recommended adding language to (HSAR) 48 CFR 3035 to address the use of Federally Funded Research and Development Centers (FFRDCs) and national laboratories.

Response: Section 831 of the Homeland Security Act, 6 U.S.C. 391, provides the Secretary of Homeland Security temporary authority (until September 2007) to enter into "Other Transactions." "Other Transactions" is the term commonly used to refer to the 10 U.S.C. 2371 authority to enter into transactions other than contracts, grants or cooperative agreements. Since the policies and procedures applicable to these instruments are outside the Federal Acquisition Regulation, a separate Management Directive and Guide was issued by the Office of the Chief Procurement Officer. With regard to the second part of the comment, new

language regarding FFRDCs has been added to (HSAR) 48 CFR 3035.017.

42. *Comment:* One comment asked why the National Institutes of Health (NIH) Contractor Performance System (CPS) is used in the HSAR instead of the Past Performance Information Retrieval System (PIIRS).

Response: The NIH CPS is one tool in existence to collect contractor performance information. The DoD PIIRS is not a performance information collection tool, but a Web site that displays final collected performance reports. The two systems work together.

43. *Comment:* One comment asked why the HSAR did not contain more guidance on the use of Performance Based Contracting.

Response: There is adequate published guidance on the use of Performance-Based Contracting in the FAR, as well as industry associations and Federal Web sites. The HSAR sets out regulations unique to DHS.

44. *Comment:* One comment noted that the Office of Management and Budget's clearances for HSIF Form 3237, Contractor Personnel Access Application and HSIF Form 4024, Sensitive Information Non-Disclosure Agreement, were not included in (HSAR) 48 CFR 3037.103-71.

Response: These two forms have been removed from the DHS centrally managed forms program. We have removed (HSAR) 48 CFR 3037.103-70 and 3037.103-71 from the final rule.

45. *Comment:* One comment asked why (HSAR) 48 CFR 3037.104-90, granting authority to enter into medical personal services contracts, applies only to the U.S. Coast Guard. Another comment noted that 10 U.S.C. 1091(a)(2) now contains permanent authority to enter into personal services contracts for the performance of health care responsibilities at locations other than military medical treatment facilities.

Response: 10 U.S.C. 1091 specifically authorizes the Department of Defense and the U. S. Coast Guard to award medical personal services contracts. This authority does not apply to DHS civilian entities. We removed the expiration date from (HSAR) 48 CFR 3037.104-90(a).

46. *Comment:* One comment recommended that (HSAR) 48 CFR Part 3038 include the Department's specialized authority in Section 803 of the 2004 National Defense Authorization Act (Pub. L. 108-136) to permit cooperative purchasing by state and local governments.

Response: Consistent with section 803 of Public Law 108-136, DHS is presently working with the Administrator of the Office of Federal

Procurement Policy to develop the scope and process for cooperative purchasing by states and units of local government.

47. *Comment:* One comment recommended amending subpart 3039 to implement section 509 of the Homeland Security Act, 6 U.S.C. 319, "the sense of Congress" to use off-the-shelf technologies "to collect, manage, share, analyze and disseminate information securely over multiple channels of communication."

Response: We disagree. Existing FAR and HSAR language regarding the procurement of commercial items adequately implements the statute.

48. *Comment:* DHS received several comments concerning warranty requirements. One comment recommended that (HSAR) 48 CFR 3046.705(a)(3) be amended to exclude warranty liability resulting from terrorism. Another recommended rephrasing (HSAR) 48 CFR 3046.703(a)(1) to make clear when warranties are required for major systems acquisitions. A third stated that (HSAR) 48 CFR 3046.706(a) is more procedural than regulatory, and should be included in the HSAM. Finally, one comment recommended changing the (HSAR) 48 CFR 3046.702-70 to be consistent with the statutory (FASA) and regulatory (FAR) definition of a commercial item.

Response: We have amended the warranty requirements and renumbered subpart 3046 to make clear that the content applies only to the Coast Guard, in accordance with Public Law 99-190, Title I, Department of Transportation Appropriations, "Acquisition, Construction, and Improvements" (December 19, 1985) (mandating warranty procedures for the Coast Guard and setting out a combat exemption). We did not extend the exclusion from warranty liability to damage by terrorism because such an exclusion would exceed the statutory authority. We have also reworded the exclusion to apply to "combat damage" (as opposed to "in time of war or national emergency") to comport with statutory language. Finally, DHS has removed (HSAR) 48 CFR 3046.702-70 and the internal instructions to contracting officers found in the interim rule at (HSAR) 48 CFR 3046.706. We will insert the latter into HSAM Chapter 3046.

49. *Comment:* One comment recommended that the HSAR implement the Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (SAFETY Act), found in sections 861-865 of the Homeland Security Act, 6 U.S.C. 441-444, and

address its extraordinary relief provisions in (HSAR) 48 CFR 3050.

Response: DHS believes a change is necessary to (FAR) 48 CFR part 50 with regard to extraordinary relief and provided our business case recommendation to the FAR Secretariat. Concurrent rulemaking is taking place in DHS to implement the SAFETY Act in general. After completion of that rulemaking process, we will consider adding any necessary provisions to the HSAR.

50. *Comment:* One comment expressed concern that while the introductory paragraph of (HSAR) 48 CFR 3052.209-70 identifies it as a clause, subparagraphs (f) and (g) make clear that it is a solicitation provision.

Response: We disagree. (HSAR) 48 CFR 3052.209-70 applies to both solicitations and contracts and is therefore a clause.

51. *Comment:* (HSAR) 48 CFR 3052.211-90 contains references to Military Standards (Mil-Std), 1189, "Bar Coding Symbolology," and 129H, "Marking for Shipment and Storage". One comment stated that Mil-Std 1189 is an inactive standard and Mil-Std 129H has been replaced by Mil-Std 129P.

Response: We agree. We removed (HSAR) 48 CFR 3011.204-90, 3013.106-190, 3013.302-590, and the corresponding clauses at (HSAR) 48 CFR 3052.211-90 and 3052.213-90, all of which contain obsolete references.

52. *Comment:* One comment stated that the (HSAR) 48 CFR 3052.215-70 is too restrictive and firms should be able to replace key personnel without pre-approval.

Response: We disagree. The approval process is standard practice in federal contracting.

53. *Comment:* One comment recommended that "will be rejected" is too restrictive and should be changed to "may be rejected" in the first paragraph of (HSAR) 48 CFR 3052.216-70.

Response: We agree. We have changed the clause as suggested.

54. *Comment:* One comment recommended that (HSAR) 48 CFR 3052.216-73 permit provisional payment of award fees, similar to regulations recently implemented by the DoD in the DFARS.

Response: We decline to adopt the DoD policy concerning provisional payment of award fees. DHS believes that its own award fee system provides for flexibility and timely payment without adding the complexity of a provisional payment system.

55. *Comment:* One comment questioned why the vessel repair guarantee periods in paragraphs (a) and

(e) of the (HSAR) 48 CFR 3052.217-100 are inconsistent.

Response: For consistency we changed the number of days in paragraph (e) of (HSAR) 48 CFR 3052.217-100 from 90 days to 60 days.

56. *Comment:* One comment stated that (HSAR) 48 CFR 3052.222-90, Local Hire, could be interpreted to mean that all hires must be from the local area.

Response: The comment correctly interprets the HSAR text and clause, which properly identify the restrictions placed on the U.S. Coast Guard under 14 U.S.C. 666. However, DHS has amended the language to parallel the statute.

57. *Comment:* One comment recommended revising (HSAR) 48 CFR 3052.223-70 to read: "The Contractor must have all licenses and permits required by Federal, state, and local laws to perform hazardous substance(s) removal or disposal services. If the Contractor does not currently possess the necessary licenses and permits, it must obtain them within ___ days after date of award. The Contractor shall provide evidence of compliance to the Contracting Officer or designated Government representative prior to commencement of work under the contract."

Response: We agree, and have amended (HSAR) 48 CFR 3052.223-70 to include the revised text, although we have revised the comment's suggested wording to provide additional clarity.

58. *Comment:* Several comments noted the stringency of the "contractor qualification" requirements. Some of the comments expressed concern that the interim regulation required citizenship or legal permanent resident alien status for all contractor employees.

Response: DHS did not intend the requirements to apply to all individuals employed by the contractor's organization, but only to those employed on DHS contracts. We have modified the restrictions to apply only to contracts involving access to information technology, sensitive information, or government facilities, and have clarified the requirements.

59. *Comment:* Several comments objected to the sweeping definition of "sensitive information" in (HSAR) 48 CFR 3052.237-70(a).

Response: DHS has narrowed the definition of "sensitive information" and moved it to (HSAR) Part 3002.101, the "Definition" section of the regulation. The amended text clarifies that the government must mark sensitive information that it furnishes to the contractor. The government may designate as "sensitive" information

generated by the contractor during performance.

60. *Comment:* One comment recommended additional specificity in (HSAR) 48 CFR 3052.237-70(c) regarding the forms contractor employees must complete.

Response: The HSAM will be amended to include the relevant information.

61. *Comment:* One comment raised concerns that (HSAR) 48 CFR 3052.237-72, Contractor Screening for Unclassified Information Technology Access, provides the Department with virtually unlimited rights to inspect contractor facilities and question contractor personnel.

Response: We have removed the clause and plan to include administrative guidance in the HSAM.

62. *Comment:* Numerous comments provided edits for various parts of the HSAR.

Response: We have considered the comments relating to technical edits and corrections. We have addressed changes in the amended sections of the final rule.

III. Additional Technical Changes

We have made additional technical changes to the interim rule, examples of which follow. These revisions are not intended to change the substance of the rule. Typographical corrections include (HSAR) 48 CFR 3001.104(c), which was revised to correct "institutions" to "Instrumentality" and (HSAR) 48 CFR 3002.101, the definition section, where "Head of Contracting Activity" was corrected to read "Head of the Contracting Activity." Typographical error corrections are identified in the amended text section of this rule. Each DHS form was modified to include the expiration date of September 27, 2007, in consonance with the expiration date of OMB Control Number 1600-0002 for the collection of information under (HSAR) 48 CFR chapter 30. (HSAR) 48 CFR parts 3002, 3005, 3009, 3013, 3035, 3037, and 3052, reflect the codified cites to the Homeland Security Act, which were not available when the interim rule was published, were added.

IV. Regulatory Requirements

A. Executive Order 12866 Assessment

This rule is not considered by DHS to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, the Office of Management and Budget has waived its review process under section 6(a)(3)(A). As identified in the interim rule, the HSAR is the supplemental regulation to the

FAR, similar to all other Federal agencies' FAR supplements. Since the FAR is the controlling document for the conduct of most federal acquisitions, the HSAR provides necessary supplemental information regarding DHS acquisition procedures.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) mandates that an agency conduct an RFA analysis when an agency is "required by section 553 * * *, or any other law, to publish general notice of proposed rulemaking for any proposed rule." RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). DHS has determined that good cause exists under 5 U.S.C. 553(b)(B) to exempt this rule from the notice and comments requirements of 5 U.S.C. 553(b). Therefore no RFA analysis under 5 U.S.C. 603 is required for this rule. However, DHS did consider the impact of this rule on small entities and does not believe it will have an adverse impact. There were comments from small entities on the December 4, 2003, interim rule and those comments were previously addressed in the "Discussion of Public Comments" section of the preamble.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) applies because the final rule contains information collection requirements which require OMB approval under 44 U.S.C. 3501, et seq. OMB has granted approval for a 3-year period under OMB Control Numbers 1600-0003 through 1600-0005.

D. Executive Order 13132—Federalism

DHS has determined that this final rule does not contain federalism implications and would not preempt State laws. Accordingly, DHS certifies that it will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among various levels of government, as specified in Executive Order 13132. Accordingly, this rule is not subject to the requirements of Executive Order 13132.

List of Subjects in 48 CFR Parts 3001, 3002, 3003, 3004, 3005, 3006, 3009, 3011, 3013, 3015, 3016, 3017, 3019, 3022, 3023, 3028, 3030, 3031, 3033, 3035, 3037, 3042, 3046, 3052 and 3053

Government procurement.

Dated: April 25, 2006.

Elaine C. Duke,
Chief Procurement Officer.

■ Accordingly, the interim rule amending the 48 CFR chapter 30 which was published at 68 FR 67870 on December 4, 2003, is adopted as a final rule with the following changes:

■ 1. The authority citation for 48 CFR parts 3001, 3002, 3003, 3004, 3005, 3006, 3009, 3011, 3013, 3015, 3016, 3017, 3019, 3022, 3023, 3028, 3030, 3031, 3033, 3035, 3037, 3042, 3046, 3052, and 3053 continues to read as follows:

Authority: 41 U.S.C. 418b(a) and (b).

PART 3001—FEDERAL ACQUISITION REGULATION SYSTEM

■ 2. Amend section 3001.104 by revising paragraph (c) and by adding paragraph (d) to read as follows:

3001.104 Applicability.

* * * * *

(c) Contracts involving Non-Appropriated Fund Instrumentalities (NAFIs) must contain suitable dispute provisions and may provide for appellate dispute jurisdiction in the Department of Transportation's Board of Contract Appeals (DOTBCA). However, the contract must not attempt to confer court jurisdiction that does not otherwise exist.

(d) The FAR and HSAR may be followed, where feasible, for:

- (1) No-cost contracts;
- (2) Concession contracts; and
- (3) Contracts on behalf of NAFIs

entered into by appropriated fund contracting officers.

■ 3. Amend section 3001.105-2 by revising the second sentence of paragraph (a) to read as follows:

3001.105-2 Arrangement of regulations.

(a) * * * Guidance that is unique to an Organizational Element contains the organization's acronym or abbreviation directly following the title. * * *

* * * * *

3001.301 [Amended]

4. Amend section 3001.301(a)(1) by removing "OE" and by replacing it with "Organizational Element (OE)."

3001.301-70 [Amended]

■ 5. Amend section 3001.301-70(a) by removing "Request" in the first sentence and replacing it with "Requests."

■ 6. Revise section 3001.301-71 to read as follows:

3001.301-71 Effective date.

Unless otherwise stated:

(a) HSAR changes apply to solicitations issued on or after the effective date of the change;

(b) Contracting officers may, at their discretion, amend solicitations issued before the effective date to include HSAR changes, provided award of the resulting contract(s) will occur on or after the effective date of the change; and

(c) Contracting officers, at their discretion, may use the changes clause or other suitable authority to modify existing contract to include HSAR changes.

■ 7. Revise section 3001.404(a) to read as follows:

3001.404 Class deviations.

(a) Unless precluded by law, executive order, or other regulation, the CPO is authorized to approve FAR class deviations, except (FAR) 48 CFR 30.201-3, and 30.201-4 (the requirements of the Cost Accounting Standards Board); 48 CFR Chapter 99 (FAR Appendix); and part 50. Prior to authorizing a FAR class deviation, the CPO shall consult with the chairperson of the Civilian Agency Acquisition Council (CAA Council), unless the CPO determines that urgency precludes such consultation. FAR class deviation requests shall be submitted to the CPO per (HSAR) 48 CFR subpart 3001.70 including complete documentation of the justification for the deviation, and the estimated number and type of contract actions affected. The CPO will transmit a copy of each approved FAR deviation to the FAR Secretariat.

3001.603-1 [Amended]

■ 8. Amend section 3001.603-1 by removing "COCO" in the first sentence and replacing it with "Chief of the Contracting Office (COCO)."

PART 3002—DEFINITIONS OF WORDS AND TERMS

■ 9. Amend section 3002.101 by revising the definition for "Micro-purchase threshold", by revising the term "Head of Contracting Activity" to read "Head of the Contracting Activity," by revising the definition for "Simplified acquisition threshold," and by adding a definition for "sensitive information," as follows:

3002.101 Definitions.

* * * * *

Micro-purchase threshold is defined as in (FAR) 48 CFR 2.101, except when (HSAR) 48 CFR 3013.7003(a) applies.

* * * * *

Sensitive Information as used in this Chapter, means any information, the

loss, misuse, disclosure, or unauthorized access to or modification of which could adversely affect the national or homeland security interest, or the conduct of Federal programs, or the privacy to which individuals are entitled under 5 U.S.C. 552a (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:

(1) Protected Critical Infrastructure Information (PCII) as set out in the Critical Infrastructure Information Act of 2002 (Title II, Subtitle B, of the Homeland Security Act, Pub. L. 107-296, 196 Stat. 2135), as amended, the implementing regulations thereto (6 CFR part 29) as amended, the applicable PCII Procedures Manual, as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the PCII Program Manager or his/her designee);

(2) Sensitive Security Information (SSI), as defined in 49 CFR part 1520, as amended, "Policies and Procedures of Safeguarding and Control of SSI," as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the Assistant Secretary for the Transportation Security Administration or his/her designee);

(3) Information designated as "For Official Use Only," which is unclassified information of a sensitive nature and the unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national or homeland security interest; and

(4) Any information that is designated "sensitive" or subject to other controls, safeguards or protections in accordance with subsequently adopted homeland security information handling procedures.

Simplified acquisition threshold is defined as in (FAR) 48 CFR 2.101, except when (HSAR) 48 CFR 3013.7004 applies.

PART 3003—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3003.101-3 [Amended]

■ 10. Amend section 3003.101-3 by removing the "(a)" designation, by removing "parts 2635 and 3101" and adding in its place "part 2635", and

replacing "MD 0480, Ethics/Standards of Conduct" with "MD 0480.1, Ethics/Standards of Conduct, or any replacement Management Directive."

3003.203 [Amended]

■ 11. Amend section 3003.203(a) introductory text by amending the first sentence to remove the phrase "of the Gratuities clause."

3003.204 [Amended]

■ 12. Revise section 3003.204(c) to read as follows:

3003.204 Treatment of violations.

* * * * *

(c) If the HCA determines that the alleged gratuities violation occurred during the "conduct of an agency procurement" the COCO shall consult with Government legal counsel regarding appropriate action.

PART 3004—ADMINISTRATIVE MATTERS

■ 13. Revise subpart 3004.4 to read as follows:

Subpart 3004.4—Safeguarding Classified and Sensitive Information Within Industry

Sec.

3004.470 Security requirements for access to unclassified facilities, Information Technology resources, and sensitive information.

3004.470-1 Scope.

3004.470-2 Policy.

3004.470-3 Contract clauses.

Subpart 3004.4—Safeguarding Classified and Sensitive Information Within Industry

3004.470 Security requirements for access to unclassified facilities, Information Technology resources, and sensitive information.

3004.470-1 Scope.

This section implements DHS's policies for assuring the security of unclassified facilities, Information Technology (IT) resources, and sensitive information during the acquisition process and contract performance.

3004.470-2 Policy.

(a) DHS's policies and procedures on contractor personnel security requirements are set forth in various management directives (MDs). MD 11042.1, Safeguarding Sensitive But Unclassified (For Official Use only) Information describes how contractors must handle sensitive but unclassified information. MD 4300.1, entitled Information Technology Systems Security, and the DHS Sensitive

Systems Handbook, prescribe the policies and procedures on security for Information Technology resources. Compliance with these policies and procedures, any replacement publications, or any other current or future DHS policies and procedures covering contractors specifically is required in all contracts that require access to facilities, IT resources or sensitive information.

(b) The contractor must not use or redistribute any DHS information processed, stored, or transmitted by the contractor except as specified in the contract.

3004.470-3 Contract clauses.

(a) Contracting officers shall insert a clause substantially the same as the clause at (HSAR) 48 CFR 3052.204-70, Security Requirements for Unclassified Information Technology Resources, in solicitations and contracts that require submission of an IT Security Plan.

(b) Contracting officers shall insert the basic clause at (HSAR) 48 CFR 3052.204-71, Contractor Employee Access, in solicitations and contracts when contractor employees require recurring access to Government facilities or access to sensitive information. Contracting Officers shall insert the basic clause with its Alternate I for acquisitions requiring contractor access to IT resources. For acquisitions in which the contractor will not have access to IT resources, but the Department has determined contractor employee access to sensitive information or Government facilities must be limited to U.S. citizens and lawful permanent residents, the contracting officer shall insert the clause with its Alternate II. Neither the basic clause nor its alternates shall be used unless contractor employees will require recurring access to Government facilities or access to sensitive information. Neither the basic clause nor its alternates should ordinarily be used in contracts with educational institutions.

PART 3005—PUBLICIZING CONTRACT ACTIONS

3005.9000 [Amended]

■ 14. Revise section 3005.9000 to read as follows:

3005.90 Applicability (USCG).

Contracts awarded by the U.S. Coast Guard using the procedures in (HSAR) 48 CFR 3037.104-91 are expressly authorized for the Coast Guard under 10 U.S.C. 1091, as amended by section 1512(d) of the Homeland Security Act,

6 U.S.C. 552(d), and are exempt from (FAR) 48 CFR part 5.

PART 3006—COMPETITION REQUIREMENTS

- 15. Add Subpart 3006.1 to read as follows:

Subpart 3006.1—Full and Open Competition

Sec.
3006.101 Policy.
3006.101–70 Definitions.

As used in this part:

Agency competition advocate means an individual designated by the Chief Procurement Officer (CPO) to perform, at a minimum, the functions under (FAR) 48 CFR 6.502(b) and is synonymous with "Departmental Competition Advocate" and "Senior Competition Advocate (SCA)."

Competition advocate for the procuring activity means the individual who has been designated by the Organization Element (OE) to approve Justifications and Approvals (J & A) for other than full and open competition as permitted by the (FAR) 48 CFR 6.304 and to perform the duties and responsibilities assigned under (FAR) 48 CFR 6.502. This term is synonymous with "procuring activity competition advocate."

3006.502 [Removed]

- 16. Remove section 3006.502.

PART 3009—CONTRACTOR QUALIFICATIONS

- 17. Revise section 3009.104–71 by revising the text as follows:

3009.104–71 General.

Except as provided in (HSAR) 48 CFR 3009.104–74, DHS may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b) of section 835 of the Homeland Security Act, 6 U.S.C. 395(b), or any subsidiary of such an entity.

3009.104–72 [Amended]

- 18. Amend section 3009.104–72 by revising the definition of "Foreign Incorporated Entity" and revising paragraph (1) of the definition for "Inverted Domestic Corporation" to read as follows:

3009.104–72 Definitions.

* * * * *

Foreign Incorporated Entity means any entity which is, or but for section 835(b) of the Homeland Security Act, 6 U.S.C. 395(b), would be, treated as a

foreign corporation for purposes of the Internal Revenue Code of 1986.

Inverted Domestic Corporation * * *

(1) The entity completes the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

* * * * *

- 19. Amend section 3009.104–73 by revising paragraphs (a)(2) and (b) to read as follows:

3009.104–73 Special rules.

(a) * * *

(2) Stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1) of section 835 of the Homeland Security Act, 6 U.S.C. 395(b)(1).

(b) *Plan deemed in certain cases.* If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of section 835(b)(2) of the Act are met, such actions shall be treated as pursuant to a plan.

* * * * *

3009.104–74 [Amended]

- 20. Revise section 3009.104–74 to read as follows:

3009.104–74 Waivers.

(a) The Secretary shall waive the provisions of (HSAR) 48 CFR 3009.104–71 with respect to any specific contract if the Secretary determines that the waiver is required in the interest of national security.

(b) Contractors shall submit waiver requests to the CPO. A copy of the waiver request or the approved waiver shall be attached with the bid or proposal.

3009.470–4 [Amended]

- 21. Amend section 3009.470–4 by removing "(HSAR) 48 CFR 3052.3009–71" and adding in its place "(HSAR) 48 CFR 3052.209–71."

- 22. Amend section 3009.507 by revising the heading to read as follows:

3009.507 Solicitation provision and contract clause.

3009.507–1 [Amended]

- 23. Add section 3009.507–1 to read as follows:

3009.507–1 Solicitation provision.

The contracting officer shall insert a provision substantially the same as

(HSAR) 3052.209–72, Organizational Conflict of Interest, in solicitations and contracts where a potential organizational conflict of interest exists and mitigation may be possible. The contracting officer shall ensure the conditions enumerated in (FAR) 48 CFR subpart 9.5 warrant inclusion. The contracting officer shall include the information required by (FAR) 48 CFR 9.507–1 and (HSAR) 3052.209–72(a).

3009.507–2 [Added]

- 24. Add section 3009.507–2, to read as follows:

3009.507–2 Contract clause.

The contracting officer shall insert a clause substantially the same as the clause at (HSAR) 48 CFR 3052.209–73, Limitation of Future Contracting, in solicitations and contracts when a potential organizational conflict of interest exists and mitigation is not feasible.

PART 3011—DESCRIBING AGENCY NEEDS

3011.204–90 [Removed]

- 25. Remove section 3011.204–90.

PART 3013—SIMPLIFIED ACQUISITION PROCEDURES

Subpart 3013.1—[Removed]

- 26. Remove subpart 3013.1.

Subpart 3013.3—[Removed]

- 27. Remove subpart 3013.3.
- 28. Revise section 3013.7000(a) to read as follows:

3013.7000 General.

(a) The Secretary may use the special streamlined acquisition authorities set forth in the Homeland Security Act, section 833, 6 U.S.C. 393, with respect to any procurement that takes place during the period ending September 30, 2007, if the Secretary determines in writing that the mission of the Department (as described in the Homeland Security Act, section 101, 6 U.S.C. 111) would be seriously impaired without the use of such authorities.

* * * * *

- 29. Revise section 3013.7005 to read as follows:

3013.7005 Test program for certain commercial items.

When the streamlined authority is exercised, the limitation provided in (FAR) 48 CFR subpart 13.5 is increased to \$7,500,000.

PART 3015—CONTRACTING BY NEGOTIATION**Subpart 3015.4—[Removed]**

- 30. Remove subpart 3015.4.
- 31. Revise section 3015.602 to read as follows:

3015.602 Policy.

The Department of Homeland Security (DHS) encourages new and innovative proposals and ideas that will sustain or enhance the DHS mission.

3015.603 [Removed and reserved]

- 32. Remove and reserve section 3015.603.

PART 3016—TYPES OF CONTRACTS**3016.406 [Amended]**

- 33. Amend section 3016.406 by removing the word "includes" and adding in its place "include" in paragraphs (e)(1)(i), (ii) and (iii).

3016.505 [Amended]

- 34. Amend section 3016.505 by revising paragraph (b)(5)(ii) to read as follows:

3016.505 Ordering.

(b)(5) * * *

(ii) Issues that cannot be resolved within the OE shall be forwarded to the DHS Task and Delivery Order Ombudsman, who is also the DHS Senior Competition Advocate, for review and resolution.

PART 3017—SPECIAL CONTRACTING METHODS

- 35. Add new sections 3017.204 and 3017.204-90 to read as follows:

3017.204 Contracts.**3017.204-90 Detention Facilities and Services (ICE).**

The ICE Head of the Contracting Activity (HCA), without delegation, may enter into contracts of up to fifteen years' duration for detention or incarceration space or facilities, including related services.

Subpart 3017.70—[Removed]

- 36. Remove Subpart 3017.70.

PART 3019—SMALL BUSINESS PROGRAMS**3019.201 [Amended]**

- 37. Revise section 3019.201 to read as follows:

3019.201 General policy.

(d) DHS is committed to a unified team approach involving senior

management, small business specialists, acquisition personnel and program staff to support both critical homeland security missions and meet public policy objectives concerning small business participation in departmental procurements. The Director, Office of Small and Disadvantaged Business Utilization, is responsible for the implementation and execution of programs to assist small businesses, veteran owned small businesses, service-disabled veteran owned small businesses, HUBZone small businesses, small disadvantaged businesses, and women-owned small business concerns as required by the Small Business Act.

- 38. Revise section 3019.705-1 to read as follows:

3019.705-1 General support for the program.

In any solicitation where subcontracting plans will be required for one or more offerors, contracting officers may include evaluation factors that consider the quality of proposed subcontracting plans and past performance under previous subcontracting plans. Contracting officers must ensure that these factors do not penalize companies not required to submit subcontracting plans.

3019.708-70 [Amended]

- 39. Amend section 3019.708-70 by revising the heading and paragraphs (a) and (c) to read as follows:

3019.708-70 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the clause at (HSAR) 48 CFR 3052.219-70, Small Business Subcontracting Plan Reporting, in solicitations and contracts containing the clause at (FAR) 48 CFR 52.219-9.

* * * * *

(c) The contracting officer shall insert the provision at (HSAR) 48 CFR 3052.219-72, Evaluation of Prime Contractor Participation in the DHS Mentor-Protégé Program, in all solicitations containing (HSAR) 48 CFR 3052.219-71, DHS Mentor-Protégé Program and (FAR) 48 CFR 52.219-9, Small Business Subcontracting Plan.

PART 3022—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**3022.101-70 [Amended]**

- 40. Revise section 3022.101-70 to read as follows:

3022.101-70 Admittance of union representatives to DHS installations.

(a) Admittance of union representatives to Transportation

Security Administration or United States Secret Service installations and work sites is not governed by this rule, but by laws, rules, regulations, Executive Orders and policies applicable to those Organizational Elements. It is the policy of DHS to admit non-employee labor union representatives of contractor employees to DHS installations to visit work sites and transact labor union business with contractors, their employees, and union stewards pursuant to existing union collective bargaining agreements. Their presence must not interfere with the contractor's work under a DHS contract nor violate safety or security regulations that may be applicable to persons visiting the installation. However, if there have been incidents of vandalism, illegal work stoppages, or interference with work, the non-employee labor union representatives may be subject to access limitations. Non-employee labor union representatives will not be permitted to conduct meetings, collect union dues, or make speeches concerning union matters while visiting a work site during working hours.

(b) Whenever a non-employee labor union representative is denied entry to a work site, the person denying entry shall make a written report to the DHS labor coordinator and OE labor advisor, if any, within two working days after the request for entry is denied. The report shall include the reason(s) for the denial, the name of the representative denied entry, the union affiliation and number, and the name and title of the person that denied the entry.

3022.9001 [Amended]

- 41. In section 3022.9001, remove the phrase "(HSAR) 3052.222-90, Local Hire Provision" and add in its place "(HSAR) 48 CFR 3052.222-90, Local Hire (USCG)."

PART 3023—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

- 42. Revise the heading of part 3023 to read as set forth above.

- 43. Revise section 3023.501 to read as follows:

3023.501 Applicability.

(d) The head of any Organizational Element may issue a determination under (FAR) 48 CFR 23.501(d) to exclude the Drug-Free Workplace requirements of FAR subpart 23.5 in contracts supporting undercover law enforcement operations.

PART 3028—BONDS AND INSURANCE

- 44. Revise 3028.106-6(c) to read as follows:

3028.106-6 Furnishing information.

* * * * *

(c) When furnishing a copy of a payment bond and contract in accordance with (FAR) 48 CFR 28.106-6(c), the requirement for a copy of the contract may be satisfied by furnishing a machine-duplicate copy of the contract's cover page, showing the contract number and date, the contractor's name and signature, the contracting officer's signature, and the description of the contract work. The contracting officer furnishing the copies shall place the statement "Certified to be a true and correct copy" followed by a signature, title and name of the OE. The fee for furnishing the requested certified copies shall be determined according to the DHS Freedom of Information Act regulation, 6 CFR part 5, subpart B.

- 45. Revise section 3028.106-490 to read as follows:

3028.106-490 Contract clause (USCG).

For the U.S. Coast Guard, the contracting officer shall insert the USCG clause at (HSAR) 48 CFR 3052.228-90, Notification of Miller Act Payment Bond Protection (USCG), in solicitations and contracts, and shall require its first-tier subcontractors to insert the clause in all of their subcontracts, when payment bonds are required.

PART 3030—COST ACCOUNTING STANDARDS ADMINISTRATION

- 46. Revise section 3030.201-5 to read as follows:

3030.201-5 Waiver.

(a) The CPO is authorized to waive the applicability of the Cost Accounting Standards (CAS) under (FAR) 48 CFR 30.201-5(b). This authority may not be re-delegated.

(c) Waiver requests must conform to (HSAR) 48 CFR 3001.70.

PART 3031—CONTRACT COST PRINCIPLES AND PROCEDURES**3031.205-32 [Amended]**

- 47. Amend section 3031.205-32(a) by removing the word "can" from the second sentence.

PART 3033—PROTESTS, DISPUTES, AND APPEALS**3033.214 [Amended]**

- 48. Amend section 3033.214 by revising paragraph (c) introductory text and paragraph (c)(1) to read as follows:

3033.214 Alternative dispute resolution (ADR).

(c) The Administrative Dispute Resolution Act (ADRA) of 1996, as amended, 5 U.S.C. 571, *et seq.*, authorizes and encourages agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes, and for other purposes. The DOTBCA ADR procedures are contained in 48 CFR chapter 63, section 6302.30, ADR Methods (Rule 30), and will be distributed to the parties, if ADR procedures are used. These procedures may be obtained from the DOTBCA upon request. ADR procedures may be used—

(1) When there is mutual consent by the parties to participate in the ADR process (with consent being obtained either before or after an issue in controversy has arisen);

* * * * *

PART 3035—RESEARCH AND DEVELOPMENT CONTRACTING

- 49. Add a new section 3035.017 to subpart 3035.000 to read as follows:

3035.017 Federally Funded Research and Development Centers.

(a) In accordance with section 309(b) of the Homeland Security Act, 6 U.S.C. 189(b), DHS may be a joint sponsor under a multiple agency sponsorship arrangement with the Department of Energy (DOE) of one or more DOE national laboratories or sites. DOE shall be the primary sponsor under any multiple agency sponsorship arrangement with DOE laboratories or sites. Work performed by a DOE national laboratory or site under a joint sponsorship arrangement with DHS OEs shall comply with policy on the use of Federally Funded Research and Development Centers (FFRDCs) in (FAR) 48 CFR 35.017.

- 50. Add subpart 3035.70 to read as follows:

Subpart 3035.70—Information Dissemination by Educational Institutions**3035.7000 Contract clause.**

The contracting officer may use the clause at (HSAR) 48 CFR 3052.235-70, Dissemination of Information—Educational Institutions, except in

contracts that require coordination of information release.

PART 3037—SERVICE CONTRACTING**3037.103 [Removed and reserved]**

- 51. Remove and reserve section 3037.103.

3037.103-70 [Removed]

- 52. Remove section 3037.103-70.

3037.103-71 [Removed]

- 53. Remove section 3037.103-71.
- 54. Revise section 3037.104-70 to read as follows:

3037.104-70 Personal service contracts.

(b) Authorization to acquire the personal services of experts and consultants is included in section 832 of the Homeland Security Act, 6 U.S.C. 392. This section includes authority to use personal service contracts, including authority to contract without regard to the pay limitation of 5 U.S.C. 3109 when the services are necessary due to an urgent homeland security need.

- 55. Revise section 3037.104-90 to read as follows:

3037.104-90 Personal services contracts (USCG).

The U.S. Coast Guard HCA may enter into medical personal services contracts in accordance with 10 U.S.C. 1091.

3037.110-70 [Removed]

- 56. Remove section 3037.110-70.

PART 3042—CONTRACT ADMINISTRATION AND AUDIT SERVICES**3042.202-70 [Amended]**

- 57. Revise section 3042.202-70 to read as follows:

3042.202-70 Contract clause.

The contracting officer may insert the clause at (HSAR) 48 CFR 3052.242-71, Dissemination of Contract Information, in DHS contracts. For contracts with educational institutions, the contracting officer may instead use (HSAR) 48 CFR 3052.235-70, Dissemination of Information—Educational Institutions, when coordination of information release is not required.

PART 3046—QUALITY ASSURANCE**3046.702 [Removed and reserved]**

- 58. Remove and reserve section 3046.702.

3046.702-70 [Removed]

- 59. Remove section 3046.702-70.

3046.703, 3046.705 and 3046.706
[Removed and reserved]

- 60. Remove and reserve sections 3046.703, 3046.705, and 3046.706.
- 61. Revise section 3046.790 to read as follows:

3046.790 Use of warranties in major systems acquisitions by the USCG (USCG).

- 62. Redesignate section 3046.791 as section 3046.790-1 and revise the section heading to read as follows:

3046.790-1 Scope (USCG).

* * * * *

- 63. Add new sections 3046.790-2, 3046.790-3, and 3046.790-4 to read as follows:

3046.790-2 Definitions (USCG).

As used in this part:

At no additional cost to the Government means without an increase in price for firm-fixed-price contracts, without an increase in target or ceiling price for fixed price incentive contracts (see (FAR) 48 CFR 46.707).

Defect means any condition or characteristic in any supplies or services furnished by the contractor under the contract that is not in compliance with the requirements of the contract.

Design and manufacturing requirement means structural and engineering plans and manufacturing particulars, including precise measurements, tolerances, materials and finished product tests for the major system being produced.

Performance requirements means the operating capabilities, maintenance, and reliability characteristics of a system that are determined to be necessary for it to fulfill the requirement for which the system is designed.

3046.790-3 Policy (USCG).

(a) *Major Systems.* The use of warranties by the USCG in the procurement of major systems valued at \$10,000,000 or higher is mandatory, unless waived (see (HSAR) 48 CFR 3046.790-4).

(b) Any warranty on major system acquisitions shall not apply in the case of any system or component thereof which has been furnished by the Government to a contractor except as indicated in paragraph (c)(4) of this section.

(c) When drafting warranty provisions/clauses for major systems acquisitions, the contracting officer shall ensure that the items listed at the Homeland Security Acquisition Manual (HSAM) Chapter 3046 have been considered. The warranty shall also meet the following requirements:

(1) For systems or components that are commercially available, such

warranty as is normally provided by the manufacturer or supplier shall be obtained in accordance with (FAR) 48 CFR 46.703(d) and 46.710(b)(2).

(2) For systems or components provided in accordance with either design and manufacturing or performance requirements as specified in the contract or any modification to that contract, a warranty of compliance with the stated requirements shall be obtained.

(3) Any warranty obtained shall specifically exclude coverage for combat damage.

(4) A contractor for a major systems acquisition shall not be required to provide the warranties specified in this section on any property furnished to that contractor by the Government except for defects in installation.

3046.790-4 Waiver (USCG).

(a) The Secretary of Homeland Security may waive the requirement for a warranty for USCG major system acquisitions when the waiver is in the interest of national defense or if the warranty obtained would not be cost beneficial. A waiver may be granted provided that the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries of the House of Representatives are notified, in writing, of the Secretary's intention to waive the warranty requirements and the reasons supporting such a determination, prior to granting the waiver.

The request for Secretarial waiver shall include, as a minimum:

(1) A brief description of the major system and its stage of production (e.g., the number of units delivered and anticipated to be delivered during the life of the program);

(2) The specific waiver requested, the duration of the waiver if it is to involve more than one contract, and the rationale for the waiver; and

(3) All documentation supporting the request for waiver, such as a cost-benefit analysis.

(b) The waiver request shall be forwarded to the Secretary, via the CPO. The USCG shall maintain a written record of each waiver granted and the Congressional notification and report made, together with supporting documentation.

PART 3052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3052.204-70 [Amended]

- 64. Revise section 3052.204-70 to read as follows:

3052.204-70 Security requirements for unclassified information technology resources.

As prescribed in (HSAR) 48 CFR 3004.470-3, insert a clause substantially the same as follows:

Security Requirements for Unclassified Information Technology Resources (JUN 2006)

(a) The Contractor shall be responsible for Information Technology (IT) security for all systems connected to a DHS network or operated by the Contractor for DHS, regardless of location. This clause applies to all or any part of the contract that includes information technology resources or services for which the Contractor must have physical or electronic access to sensitive information contained in DHS unclassified systems that directly support the agency's mission.

(b) The Contractor shall provide, implement, and maintain an IT Security Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under this contract.

(1) Within ____ ["insert number of days"] days after contract award, the contractor shall submit for approval its IT Security Plan, which shall be consistent with and further detail the approach contained in the offeror's proposal. The plan, as approved by the Contracting Officer, shall be incorporated into the contract as a compliance document.

(2) The Contractor's IT Security Plan shall comply with Federal laws that include, but are not limited to, the Computer Security Act of 1987 (40 U.S.C. 1441 et seq.); the Government Information Security Reform Act of 2000; and the Federal Information Security Management Act of 2002; and with Federal policies and procedures that include, but are not limited to, OMB Circular A-130.

(3) The security plan shall specifically include instructions regarding handling and protecting sensitive information at the Contractor's site (including any information stored, processed, or transmitted using the Contractor's computer systems), and the secure management, operation, maintenance, programming, and system administration of computer systems, networks, and telecommunications systems.

(c) Examples of tasks that require security provisions include—

(1) Acquisition, transmission or analysis of data owned by DHS with significant replacement cost should the contractor's copy be corrupted; and

(2) Access to DHS networks or computers at a level beyond that granted the general public (e.g., such as bypassing a firewall).

(d) At the expiration of the contract, the contractor shall return all sensitive DHS information and IT resources provided to the

contractor during the contract, and certify that all non-public DHS information has been purged from any contractor-owned system. Organizational elements shall conduct reviews to ensure that the security requirements in the contract are implemented and enforced.

(e) Within 6 months after contract award, the contractor shall submit written proof of IT Security accreditation to DHS for approval by the DHS Contracting Officer.

Accreditation will proceed according to the criteria of the DHS Sensitive System Policy Publication, 4300A (Version 2.1, July 26, 2004) or any replacement publication, which the Contracting Officer will provide upon request. This accreditation will include a final security plan, risk assessment, security test and evaluation, and disaster recovery plan/continuity of operations plan. This accreditation, when accepted by the Contracting Officer, shall be incorporated into the contract as a compliance document. The contractor shall comply with the approved accreditation documentation.

(End of clause)

■ 65. Add section 3052.204-71 to read as follows:

3052.204-71 Contractor employee access.

As prescribed in (HSAR) 48 CFR 3004.470-3(b), insert a clause substantially the same as follows with appropriate alternates:

Contractor Employee Access (JUN 2006)

(a) "Sensitive Information," as used in this Chapter, means any information, the loss, misuse, disclosure, or unauthorized access to or modification of which could adversely affect the national or homeland security interest, or the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:

(1) Protected Critical Infrastructure Information (PCII) as set out in the Critical Infrastructure Information Act of 2002 (Title II, Subtitle B, of the Homeland Security Act, Pub. L. 107-296, 196 Stat. 2135), as amended, the implementing regulations thereto (Title 6, Code of Federal Regulations, part 29) as amended, the applicable PCII Procedures Manual, as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the PCII Program Manager or his/her designee);

(2) Sensitive Security Information (SSI), as defined in Title 49, Code of Federal Regulations, part 1520, as amended, "Policies and Procedures of Safeguarding and Control of SSI," as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the Assistant Secretary for the Transportation Security Administration or his/her designee);

(3) Information designated as "For Official Use Only," which is unclassified information of a sensitive nature and the unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national or homeland security interest; and

(4) Any information that is designated "sensitive" or subject to other controls, safeguards or protections in accordance with subsequently adopted homeland security information handling procedures.

(b) "Information Technology Resources" include, but are not limited to, computer equipment, networking equipment, telecommunications equipment, cabling, network drives, computer drives, network software, computer software, software programs, intranet sites, and internet sites.

(c) Contractor employees working on this contract must complete such forms as may be necessary for security or other reasons, including the conduct of background investigations to determine suitability. Completed forms shall be submitted as directed by the Contracting Officer. Upon the Contracting Officer's request, the Contractor's employees shall be fingerprinted, or subject to other investigations as required. All contractor employees requiring recurring access to Government facilities or access to sensitive information or IT resources are required to have a favorably adjudicated background investigation prior to commencing work on this contract unless this requirement is waived under Departmental procedures.

(d) The Contracting Officer may require the contractor to prohibit individuals from working on the contract if the government deems their initial or continued employment contrary to the public interest for any reason, including, but not limited to, carelessness, insubordination, incompetence, or security concerns.

(e) Work under this contract may involve access to sensitive information. Therefore, the Contractor shall not disclose, orally or in writing, any sensitive information to any person unless authorized in writing by the Contracting Officer. For those contractor employees authorized access to sensitive information, the contractor shall ensure that these persons receive training concerning the protection and disclosure of sensitive information both during and after contract performance.

(f) The Contractor shall include the substance of this clause in all subcontracts at any tier where the subcontractor may have access to Government facilities, sensitive information, or resources.

(End of clause)

Alternate I (JUN 2006)

When the contract will require contractor employees to have access to Information Technology (IT) resources, add the following paragraphs:

(g) Before receiving access to IT resources under this contract the individual must receive a security briefing, which the Contracting Officer's Technical Representative (COTR) will arrange, and complete any nondisclosure agreement furnished by DHS.

(h) The contractor shall have access only to those areas of DHS information technology resources explicitly stated in this contract or approved by the COTR in writing as necessary for performance of the work under this contract. Any attempts by contractor personnel to gain access to any information technology resources not expressly authorized by the statement of work, other terms and conditions in this contract, or as approved in writing by the COTR, is strictly prohibited. In the event of violation of this provision, DHS will take appropriate actions with regard to the contract and the individual(s) involved.

(i) Contractor access to DHS networks from a remote location is a temporary privilege for mutual convenience while the contractor performs business for the DHS OE. It is not a right, a guarantee of access, a condition of the contract, or Government Furnished Equipment (GFE).

(j) Contractor access will be terminated for unauthorized use. The contractor agrees to hold and save DHS harmless from any unauthorized use and agrees not to request additional time or money under the contract for any delays resulting from unauthorized use or access.

(k) Non-U.S. citizens shall not be authorized to access or assist in the development, operation, management or maintenance of Department IT systems under the contract, unless a waiver has been granted by the Head of the Organizational Element or designee, with the concurrence of both the Department's Chief Security Officer (CSO) and the Chief Information Officer (CIO) or their designees. Within DHS Headquarters, the waiver may be granted only with the approval of both the CSO and the CIO or their designees. In order for a waiver to be granted:

(1) The individual must be a legal permanent resident of the U.S. or a citizen of Ireland, Israel, the Republic of the Philippines, or any nation on the Allied Nations List maintained by the Department of State;

(2) There must be a compelling reason for using this individual as opposed to a U.S. citizen; and

(3) The waiver must be in the best interest of the Government.

(l) Contractors shall identify in their proposals the names and citizenship of all non-U.S. citizens proposed to work under the contract. Any additions or deletions of non-U.S. citizens after contract award shall also be reported to the contracting officer.

(End of clause)

Alternate II (JUN 2006)

When the Department has determined contractor employee access to sensitive information or Government facilities must be limited to U.S. citizens and lawful permanent residents, but the contract will not require access to IT resources, add the following paragraphs:

(g) Each individual employed under the contract shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by a Permanent Resident Card (USCIS I-551). Any exceptions must be

approved by the Department's Chief Security Officer or designee.

(h) Contractors shall identify in their proposals, the names and citizenship of all non-U.S. citizens proposed to work under the contract. Any additions or deletions of non-U.S. citizens after contract award shall also be reported to the contracting officer.

(End of clause)

■ 66. Amend section 3052.209-70 as follows:

- a. Revise the date of the clause.
- b. Revise paragraph (a).
- c. Amend paragraph (b) by revising the definition of "Foreign Incorporated Entity" and the introductory text and paragraph (1) of the definition of "Inverted Domestic Corporation".
- d. Revise paragraphs (c)(1)(ii), (c)(2), (d), (f) and (g).

3052.209-70 Prohibition on contracts with corporate expatriates.

* * * * *

Prohibition on Contracts with Corporate Expatriates (JUN 2006)

(a) Prohibitions.

Section 835 of the Homeland Security Act, 6 U.S.C. 395, prohibits the Department of Homeland Security from entering into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation as defined in this clause, or with any subsidiary of such an entity. The Secretary shall waive the prohibition with respect to any specific contract if the Secretary determines that the waiver is required in the interest of national security.

(b) Definitions.

* * * * *

Foreign Incorporated Entity means any entity which is, or but for subsection (b) of section 835 of the Homeland Security Act, 6 U.S.C. 395, would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

Inverted Domestic Corporation. A foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) The entity completes the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

* * * * *

(c) * * *

(1) * * *

(ii) Stock of such entity which is sold in a public offering related to an acquisition described in section 835(b)(1) of the Homeland Security Act, 6 U.S.C. 395(b)(1).

(2) *Plan deemed in certain cases.* If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

* * * * *

(d) Special rule for related partnerships. For purposes of applying section 835(b) of the Homeland Security Act, 6 U.S.C. 395(b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as a partnership.

* * * * *

(f) *Disclosure.* The offeror under this solicitation represents that [Check one]:

___ it is not a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.104-70 through 3009.104-73;

___ it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.104-70 through 3009.104-73, but it has submitted a request for waiver pursuant to 3009.104-74, which has not been denied; or

___ it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.104-70 through 3009.104-73, but it plans to submit a request for waiver pursuant to 3009.104-74.

(g) A copy of the approved waiver, if a waiver has already been granted, or the waiver request, if a waiver has been applied for, shall be attached to the bid or proposal. (End of provision)

■ 67. Revise section 3052.209-72 to read as follows:

3052.209-72 Organizational conflict of interest.

As prescribed in (HSAR) 48 CFR 3009.507-1, insert the following provision:

Organizational Conflict of Interest (JUN 2006)

(a) Determination. The Government has determined that this effort may result in an actual or potential conflict of interest, or may provide one or more offerors with the potential to attain an unfair competitive advantage. The nature of the conflict of interest and the limitation on future contracting _____ ["contracting officer shall insert description here"].

(b) If any such conflict of interest is found to exist, the Contracting Officer may (1) disqualify the offeror, or (2) determine that it is otherwise in the best interest of the United States to contract with the offeror and include the appropriate provisions to avoid, neutralize, mitigate, or waive such conflict in the contract awarded. After discussion with the offeror, the Contracting Officer may determine that the actual conflict cannot be avoided, neutralized, mitigated or otherwise resolved to the satisfaction of the Government, and the offeror may be found ineligible for award.

(c) *Disclosure.* The offeror hereby represents, to the best of its knowledge that:

___ (1) It is not aware of any facts which create any actual or potential organizational conflicts of interest relating to the award of this contract, or

___ (2) It has included information in its proposal, providing all current information bearing on the existence of any actual or potential organizational conflicts of interest, and has included a mitigation plan in accordance with paragraph (d) of this provision.

(d) *Mitigation.* If an offeror with a potential or actual conflict of interest or unfair competitive advantage believes the conflict can be avoided, neutralized, or mitigated, the offeror shall submit a mitigation plan to the Government for review. Award of a contract where an actual or potential conflict of interest exists shall not occur before Government approval of the mitigation plan. If a mitigation plan is approved, the restrictions of this provision do not apply to the extent defined in the mitigation plan.

(e) *Other Relevant Information.* In addition to the mitigation plan, the Contracting Officer may require further relevant information from the offeror. The Contracting Officer will use all information submitted by the offeror, and any other relevant information known to DHS, to determine whether an award to the offeror may take place, and whether the mitigation plan adequately neutralizes or mitigates the conflict.

(f) *Corporation Change.* The successful offeror shall inform the Contracting Officer within thirty (30) calendar days of the effective date of any corporate mergers, acquisitions, and/or divestitures that may affect this provision.

(g) *Flow-down.* The contractor shall insert the substance of this clause in each first tier subcontract that exceeds the simplified acquisition threshold.

(End of provision)

■ 68. Add section 3052.209-73 to read as follows:

3052.209-73 Limitation of future contracting.

As prescribed in (HSAR) 48 CFR 3009.507-2, the contracting officer may insert a clause substantially as follows in solicitations and contracts:

Limitation of Future Contracting (JUN 2006)

(a) The Contracting Officer has determined that this acquisition may give rise to a potential organizational conflict of interest. Accordingly, the attention of prospective offerors is invited to FAR Subpart 9.5—Organizational Conflicts of Interest.

(b) The nature of this conflict is [describe the conflict].

(c) The restrictions upon future contracting are as follows:

(1) If the Contractor, under the terms of this contract, or through the performance of tasks pursuant to this contract, is required to develop specifications or statements of work that are to be incorporated into a solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime or first-tier subcontractor under an ensuing DHS contract. This restriction shall remain in effect for a reasonable time, as agreed to by the Contracting Officer and the Contractor, sufficient to avoid unfair competitive advantage or potential bias (this time shall in no case be less than the

duration of the initial production contract). DHS shall not unilaterally require the Contractor to prepare such specifications or statements of work under this contract.

(2) To the extent that the work under this contract requires access to proprietary, business confidential, or financial data of other companies, and as long as these data remain proprietary or confidential, the Contractor shall protect these data from unauthorized use and disclosure and agrees not to use them to compete with those other companies.

(End of clause)

3052.211-90 [Removed]

■ 69. Remove section 3052.211-90.

3052.213-90 [Removed]

■ 70. Remove section 3052.213-90.

■ 71. Revise section 3052.216-70 to read as follows:

3052.216-70 Evaluation of offers subject to an economic price adjustment clause.

As prescribed in (HSAR) 48 CFR 3016.203-470, insert a provision substantially the same as the following:

Evaluation of Offers Subject to an Economic Price Adjustment Clause (JUN 2006)

Offers shall be evaluated without adding an amount for an economic price adjustment. Offers may be rejected which: (1) Increase the stipulated ceiling; (2) limit the downward adjustment; or (3) delete the economic price adjustment clause. If the offer stipulates a ceiling lower than that included in the solicitation, the lower ceiling will be incorporated into any resulting contract.

(End of provision)

■ 72. Amend section 3052.217-100 by revising the date and title of the clause and paragraph (e) to read as follows:

3052.217-100 Guarantee (USCG).

* * * * *

Guarantee (USCG) (JUN 2006)

* * * * *

(e) The Contractor's liability shall extend for an additional 60-day guarantee period on those defects or deficiencies that the Contractor corrected.

* * * * *

■ 73. Amend section 3052.219-70 by revising the date and title of the clause, and paragraph (a) to read as follows:

3052.219-70 Small business subcontracting plan reporting.

* * * * *

Small Business Subcontracting Plan Reporting (JUN 2006)

(a) The Contractor shall enter the information for the Subcontracting Report for Individual Contracts (formally the Standard Form 294 (SF 294)) and the Summary Subcontract Report (formally the Standard Form 295 (SF-295)) into the Electronic

Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>.

* * * * *

■ 74. Amend section 3052.219-71 by revising the date of the clause and paragraph (d) to read as follows:

3052.219-71 DHS mentor-protégé program.

* * * * *

DHS Mentor-Protégé Program (JUN 2006)

* * * * *

(d) Large business prime contractors serving as mentors in the DHS Mentor-Protégé program are eligible for a post-award incentive for subcontracting plan credit. The mentor may receive credit for costs it incurs to provide assistance to a protégé firm. The mentor may use this additional credit towards attaining its subcontracting plan participation goal under the same or another DHS contract. The amount of credit given to a mentor firm for these protégé developmental assistance costs shall be calculated on a dollar for dollar basis and reported in the Summary Subcontract Report via the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. For example, a mentor/large business prime contractor would report a \$10,000 subcontract to the protégé/small business subcontractor and \$5,000 of developmental assistance to the protégé/small business subcontractor as \$15,000. The Mentor and Protégé will submit a signed joint statement agreeing on the dollar value of the developmental assistance and the Summary Subcontract Report.

* * * * *

■ 75. Revise section 3052.219-72 to read as follows:

3052.219-72 Evaluation of prime contractor participation in the DHS mentor-protégé program.

As prescribed in (HSAR) 48 CFR 3019.708-70(c), insert the following provision:

Evaluation of Prime Contractor Participation in the DHS Mentor-Protégé Program (JUN 2006)

This solicitation contains a source selection factor or subfactor regarding participation in the DHS Mentor-Protégé Program. In order to receive credit under the source selection factor or subfactor, the offeror shall provide a signed letter of mentor-protégé agreement approval from the DHS Office of Small Business and Disadvantaged Business Utilization (OSDBU) before initial evaluation of proposals. The contracting officer may, in his or her discretion, give credit for approvals that occur after initial evaluation of proposals, but before final evaluation.

(End of provision)

■ 76. Revise section 3052.222-90 to read as follows:

3052.222-90 Local hire (USCG).

As prescribed in (HSAR) 48 CFR 3022.9001, insert the following clause:

Local Hire (USCG) (JUN 2006)

(a) When performing a contract in whole or in part in a State with an unemployment rate in excess of the national average determined by the Secretary of Labor, the Contractor shall employ, for the purpose of performing the portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly, the necessary skills.

(b) Local resident defined. As used in this section, "local resident" means a resident of, or an individual who commutes daily to, a State described in subsection (a).

(c) The Secretary of Homeland Security may waive the requirements of paragraph (a) the interest of national security or economic efficiency.

(End of clause)

■ 77. Revise section 3052.223-70 to read as follows:

3052.223-70 Removal or disposal of hazardous substances—applicable licenses and permits.

As prescribed in (HSAR) 48 CFR 3023.303, insert the following clause:

Removal or Disposal of Hazardous Substances—Applicable Licenses and Permits (JUN 2006)

The Contractor shall have all licenses and permits required by Federal, state, and local laws to perform hazardous substance(s) removal or disposal services. If the Contractor does not currently possess these documents, it shall obtain all requisite licenses and permits within ["insert days"]_ days after date of award. The Contractor shall provide evidence of said documents to the Contracting Officer or designated Government representative prior to commencement of work under the contract.

(End of clause)

■ 78. Redesignate section 3052.242-70 as section 3052.235-70 and amend by removing paragraph (c); redesignating paragraph (d) as paragraph (c), and revising the introductory text and the date of the clause to read as follows:

3052.235-70 Dissemination of information—educational institutions.

As prescribed in (HSAR) 48 CFR 3035.7000, insert the following clause:

Dissemination of Information—Educational Institutions (JUN 2006)

* * * * *

3052.237-70 [Removed]

■ 79. Remove section 3052.237-70.

3052.237-71 [Removed]

■ 80. Remove section 3052.237-71.

3052.237-72 [Removed]

■ 81. Remove section 3052.237-72.

3052.242-70 [Removed and reserved]

■ 82. Remove and reserve section 3052.242-70.

3052.242-71 [Amended]

■ 83. Amend section 3052.242-71 by revising the introductory text to read as follows:

3052.242-71 Dissemination of contract information.

As prescribed in (HSAR) 48 CFR 3042.202-70, insert the following clause:

* * * * *

■ 84. Amend section 3052.245-70 by revising the date of the clause and paragraph (b) to read as follows:

3052.245-70 Government property reports.

* * * * *

Government Property Reports (JUN 2006)

* * * * *

(b) The report shall be submitted to the Contracting Officer not later than September 15 of each calendar year on DHS Form 0700-5, Contractor Report of Government Property. (End of clause)

PART 3053—FORMS

3053.222-70 [Amended]

■ 85. Amend section 3053.222-70 by removing the form number "0070-04" and adding in its place "0700-04."

3053.245-70 [Amended]

■ 86. Amend section 3053.245-70 by removing the form number "0070-05" and adding in its place "0700-05."

■ 87. Revise section 3053.303 to read as follows:

3053.303 Agency forms.

This section illustrates agency-specified forms. To access these forms go to: <http://www.dhs.gov> (under "Business, Acquisition Information") or <https://dhsonline.dhs.gov/portal/jhtml/general/forms.jhtml>.

Form name	Form No.
Cumulative Claim and Reconciliation Statement	DHS Form 0700-01.
Contractor's Assignment of Refunds, Rebates, Credits and Other Amounts	DHS Form 0700-02.
Contractor's Release	DHS Form 0700-03.
Employee's Claim for Wage Restitution	DHS Form 0700-04.
Contractor Report of Government Property	DHS Form 0700-05.
Report of Inventions and Subcontract	DD 882.

Appendix—HSAR Clause Matrix

Note: This appendix will not appear in the Code of Federal Regulations.

BILLING CODE 4410-10-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 051209329-5329-01; I.D. 042606C]

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Reopening of Directed Fishery for Loligo Squid

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

ACTION: Directed fishery reopening.

SUMMARY: NMFS announces that commercial quota is available to allow the directed fishery for Loligo squid to reopen. Vessels issued a Federal moratorium permit to harvest *Loligo* squid in excess of the incidental catch allowance may continue landing *Loligo* squid as of April 27, 2006 effective date of this notice. The intent of this action is to allow for the full utilization of the commercial quota allocated to the *Loligo* squid directed fishery.

DATES: Effective April 27, 2006 through June 30, 2006.

FOR FURTHER INFORMATION CONTACT: Don Frei, Fishery Management Specialist, 978-281-9221, fax 978-281-9135.

SUPPLEMENTARY INFORMATION: Section 648.22 of part 50 CFR requires NMFS to close the directed *Loligo* squid fishery in the EEZ in Quarters I, II and III when 80 percent of the quarterly quota has been harvested. The Administrator, Northeast Region, NMFS, based on dealer reports and other available information, determined that 80 percent of the Quarter II quota for *Loligo* squid would be harvested by April 21, 2006 (71 FR 20900, April 24, 2006). Therefore, effective 0001 hours, April 21, 2006, the directed fishery for *Loligo* squid was closed. However, analysis of more recent data indicated that the closure threshold level of *Loligo* harvest had not been attained. Therefore, NMFS announces that the directed *Loligo* squid fishery will reopen on April 27, 2006. Vessels issued a Federal moratorium permit to harvest *Loligo* squid in excess of the incidental catch allowance may continue fishing for, retaining and landing *Loligo* squid in excess of the incidental catch upon reopening.

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.*

Dated: April 26, 2006.

James P. Burgess,

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

[FR Doc. 06-4117 Filed 4-27-06; 12:50 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044-6044-01; I.D.042606F]

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the 2006 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 27, 2006, through 1200 hrs, A.l.t., July 1, 2006.

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

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

The second seasonal apportionment of the 2006 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA is 300 metric tons as established by the 2006 and

2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006), for the period 1200 hrs, A.l.t., April 1, 2006, through 1200 hrs, A.l.t., July 1, 2006.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the second seasonal apportionment of the 2006 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are sablefish, rockfish, deep-water flatfish, rex sole and arrowtooth flounder.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the deep-water species fishery by vessels using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 26, 2006.

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

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: April 26, 2006.

James P. Burgess,

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

[FR Doc. 06-4118 Filed 4-27-06; 12:50 pm]

BILLING CODE 3510-22-S

Proposed Rules

Federal Register

Vol. 71, No. 84

Tuesday, May 2, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AH93

List of Approved Spent Fuel Storage Casks: NUHOMS® HD Addition

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to add the NUHOMS® HD cask system to the list of approved spent fuel storage casks. This proposed rule would allow the holders of power reactor operating licenses to store spent fuel in this approved cask system under a general license.

DATES: Comments on the proposed rule must be received on or before June 1, 2006.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150-AH93) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comment will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; e-mail cag@nrc.gov. Comments

can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays [telephone (301) 415-1966].

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers at the NRC's Public Document Room (PDR), O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/index.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov. An electronic copy of the proposed Certificate of Compliance (CoC), TS, and preliminary safety evaluation report (SER) can be found under ADAMS Accession Nos. ML052860036, ML052860043, and ML052860049, respectively.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this *Federal Register*.

Procedural Background

This proposed rule is limited to the conditions contained in CoC No. 1030. The NRC is using the "direct final rule procedure" to issue this addition because it represents an improved

version of the Standardized NUHOMS® System described in existing CoC 1004, and its addition to the list of approved spent fuel storage casks is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on July 17, 2006. However, if the NRC receives significant adverse comments by June 1, 2006, then the NRC will publish a document that withdraws the direct final rule and will subsequently address the comments received in a final rule. The NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the CoC or TS.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out 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. 553; the NRC

is proposing to adopt the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

1. The authority citation for part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109-58, 119 Stat. 806-10 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1030 is added to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1030.
Initial Certificate Effective Date: (insert effective date of final rule).
SAR Submitted by: Transnuclear, Inc.
SAR Title: Final Safety Analysis Report for the NUHOMS® HD Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72-1030.
Certificate Expiration Date: [insert 20 years from the effective date of the final rule].

Model Number: NUHOMS® HD-32PTH.

* * * * *

Dated at Rockville, Maryland, this 13th day of April, 2006.

For the Nuclear Regulatory Commission.
William F. Kane,
Acting Executive Director for Operations.
[FR Doc. 06-4116 Filed 5-1-06; 8:45 am].
BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-24587; Directorate Identifier 2006-SW-05-AD]

RIN 2120-AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S-76A, B, and C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Sikorsky Aircraft Corporation (Sikorsky) Model S-76A, B, and C helicopters. The AD would require inspecting all installed HR Textron main rotor servo actuators (servo actuators) for a high rate of leakage and also inspecting for contaminated hydraulic fluid. The AD would also require reducing the time-in-service (TIS) interval for overhauling the servo actuators. This proposal is prompted by a National Transportation Safety Board (NTSB) Safety Recommendation written in response to an accident involving a Model S-76 helicopter in which the performance of an HR Textron servo actuator was questioned as a result of piston head seal leakage and piston head plasma spray flaking. The actions specified by the proposed AD are intended to detect a high rate of leaking from a servo actuator and contamination of the hydraulic fluid, which could lead to degraded ability to maneuver the cyclic and collective controls and could result in subsequent loss of control of the helicopter.

DATES: Comments must be received on or before July 3, 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; or
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT:

Terry Fahr, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238-7155, fax (781) 238-7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES**. Include the docket number "FAA-2006-24587, Directorate Identifier 2006-SW-05-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent or signed the comment. 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 docket that contains the proposed AD, any comments, and other information in person at the Docket Management System (DMS) Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5227) is located at the plaza level of the Department of Transportation Nassif

Building in Room PL-401 at 400 Seventh Street, SW., Washington, DC. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

This document proposes adopting a new AD for Sikorsky Model S-76A, B, and C helicopters with an HR Textron servo actuator, part number (P/N) 76650-09805, installed. The AD would require inspecting all installed HR Textron servo actuators for leakage that exceeds 700 cc per minute by installing a test line in the servo actuator return port, and inspecting the hydraulic fluid for contamination using a patch test kit or an independent laboratory analysis method. If leakage in excess of 700 cc per minute is detected in any servo actuator, the proposed AD would require replacing that servo actuator with an airworthy servo actuator. If the hydraulic fluid is found to be contaminated, the proposed AD would require flushing the hydraulic system. The AD would also require reducing the TIS interval for overhauling an affected servo actuator from 3,000 to 2,000 hours TIS. This proposal is prompted by an NTSB Safety Recommendation written in response to an accident involving a Model S-76 helicopter in which the performance of an HR Textron servo actuator was questioned as a result of piston head seal leakage and piston head plasma spray flaking. The actions specified by the proposed AD are intended to detect a high rate of leaking from a servo actuator and contamination of the hydraulic fluid, which could lead to degraded ability to maneuver the cyclic and collective controls and could result in subsequent loss of control of the helicopter.

This unsafe condition is likely to exist or develop on other helicopters of the same type design. Therefore, the proposed AD would require, within 25 hours TIS and thereafter at intervals not to exceed 600 hours TIS, determining the leakage rate for the three servo actuators by installing a test line in each servo actuator return port and turning on the hydraulic power. If the leakage rate exceeds 700 cc per minute in any servo actuator, the proposed AD would require replacing that servo actuator with an airworthy servo actuator before further flight. The proposed AD would also require inspecting the hydraulic fluid for contamination using a patch test kit or an independent laboratory analysis method. If the hydraulic fluid is found to be contaminated, the proposed AD would require flushing the hydraulic system before further flight. The proposed AD would also require

reducing the TIS interval for overhauling the servo actuator from 3,000 to 2,000 hours TIS.

We estimate that this proposed AD would affect 300 helicopters of U.S. registry, and that

- Determining the servo actuator leakage rate would take approximately 8 work hours,
- Inspecting the hydraulic fluid for contamination would take approximately 3 work hours,
- Replacing the servo actuator, if necessary, would take approximately 12 work hours, and
- Flushing the hydraulic system, if necessary, would take approximately 6 work hours per helicopter to accomplish at an average labor rate of \$80 per work hour. Required parts would cost approximately \$13,000 per helicopter for a servo actuator. Based on these figures, the total cost impact of the proposed AD on U.S. operators would be \$4,596,000 (\$15,320 per helicopter), assuming one leakage inspection and one hydraulic fluid inspection on each helicopter, and replacing one servo actuator and flushing the hydraulic system on each helicopter.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. Additionally, 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 draft economic evaluation of the estimated costs to comply with this proposed AD. See the DMS to examine the draft economic evaluation.

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.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Sikorsky Aircraft Corporation: Docket No. FAA-2006-24587; Directorate Identifier 2006-SW-05-AD.

Applicability: Model S-76A, B, and C helicopters, with HR Textron main rotor servo actuator (servo actuator), part number (P/N) 76650-09805, installed, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect leaking in a servo actuator and contamination of the hydraulic fluid, which could lead to degraded ability to maneuver the cyclic and collective controls and could result in subsequent loss of control of the helicopter, accomplish the following:

(a) Within 25 hours time-in-service (TIS), and thereafter at intervals not to exceed 600 hours TIS:

- (1) Determine the leakage rate of each of the three servo actuators by installing a test line in each servo actuator return port and turning on the hydraulic power.
- (2) If the leakage rate exceeds 700 cc per minute in a servo actuator, before further flight, remove that servo actuator and replace it with an airworthy servo actuator.
- (3) Inspect the hydraulic fluid for contamination using either a patch test kit or an independent laboratory analysis method.
- (4) If contamination is found, before further flight, flush the hydraulic system and refill

the system with uncontaminated hydraulic fluid.

(b) On or before reaching 2,000 hours TIS since the last overhaul, and thereafter at intervals not to exceed 2,000 hours TIS, overhaul each servo actuator, P/N part number 76650-09805, or replace it with an airworthy servo actuator.

(c) This AD revises the Airworthiness Limitations and Inspection Requirements manual by reducing the overhaul interval for the servo actuator, P/N 76650-09805, from 3,000 hours TIS to 2,000 hours TIS.

(d) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the FAA, ATTN: Terry Fahr, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238-7155, fax (781) 238-7199, for information about previously approved alternative methods of compliance.

Issued in Fort Worth, Texas, on April 21, 2006.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate,
Aircraft Certification Service.

[FR Doc. E6-6586 Filed 5-1-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-24254; Directorate Identifier 2006-CE-24-AD]

RIN 2120-AA64

Airworthiness Directives; Cirrus Design Corporation Models SR20 and SR22 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2005-17-19, which applies to certain Cirrus Design Corporation (CDC) Models SR20 and SR22 airplanes. AD 2005-17-19 currently requires you to measure and adjust the crew seat break-over bolts and to replace the crew seat recline locks on both crew seats. Since we issued AD 2005-17-19, CDC developed new crew seat break-over pins to replace the old crew seat break-over bolts. Consequently, this proposed AD would retain the action from AD 2005-17-19 of replacing the crew seat recline locks on both seats and would add the action of replacing the crew seat break-over bolts with the new crew seat break-over pins on both seats. We are proposing

this AD to prevent the crew seats from folding forward during emergency landing dynamic loads with consequent occupant injury.

DATES: We must receive comments on this proposed AD by June 15, 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 Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811; telephone: (218) 727-2737; Internet address: <http://www.cirrusdesign.com>.

FOR FURTHER INFORMATION CONTACT ONE OF THE FOLLOWING:

- Wess Rouse, Small Airplane Project Manager, ACE-117C, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294-8113; facsimile: (847) 294-7834; e-mail: wess.rouse@faa.gov; or

- Angie Kostopoulos, Composite Technical Specialist, ACE-116C, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294-7426; facsimile: (847) 294-7834; e-mail: evangelia.kostopoulos@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, "FAA-2006-24254; Directorate Identifier 2006-CE-24-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

CDC performed dynamic seat testing on Models SR20 and SR22 airplanes. CDC found that, under emergency landing dynamic loads, the crew seats may fold forward at less than the 26 g required by 14 CFR 23.562(b)(2). This condition, if not corrected, could result in the crew seats folding forward during emergency landing dynamic loads with consequent occupant injury.

This condition caused us to issue AD 2005-17-19, Amendment 39-14240 (70 FR 51999, September 1, 2005). AD 2005-17-19 currently requires the following on CDC Models SR20 and SR22 airplanes:

- Measuring and adjusting the crew seat break-over bolts; and
- Replacing the crew seat recline locks on both crew seats.

Since AD 2005-17-19, CDC performed more dynamic seat testing on Models SR20 and SR22 airplanes and found that the crew seats may still fold forward at less than the 26 g required by 14 CFR 23.562(b)(2). CDC developed new crew seat break-over pins to replace the crew seat break-over bolts.

Relevant Service Information

We have reviewed CDC Service Bulletins SB 2X-25-06 R4, Issued August 13, 2004, Revised May 5, 2005; and SB 2X-25-17 R1, Issued December 15, 2005, Revised January 20, 2006.

The service information describes procedures for:

- Replacing the crew seat break-over bolts with the new crew seat break-over pins;
- Inspecting crew seats;
- Determining number of bolts used to secure recline locks to the seat frame;
- Performing recline lock replacement; and
- Checking the crew seat break-over pin alignment.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This proposed AD would supersede AD 2005-17-19 with a new AD that would retain the action of

replacing the crew seat recline locks on both crew seats and would add the action of replacing the crew seat break-over bolts with the new crew seat break-over pins on both seats. This proposed AD would require you to use the service

information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD would affect 2,230 airplanes in the U.S. registry.

We estimate the following costs to do the proposed replacements:

Labor cost	Model number and serial number	Parts cost	Total cost per airplane	Total cost on U.S. operators
Replacement of the recline locks: 1 workhour × \$80 per hour = \$80.	Model SR20, serial numbers S/N 1148 through 1152 and 1206 through 1455.	\$83	\$163	\$41,565
Replacement of the recline locks: 1 workhour × \$80 per hour = \$80.	Model SR20, S/N 1005 through 1147 and 1153 through 1205.	165	245	48,020
Replacement of the recline locks: 1 workhour × \$80 per hour = \$80.	Model SR22, S/N 0002 through 1044	89	169	176,267
Replacement of the crew seat break-over pins: 1 workhour × \$80 per hour = \$80.	Model SR20, S/N 1005 through 1600 and Model SR22, S/N 0002 through 1727.	33	113	262,273

Note: CDC may provide warranty credit for service bulletins SB 2X-25-17 R1, Issued: December 15, 2005; Revised: January 20, 2006; and SB 2X-25-06 R4, Issued: August 13, 2004; Revised: May 5, 2005.

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

Where can I go to view the docket information? 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 removing Airworthiness Directive (AD) 2005-17-19, Amendment 39-14240, and adding the following new AD:

Cirrus Design Corporation: Docket No. FAA-2006-24254; Directorate Identifier 2006-CE-24-AD; Supersedes AD 2005-17-19; Amendment 39-14240.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by June 15, 2006.

Affected ADs

(b) This AD supersedes AD 2005-17-19, Amendment 39-14240.

Unsafe Condition

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

Model	Serial Nos.
(1) SR20	1005 through 1600.
(2) SR22	0002 through 1727.

Unsafe Condition

(d) This AD results from discovering that the crew seats, under emergency landing dynamic loads, may fold forward at less than the 26 g required by the regulations, 14 Code of Federal Regulations (CFR) 23.562(b)(2). We are issuing this AD to prevent the crew seats from folding forward during emergency landing with dynamic loads with consequent occupant injury.

Compliance

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

Actions	Compliance	Procedures
<p>(1) For Model SR20, serial numbers (S/Ns) 1005 through 1600, and Model SR22, S/Ns 0002 through 1727, do the following actions:</p> <ul style="list-style-type: none"> (i) At the lower back of the crew seat, release the reclosable fasteners to expose the lower seat frame. (ii) Replace the crew seat break-over bolt with the new crew seat break-over pin, part number 17063-002. (iii) Recover the seat frame, refastening the reclosable fasteners. (iv) Inspect the crew seat. (v) Repeat the above actions for the opposite crew seat. 	<p>Within 50 hours time-in-service (TIS) or within 180 days, whichever occurs first, after the effective date of this AD.</p>	<p>Follow Cirrus Design Corporation Service Bulletin SB 2X-25-17 R1, Issued: December 15, 2005; Revised: January 20, 2006.</p>
<p>(2) For Models SR20, S/Ns 1005 through 1455, and SR22, S/Ns 0002 through 1044, do the following actions:</p> <ul style="list-style-type: none"> (i) Identify whether the recline lock is secured with two bolts or three bolts. (ii) If the recline locks are secured with two bolts, remove the existing recline locks and replace with the new recline locks kit, Kit Number 70084-001. (iii) If the recline locks are secured with three bolts, remove existing recline locks and replace with the new recline locks kit, Kit Number 70084-002. (iv) Check break-over pin alignment and adjust as necessary. (v) Check that the locks engage with the break-over bolts with the seat in the full recline position. If full seat recline is not possible or difficult to engage, grinding of the lower aft seat frame is necessary. (vi) Repeat the above actions for the opposite crew seat. 	<p>Within 50 hours TIS or within 180 days, whichever occurs first after October 13, 2005 (the effective date of AD 2005-17-19), unless already accomplished.</p>	<p>Follow Cirrus Design Corporation Service Bulletin SB 2X-25-06 R4, Issued: August 13, 2004; Revised: May 5, 2005.</p>

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Chicago Aircraft Certification Office, FAA, ATTN: Wess Rouse, Small Airplane Project Manager, ACE-117C, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294-8113; facsimile: (847) 294-7834; e-mail: wess.rouse@faa.gov; or Angie Kostopoulos, Composite Technical Specialist, ACE-116C, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294-7426; facsimile: (847) 294-7834; e-mail: evangelia.kostopoulos@faa.gov, have the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(g) To get copies of the documents referenced in this AD, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811; telephone: (218) 727-2737; Internet address: <http://www.cirrusdesign.com>. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC, or on the Internet at <http://dms.dot.gov>. The docket number is Docket No. FAA-2006-24254; Directorate Identifier 2006-CE-24-AD.

Issued in Kansas City, Missouri, on April 25, 2006.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6-6590 Filed 5-1-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-24632; Directorate Identifier 2005-SW-31-AD]

RIN 2120-AA64

Airworthiness Directives; Eurocopter Canada Limited Model BO 105 LS A-3 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Eurocopter Canada Limited (Eurocopter) Model BO 105 LS A-3

helicopters. This proposal would require replacing certain fixed bolts and nuts, reidentifying certain main rotor nuts, and revising the Airworthiness Limitations—Time Change Items (TCI) list to reflect the new life limits and new part numbers. This proposal is prompted by a re-evaluation of certain fatigue-critical parts, which resulted in establishing new life limits for certain like-numbered parts and reidentifying a certain existing part with a different part number, or in some cases, replacing them with new parts. The actions specified by this proposed AD are intended to prevent fatigue failure of the fixed bolts and nuts, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before July 3, 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; or
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this proposed AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, telephone (972) 641-3460, fax (972) 641-3527.

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

FOR FURTHER INFORMATION CONTACT:

Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193-0111, telephone (817) 222-5122, fax (817) 222-5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES**. Include the docket number "FAA-2006-24632, Directorate Identifier 2005-SW-31-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent or signed the comment. 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 docket that contains the proposed AD, any comments, and other information in person at the Docket Management

System (DMS) Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5227) is located at the plaza level of the Department of Transportation Nassif Building in Room PL-401 at 400 Seventh Street, SW., Washington, DC. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

Transport Canada, the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on Eurocopter Model BO 105 LS A-3 helicopters. Transport Canada advises that changes to the TCI list must be incorporated, and affected parts must be replaced and reidentified in accordance with the manufacturer's service information.

Eurocopter has issued Alert Service Bulletin No. ASB BO 105 LS 10-11, dated May 11, 2005, which specifies changes to and introduction of life limits, and reidentification of certain life-limited parts. Transport Canada classified this alert service bulletin as mandatory and issued AD No. CF-2005-17, dated June 6, 2005, to ensure the continued airworthiness of these helicopters in Canada.

This helicopter model is manufactured in Canada and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, Transport Canada has kept us informed of the situation described above. We have examined the findings of the Transport Canada, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

This previously described unsafe condition is likely to exist or develop on other helicopters of the same type design registered in the United States. Therefore, the proposed AD would require, within 30 days, incorporating revised life limits and part numbers into the list of life-limited parts, or TCI list, which is contained in the helicopter delivery file, and within 150 hours time-in-service (TIS), replacing 4 fixed bolts, part number (P/N) LN 9038 K08018, with fixed bolts, P/N 105-101021.17. It would also require replacing 4 main rotor nuts, P/N 105-142241.01, within 30 days if they have less than 150 hours TIS remaining, or reidentifying those main rotor nuts within 150 hours TIS if they have 150 or more hours TIS remaining. The actions would be

required to be accomplished by following specified portions of the alert service bulletin described previously.

We estimate that this proposed AD would affect 7 helicopters of U.S. registry and the proposed actions would take approximately:

- 1 work hour per helicopter to remove and replace 4 fixed bolts;
 - 16 work hours per helicopter to remove, replace, and reidentify four nuts; and
 - 1 work hour per helicopter to create component history cards at an average labor rate of \$65 per work hour.
- Required parts would cost approximately \$3.80 for each fixed bolt, P/N 105-101021.17, and \$882.67 for each nut, P/N 105-142241.01. Based on these figures, we estimate the total cost impact of the proposed AD on U.S. operators to be \$33,011, assuming all nuts and bolts on the entire fleet are replaced.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. Additionally, 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 draft economic evaluation of the estimated costs to comply with this proposed AD. See the DMS to examine the draft economic evaluation.

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.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the

Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Part name	P/N	Life limit
Fixed Bolt (Bolt)	105-101021.17 (Formerly P/N LN 9038-K08018).	6,000 hours time-in-service (TIS).
Main Rotor Nut (Nut)	105-142241.01	122,850 flights or 18,900 hours TIS, whichever occurs first.

The number of flights equals the number of landings (i.e., ground contacts).

(2) Create a historical or equivalent record for each of the parts listed in the preceding table.

(3) Review the aircraft records and determine the TIS and landings on each nut, P/N 105-142241.01. If the number of flights (i.e., landings) is unknown, the initial life limit is 18,900 hours TIS. Thereafter, record the number of flights for use when determining the retirement life.

(b) Before further flight, replace any nut that has less than 150 hours TIS remaining before reaching its life limit. Unless accomplished previously, prior to replacing a nut, reidentify the nut in accordance with paragraph (c)(2) of this AD.

(c) Within 150 hours TIS:

(1) Replace the 4 bolts, P/N LN 9038 K08018, with bolts, P/N 105-101021.17, as shown in Figure 1 of Eurocopter Alert Service Bulletin No. ASB BO 105 LS 10-11, dated May 11, 2005 (ASB).

(2) For those nuts with 150 or more hours TIS remaining on their life, remove and reidentify those nuts, P/N 105-142241.01, by adding the serial number of the main rotor head, followed by a dash and a consecutive number, in accordance with the procedures stated in Figure 2 of the ASB.

(d) Before further flight, remove any life-limited part on which the life limit has been equaled or exceeded.

(e) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Regulations and Policy Group, Rotorcraft Directorate, FAA, ATTN: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193-0111, telephone (817) 222-5122, fax (817) 222-5961, for information about previously approved alternative methods of compliance.

Note: The subject of this AD is addressed in Transport Canada (Canada) AD No. CF-2005-17, dated June 6, 2005.

Issued in Fort Worth, Texas, on April 24, 2006.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E6-6589 Filed 5-1-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2004-18850; Directorate Identifier 2004-SW-19-AD]

RIN 2120-AA64

Airworthiness Directives; Eurocopter France Model AS-365N2, AS 365 N3, EC 155B, EC155B1, SA-365N, N1, and SA-366G1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise an existing airworthiness directive (AD) for Eurocopter France (Eurocopter) Model AS-365N2, AS 365 N3, EC 155B, EC155B1, SA-365N, N1, and SA-366G1 helicopters. That AD currently requires inspecting the main gearbox (MGB) base plate for a crack and replacing the MGB if a crack is found. This action would increase the

Eurocopter Canada Limited: Docket No.

FAA-2006-24632; Directorate Identifier 2005-SW-31-AD.

Applicability: Model BO 105 LS A-3 helicopters, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue failure of a fixed bolt and main rotor nut, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 30 days:

(1) Modify the Airworthiness Limitation section, Time Change Items (TCI) list, or table of life-limited components, with their revised life limits by adding part number (P/N) 105-142241.01 and by changing P/N LN 9038 K08018 to P/N 105-101021.17, as shown in the following table.

time intervals for inspecting the MGB base plate. This action would also include minor editorial changes throughout the AD. This proposal is prompted by crack growth tests that indicate that the inspection intervals can be increased without affecting safety. The actions specified by the proposed AD are intended to detect a crack in an MGB base plate and prevent failure of one of the MGB attachment points to the frame, which could result in severe vibration and subsequent loss of control of the helicopter.

DATES: Comments must be received by July 3, 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; or
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this proposed AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas

75053-4005, telephone (972) 641-3460, fax (972) 641-3527.

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

FOR FURTHER INFORMATION CONTACT: Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193-0111, telephone (817) 222-5355, fax (817) 222-5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES**. Include the docket number "FAA-2004-18850, Directorate Identifier 2004-SW-19-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent or signed the comment. 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 docket that contains the proposed AD, any comments, and other information in person at the Docket Management System (DMS) Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5227) is located at the plaza level of the Department of Transportation NASSIF Building in Room PL-401 at 400 Seventh Street, SW., Washington, DC. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

On August 4, 2004, we issued AD 2004-16-15, Amendment 39-13771 (69 FR 51358, August 19, 2004), to require visually inspecting the MGB for a crack

in the MGB base plate, part number (P/N) 366A32-1062-03 or P/N 366A32-1062-06, close to the attachment hole using a 10x or higher magnifying glass. Stripping paint from the inspection area is also required, but only before the initial inspection. That action was prompted by the discovery of a crack in the MGB base plate of an MGB installed in a Model AS-365 N2 helicopter. The crack was located very close to the attachment points of one of the laminated pads, and it propagated to the inside of the MGB base plate and then continued into the MGB casing. That condition, if not detected, could result in failure of one of the MGB attachment points to the frame, which could result in severe vibration and subsequent loss of control of the helicopter.

When we issued AD 2004-16-15, the cause of crack in the MGB base plate was still under investigation; therefore, we considered the previously issued AD to be interim action until the cause of the crack could be determined. The cause of the crack is still under investigation. However, since issuing AD 2004-16-15, crack growth tests have shown that the inspection intervals can be increased without affecting safety. We made this determination after Eurocopter conducted crack growth testing in laboratory bench tests. A cracked base plate was loaded with an alternating torque to simulate flight loading and cycles. Crack propagation speed was measured and assessed over a longer duration than the initial inspection interval and this resulted in extending the inspection intervals. The first inspection interval was determined using crack striations, which was a quick and conservative method used to ensure airworthiness and allow for timely issuance of service information by the manufacturer. Based on this additional information, we are proposing to increase the time intervals between each required inspection, however, the actions specified by this proposed AD are still considered to be interim. We are also proposing to include minor editorial changes in the AD.

The Direction Générale de L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model SA 365N, N1, SA 366 G1, AS 365 N2, N3, EC 155 B, and B1 helicopters, all serial numbers. The DGAC advises that a crack was detected in the MGB base plate of an AS 365 N2 helicopter. The crack was detected in the MGB base plate web, very close to the attachment of one of the laminated pads, and runs to the inside of the MGB base plate and then on the MGB casing.

In time, the growth of the crack may lead to the loss of the transfer of rotor torque to the rotorcraft structure.

Eurocopter has issued Alert Service Bulletin (ASB) No. 05.00.45 for Model AS365 N, N1, N2, and N3 helicopters; ASB No. 05.29 for Model SA366 G1 helicopters; and ASB No. 05A005 for Model EC155 B and B1 helicopters. All of the ASBs are dated November 8, 2004 and supersede previously issued Eurocopter Alert Telex No. 05.00.45, No. 05.29, and No. 05A005, all dated February 5, 2004. The ASBs specify the same actions as the alert telexes—visually inspecting the MGB base plate for the absence of cracks, using a 10x magnifying glass to facilitate the crack inspection, and, if in doubt about the existence of a crack, inspecting for a crack using a dye-penetrant crack detection inspection. However, for the Eurocopter Model AS365 N, N1, N2, N3, and SA366 G1 helicopters, the 15-flying hour check for the MGB base plate that is specified in the alert telexes is replaced with check intervals not to exceed 55 flying hours. For the EC155 B and B1 helicopters, the check after the last flight of each day and without exceeding a 9-flying hour check interval is replaced with check intervals not to exceed 15 flying hours.

The DGAC classified ASB Nos. 05.00.45, 05.29, and 05A005 as mandatory and issued AD No. F-2004-023 R1, dated November 24, 2004, to ensure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept the FAA informed of the situation described above. We have examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

This previously described unsafe condition is likely to exist or develop on other helicopters of the same type designs. Therefore, the proposed AD would revise AD 2004-16-15 to require initial and repetitive inspections of the MGB base plate for cracking at various short time intervals. The time intervals for doing the inspections would be increased from what is required in the existing AD and are dependant on the helicopter model and the number of cycles on the MGB and whether the MGB has ever been overhauled or repaired.

We estimate that this proposed AD would affect 142 helicopters of U.S. registry. The initial inspection would take about 0.5 work hour and each recurring inspection would take about 0.25 work hour. Replacing the MGB, if necessary, would take about 4 work hours. The average labor rate would be \$65 per work hour. It would cost approximately \$25,000 to repair a cracked MGB base plate. Based on these figures, the total estimated cost impact of the AD on U.S. operators would be \$56,249, assuming that each of the 135 Model AS 365 and SA 366 helicopters are inspected 11 times (the initial inspection plus 10 recurring inspections) and each of the 7 Model EC 155 helicopters are inspected 40 times (the initial inspection plus 39 recurring inspections), and one cracked MGB base plate is found requiring the repair and replacement of one MGB. This estimate also assumes that a replacement MGB would not need to be purchased while a previously-installed MGB is being repaired.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. Additionally, 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 draft economic evaluation of the estimated costs to comply with this proposed AD. See the DMS to examine the draft economic evaluation.

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.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39-13771 (69 FR 51358, August 19, 2004), and by adding a new airworthiness directive (AD), to read as follows:

Eurocopter France: Docket No. FAA-2004-18850; Directorate Identifier 2004-SW-19-AD. Revises AD 2004-16-15, Amendment 39-13771.

Applicability: Model AS-365N2, AS 365 N3, EC 155B, EC155B1, SA-365N, N1, and SA-366G1 helicopters with a main gearbox (MGB) base plate, part number (P/N) 366A32-1062-03 or P/N 366A32-1062-06, installed, certificated in any category.

Compliance: Required as indicated in the following compliance table and before installing a replacement main gearbox (MGB).

COMPLIANCE TABLE

For model . . .	If . . .	Or if . . .	Or if . . .
(1) SA-365N, N1 and SA-366G1 helicopters.	An MGB is installed that has less than 9,900 cycles and has never been overhauled or repaired, on or before accumulating 9,900 cycles, unless accomplished previously, and thereafter, at intervals not to exceed 55 hours time-in-service (TIS).	An MGB is installed that has 9,900 or more cycles and has never been overhauled or repaired, before further flight, unless accomplished previously, and thereafter, at intervals not to exceed 55 hours TIS.	An MGB is installed that is overhauled or repaired, before further flight, unless accomplished previously, and thereafter, at intervals not to exceed 55 hours TIS.
(2) AS-365N2 and AS 365 N3 helicopters.	An MGB is installed that has less than 7,300 cycles and has never been overhauled or repaired, on or before accumulating 7,300 cycles, unless accomplished previously, and thereafter, at intervals not to exceed 55 hours TIS.	An MGB is installed that has 7,300 or more cycles and has never been overhauled or repaired, before further flight, and thereafter, at intervals not to exceed 55 hours TIS.	An MGB is installed that has been overhauled or repaired, before further flight, and thereafter, at intervals not to exceed 55 hours TIS.
(3) EC 155 B and EC155B1 helicopters.	An MGB base plate is installed that has less than 2,600 cycles, no later than 2,600 cycles, unless accomplished previously, and thereafter, at intervals not to exceed 15 hours TIS.	An MGB base plate is installed that has 2,600 or more cycles, unless accomplished previously, before further flight, and thereafter, at intervals not to exceed 15 hours TIS.	

One cycle equates to one helicopter landing in which a landing gear touches the ground.

To detect a crack in the MGB base plate and prevent failure of a MGB attachment point to the frame, which could result in severe vibration and subsequent loss of

control of the helicopter, accomplish the following:

(a) Before the initial inspection at the time indicated in the compliance table of this AD,

strip the paint from area "D" on both sides ("B" and "C") of the MGB base plate as depicted in Figure 1 of this AD.

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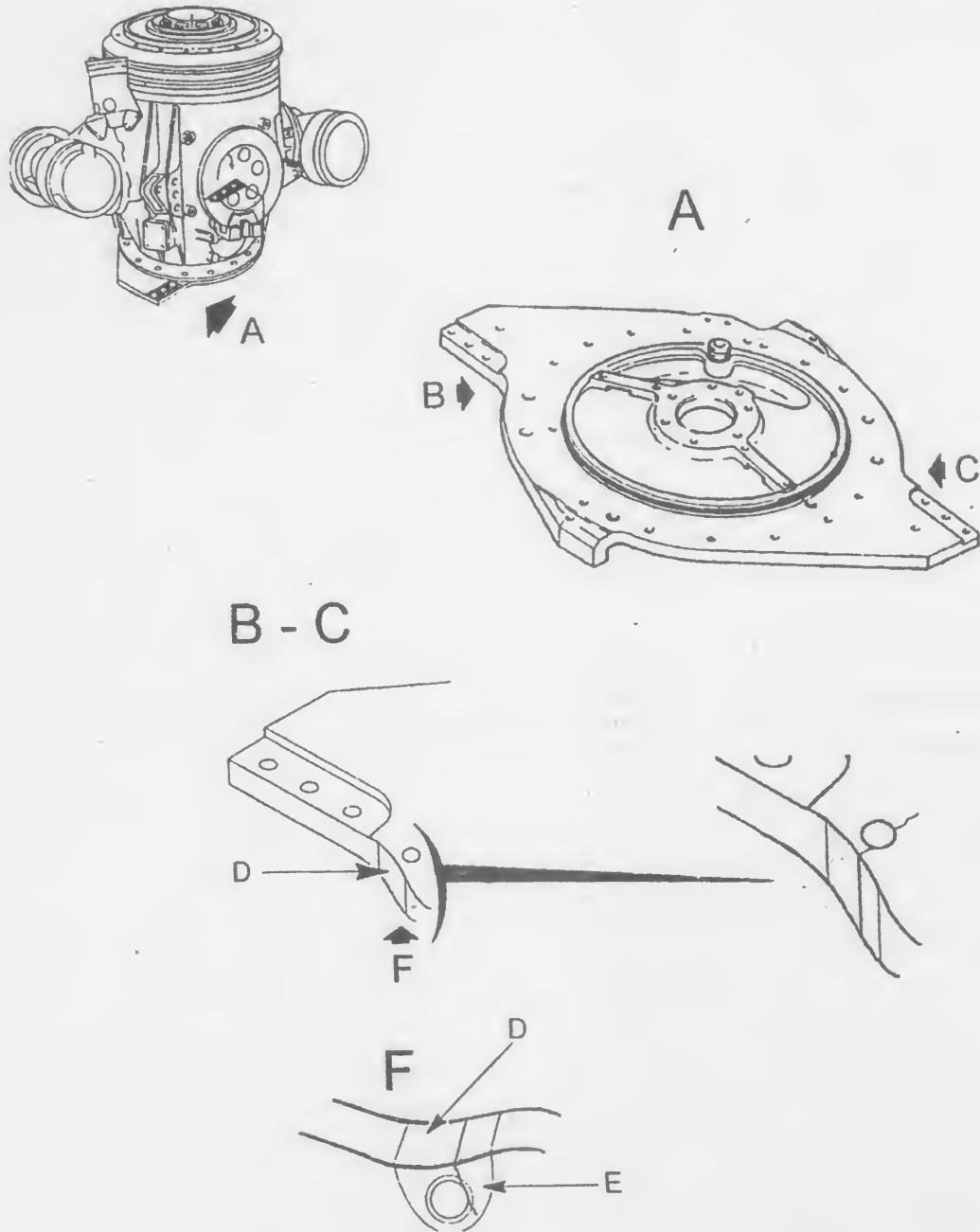


Figure 1

(b) At the times indicated in the compliance table, inspect area "D" of the MGB base plate for a crack using a 10x or higher magnifying glass. Area "D" to be inspected is depicted in Figure 1 of this AD.

Note 1: Eurocopter France Alert Service Bulletin (ASB) No. 05.00.45 for Model AS365 N, N1, N2, and N3 helicopters, ASB No. 05.29 for Model SA366 G1 helicopters, and ASB No. 05A005 for Model EC155 B and B1 helicopters, pertain to the subject of this AD. All three ASBs are dated November 8, 2004.

(c) If a crack is found in a MGB base plate, remove and replace the MGB with an airworthy MGB before further flight.

(d) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Safety Management Group, Rotorcraft Directorate, FAA, ATTN: Ed Cuevas, Fort Worth, Texas 76193-0111, telephone (817) 222-5355, fax (817) 222-5961, for information about previously approved alternative methods of compliance.

Note 2: The subject of this AD is addressed in Direction Générale de L'Aviation Civile (France) AD F-2004-023 R1, dated November 24, 2004.

Issued in Fort Worth, Texas, on April 21, 2006.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate,
Aircraft Certification Service.

[FR Doc. 06-4107 Filed 5-1-06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-24228; Directorate Identifier 2006-CE-22-AD]

RIN 2120-AA64

Airworthiness Directives; Air Tractor, Inc. Models AT-602, AT-802, and AT-802A 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 all Air Tractor, Inc. Models AT-602, AT-802, and AT-802A airplanes. This proposed AD would require you to repetitively inspect the engine mount for any cracks, repair or replace any cracked engine mount, and report any cracks found to

the FAA. This proposed AD results from reports of cracked engine mounts. We are proposing this AD to detect and correct cracks in the engine mount, which could result in failure of the engine mount. Such failure could lead to separation of the engine from the airplane.

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

ADDRESSES: Use one of the following addresses to comment on this proposed AD:

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- Fax: (202) 493-2251.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Air Tractor, Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564-5616; facsimile: (940) 564-5612.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, "FAA-2006-24228; Directorate Identifier 2006-CE-22-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://](http://dms.dot.gov)

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

We received two reports from Air Tractor, Inc. of cracked engine mounts resulting from fatigue. One report was for a Model AT-602 airplane. The specific airplane model with the other crack is unverified. This AD applies to Air Tractor, Inc. Models AT-602, AT-802, and AT-802A airplanes due to design similarity.

A cracked engine mount, if not detected and corrected, could result in failure of the engine mount. Such failure could lead to separation of the engine from the airplane.

Relevant Service Information

We have reviewed Snow Engineering Co. Service Letter #253, dated December 12, 2005.

The service information describes procedures for performing a visual inspection for cracks of the engine mount and requesting a repair scheme from the manufacturer.

Snow Engineering Co. has a licensing agreement with Air Tractor, Inc. that allows them to produce technical data to use for Air Tractor, Inc. products.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This proposed AD would require you to repetitively inspect the engine mount for any cracks, repair or replace any cracked engine mount, and report any cracks found to the FAA. To repair a cracked engine mount, you would obtain an FAA-approved repair scheme from Air Tractor, Inc. following the instructions in the service information.

Costs of Compliance

We estimate that this proposed AD would affect 368 airplanes in the U.S. registry.

We estimate the following costs to do the proposed inspection of the engine mount for cracks:

Labor cost	Parts cost	Total cost per airplane per inspection	Total cost on U.S. operators for initial inspection
1.5 work hours × \$80 per hour = \$120	Not Applicable	\$120	368 × \$120 = \$44,160

We have no way of determining the number of airplanes that may need repair/replacement of the engine mount as a result of the proposed inspection. We have no way of determining the cost of an engine mount repair. To replace the engine mount would take 81 work hours at \$80 per hour (estimated total labor = \$6,480), parts cost of \$3,982, and a total replacement cost of \$10,462 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.

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 5:00 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:

Air Tractor, Inc.: Docket No. FAA-2006-24228; Directorate Identifier 2006-CE-22-AD.

Comments Due Date

(a) We must receive comments on this proposed airworthiness directive (AD) action by June 27, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD affects all Models AT-602, AT-802, and AT-802A airplanes, all serial numbers, that are certificated in any category.

Unsafe Condition

(d) This AD results from reports of cracked engine mounts. We are issuing this AD to detect and correct cracks in the engine mount, which could result in failure of the engine mount. Such failure could lead to separation of the engine from the airplane.

What Must I do to Address This Problem?

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

Actions	Compliance	Procedures
(1) Visually inspect the engine mount for any cracks.	Initially inspect upon accumulating 4,000 hours time-in-service (TIS) or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already done. Thereafter, repetitively inspect every 300 hours TIS.	Follow Snow Engineering Co. Service Letter #253, dated December 12, 2005.
(2) If you find any crack damage, do one of the following: (i) Obtain an FAA-approved repair scheme from the manufacturer and incorporate this repair scheme; or (ii) Replace the engine mount with a new engine mount.	Before further flight after any inspection required by paragraph (e)(1) of this AD where crack damage is found. If you repair the cracked engine mount, then continue to re-inspect at intervals not to exceed 300 hours TIS, unless the repair scheme states differently. If you replace the engine mount, then initially inspect upon accumulating 4,000 hours TIS and repetitively at intervals not to exceed 300 hours TIS.	<i>For obtaining a repair scheme:</i> Follow Snow Engineering Co. Service Letter #253, dated December 12, 2005. <i>For the replacement:</i> The maintenance manual includes instructions for the replacement.

Actions	Compliance	Procedures
<p>(3) Report any cracks that you find to the FAA at the address specified in paragraph (f) of this AD. Include in your report:</p> <ul style="list-style-type: none"> (i) Airplane serial number; (ii) Airplane and engine mount hours TIS; (iii) Crack location(s) and size(s); (iv) Corrective action taken; and (v) Point of contact name and telephone number 	<p>Within the next 10 days after you find the cracks or within the next 10 days after the effective date of this AD, whichever occurs later.</p>	<p>The Office of Management and Budget (OMB) approved the information collection requirements contained in this regulation under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) and assigned OMB Control Number 2120-0056.</p>

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Fort Worth Airplane Certification Office, FAA, ATTN: Andrew McAnaul, Aerospace Engineer, ASW-150 (c/o MIDO-43), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308-3365; facsimile: (210) 308-3370, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(g) To get copies of the documents referenced in this AD, contact Air Tractor Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564-5616; facsimile: (940) 564-5612. 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-2006-24228; Directorate Identifier 2006-CE-22-AD.

Issued in Kansas City, Missouri, on April 26, 2006.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6-6584 Filed 5-1-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Notice No. 58]

RIN: 1513-AB18

Proposed Sonoma County Green Valley Viticultural Area Name Change (2005R-412P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to rename the "Sonoma County Green Valley" viticultural area as the "Green Valley of Russian River Valley" viticultural area. The area's size and boundaries would

remain unchanged. This northern California viticultural area is totally within the Russian River Valley viticultural area, the Sonoma Coast viticultural area, and the multi-county North Coast viticultural area. We designate viticultural areas to allow vintners to better describe the origin of wines and to allow consumers to better identify the wines they may purchase. We invite comments on this proposed change to our regulations.

DATES: We must receive written comments on or before July 3, 2006.

ADDRESSES: You may send comments to any of the following addresses:

- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 58, P.O. Box 14412, Washington, DC 20044-4412.

- 202-927-8525 (facsimile).

- tnprm@ttb.gov (e-mail).

- <http://www.ttb.gov/alcohol/rules/index.htm>. An online comment form is posted with this notice on our Web site.

- <http://www.regulations.gov> (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of this notice, the petition, and any comments we receive about this notice by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202-927-2400. You may also access copies of the notice and comments online at <http://www.ttb.gov/alcohol/rules/index.htm>.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT: N. A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, California 94952; telephone 415-271-1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding a product's identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of distinct viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographical origin. The establishment of a viticultural area allows vintners to more accurately describe the origin of their wines to consumers and helps consumers to identify wines they may purchase. However, the establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area.

Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

A petition requesting the modification of an established viticultural area must include the appropriate evidence described above to support the requested modification.

Sonoma County Green Valley Viticultural Area Background

TTB's predecessor agency, the Bureau of Alcohol, Tobacco and Firearms (ATF), established the Sonoma County Green Valley viticultural area (27 CFR 9.57) in a Treasury Decision (T.D. ATF-161), published in the *Federal Register* at 48 FR 52577 on November 21, 1983. The 19,010-acre Sonoma County Green Valley viticultural area is located north of San Francisco in southern Sonoma County. (T.D. ATF-161 mistakenly stated the size of the Sonoma County Green Valley viticultural area as 32,000 acres.) The Sonoma County Green Valley viticultural area lies between the towns of Sebastopol, Forestville, and Occidental within the western region of the Russian River Valley viticultural area (27 CFR 9.66), which lies entirely within the Sonoma Coast viticultural area (27 CFR 9.116) and the multi-county North Coast viticultural area (27 CFR 9.30).

In 1982, the original petitioner sought to use the name "Green Valley" for this viticultural area. However, while ATF determined that the Green Valley name was appropriate for the area, ATF required the addition of "Sonoma County" to the name, and thus approved the name "Sonoma County Green Valley" as the viticultural area name. ATF took this action to avoid consumer confusion since "Green Valley" is a commonly used geographical place name in the United States.

In approving the Sonoma County Green Valley viticultural area, ATF specifically noted its 1982 approval of the "Solano County Green Valley" viticultural area (27 CFR 9.44) with the same condition—that the county name appear in conjunction with the viticultural area's name to prevent consumer confusion with other "Green" valleys elsewhere in the United States. T.D. ATF-161 stated that since both "Green Valley" viticultural areas are located in northern California, the inclusion of the county name modifiers in each viticultural area name helped to avoid consumer confusion by distinguishing between the two viticultural areas.

Green Valley of Russian River Valley Petition

The Winegrowers and Vintners of Sonoma County's Green Valley, an association of local winegrowers and vintners based in Sebastopol, California, has petitioned TTB to change the name of the "Sonoma County Green Valley" viticultural area to "Green Valley of Russian River Valley." The group explains in its petition that the name change is warranted because the viticultural area is commonly referred to as "Green Valley," without the Sonoma County modifier, and because the Green Valley area is considered by many to be a sub-appellation of the Russian River Valley viticultural area by virtue of its location and similar climate.

TTB notes that the recently expanded 126,600-acre Russian River Valley viticultural area now encompasses the entire Sonoma County Green Valley viticultural area. (See T.D. TTB-32, published in the *Federal Register* at 70 FR 53297 on September 8, 2005.) We also note that the proposed name change does not affect the established boundaries of either viticultural area.

Three wineries located within the viticultural area at issue, according to the petition, consistently claim the "Sonoma County Green Valley" appellation on their wine labels. Other regional wineries use the Russian River Valley viticultural area appellation on their labels, the petition explains, but include references to the Sonoma County Green Valley viticultural area on their wines' back labels and in their promotional materials.

Changing the viticultural area name to "Green Valley of Russian River Valley," the petition explains, will provide greater clarity regarding the viticultural area location and its association with the cool climate of the Russian River Valley. Thus, the petition states, consumers will have more accurate and descriptive geographical and climatic

information for this viticultural area's wines.

Name Evidence

The petition provides evidence, summarized below, to document that the Sonoma County Green Valley viticultural area is known, and referred to, simply as "Green Valley." Also, the same evidence describes "Green Valley" as being a part of the larger Russian River Valley viticultural area.

The Savor Wine Country magazine (winter 2003, page 78), published by the Press Democrat newspaper of Sonoma County, California, included a feature article on "Green Valley." A map of the "Green Valley" area and the Russian River Valley area provided with the article generally agrees with the boundaries of both viticultural areas, including the (at that time) proposed boundary expansion of that Russian River Valley viticultural area. The article states that "Green Valley" is a sub-appellation of the sprawling Russian River Valley viticultural area. It also describes the abundant sparkling wines, pinot noir grapes, and other agricultural products produced in the "Green Valley" area. The article characterizes the viticultural area as a diverse farming region with cool coastal breezes, which coincides with the climatic conditions found in the Russian River Valley viticultural area.

A Los Angeles Times article of January 14, 2004, titled "Out of the Mist, Pinots," describes the Russian River Valley American viticultural area and its "sub-regions" as having distinct wine personalities. The article states: "Russian River Valley AVA and the Green Valley AVA are primarily climate-based appellations." While expounding on the exceptional soils of the Russian River Valley viticultural area, the article also states: "The Green Valley AVA (a part of the Russian River AVA) yields bright, bold Pinots with crystalline fruit and piercing acidity."

A recent "Sonoma County Wine Country Guide," published by the Sonoma County Wineries Association and included with the petition, describes the "Green Valley" area as a small sub-appellation of the Russian River Valley viticultural area (see the Guide, page 24). The article also describes the marine-influenced climate and the Goldridge series soils, which are conducive to growing fruit. Also, the publication contains an untitled map of Sonoma County's rural western expanse that identifies the Sonoma County Green Valley viticultural area simply as "Green Valley" (see the Guide, page 18).

Linkage of Two Viticultural Area Names

In addition, with the establishment of the Oak Knoll District of Napa Valley viticultural area (27 CFR 9.161), TTB has approved the use of the name of one viticultural area within the name of another viticultural area in order to prevent consumer confusion. In that case, a petitioner proposed to establish the Oak Knoll District viticultural area within the larger Napa Valley viticultural area (27 CFR 9.23) in Napa County, California. In order to distinguish the proposed Oak Knoll District viticultural area from the established Oak Knoll Winery located in Oregon, TTB approved the addition of the "Napa Valley" name to the area's name, resulting in the establishment of the "Oak Knoll District of Napa Valley" viticultural area. (See T.D. TTB-9, published in the *Federal Register* at 69 FR 8562 on February 25, 2004.)

Likewise, by linking the name of the Green Valley viticultural area and the larger Russian River Valley viticultural area that surrounds it, the petitioners seek to prevent consumer confusion between the two established "Green Valley" viticultural areas, as well as between the Green Valley in Sonoma County and other "Green" valleys in the United States. Therefore, TTB believes that adoption of the proposed new "Green Valley of Russian River Valley" name would be permissible so long as it accurately reflects the geographical location of the viticultural area and does not otherwise create confusion for the consumer.

Impact on Current Wine Labels

General

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. If we approve this proposed viticultural area name change, the new name, "Green Valley of Russian River Valley," will be recognized as a name of viticultural significance. If approved, this name change will affect vintners who appropriately use the original "Sonoma County Green Valley."

While "Russian River Valley" and "Solano County Green Valley," as viticultural area names, are also terms of viticultural significance, we do not believe it would be appropriate to treat "Green Valley" standing alone as a term of viticultural significance due to its widespread use across the United States as a geographic place name. For example, a recent search of the USGS Geographic Names Information System (<http://geonames.usgs.gov/>) found 65 entries for "Green Valley" in 23 States,

including at least 13 places in California in 11 different counties.

Consequently, wine bottlers using the entire descriptor, "Green Valley of Russian River Valley," in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the viticultural area's name as an appellation of origin. Accordingly, the proposed part 9 regulatory text amendments set forth in this document specify that the name "Green Valley of Russian River Valley" is a term of viticultural significance for purposes of part 4 of the TTB regulations.

For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name as an appellation of origin and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Accordingly, if a new label or a previously approved label uses the name "Green Valley of Russian River Valley" for a wine that does not meet the 85 percent standard, the new label will not be approved, and the previously approved label will be subject to revocation, upon the effective date of this proposed name change.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Transition Period

If the proposed "Green Valley of Russian River Valley" name is adopted as a final rule, holders of labels using the current "Sonoma County Green Valley" name that were approved by the effective date of the final regulation changing the viticultural area name to "Green Valley of Russian River Valley" will be permitted to continue using those approved labels for two years from the effective date of the final rule. At the end of this two-year transition period, holders of "Sonoma County Green Valley" wine labels must discontinue use of those labels and will need to secure approval of new labels reflecting the correct use of the new viticultural

area name as an appellation of origin. We believe the two year period should provide such label holders with adequate time to use up their old labels.

Public Participation

Comments Invited

We invite comments from interested members of the public on the appropriateness of changing the name of the established "Sonoma County Green Valley" viticultural area to "Green Valley of Russian River Valley" and the proposed two year transition period. We are particularly interested in comments on any possible effects that the use of this changed name would have on the use of the established Russian River Valley and Solano County Green Valley viticultural area names, including any potential conflicts with existing brand names.

TTB will consider only comments concerning the re-naming of the Sonoma County Green Valley viticultural area and the transition period. The proposed name change of Sonoma County Green Valley viticultural area does not affect its boundaries or those of the Russian River Valley viticultural area. With each comment submitted, please provide all available specific information that supports the position of the comment.

Submitting Comments

Please submit your comments by the closing date shown above in this notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals. You may submit comments in one of five ways:

- *Mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- *Facsimile:* You may submit comments by facsimile transmission to 202-927-8525. Faxed comments must—
 - (1) Be on 8.5- by 11-inch paper;
 - (2) Contain a legible, written signature; and
 - (3) Be no more than five pages long.
 This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.
- *E-mail:* You may e-mail comments to nprm@ttb.gov. Comments transmitted by electronic mail must—
 - (1) Contain your e-mail address;
 - (2) Reference this notice number on the subject line; and
 - (3) Be legible when printed on 8.5- by 11-inch paper.
- *Online form:* We provide a comment form with the online copy of

this notice on our Web site at <http://www.ttb.gov/alcohol/rules/index.htm>. Select the "Send comments via e-mail" link under this notice number.

• *Federal e-rulemaking portal:* To submit comments to us via the Federal e-rulemaking portal, visit <http://www.regulations.gov> and follow the instructions for submitting comments.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted material is part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider confidential or inappropriate for public disclosure.

Public Disclosure

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive by appointment at the TTB Information Resource Center at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact our information specialist at the above address or by telephone at 202-927-2400 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and any comments we receive on this proposal on the TTB Web site. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Information Resource Center. To access the online copy of this notice and the submitted comments, visit <http://www.ttb.gov/alcohol/rules/index.htm>. Select the "View Comments" link under this notice number to view the posted comments.

Regulatory Flexibility Act

We certify that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

N.A. Sutton of the Regulations and Rulings Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend 27 CFR, chapter 1, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Section 9.57 is amended by revising the section heading, paragraph (a), the introductory text of paragraphs (b) and (c), and by adding a new paragraph (d), to read as follows:

§ 9.57 Green Valley of Russian River Valley.

(a) *Name.* The name of the viticultural area described in this section is "Green Valley of Russian River Valley." For purposes of part 4 of this chapter, "Green Valley of Russian River Valley" is a term of viticultural significance:

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Green Valley of Russian River Valley viticultural area are three United States Geological Survey maps. They are titled:

* * * * *

(c) *Boundary.* The Green Valley of Russian River Valley viticultural area is located in Sonoma County, California. The beginning point is located in the northeastern portion of the "Camp Meeker Quadrangle" map where the line separating section 31 from section 32, in Township 8 North (T.8N.), Range 9 West (R.9W.) intersects River Road.

* * * * *

(d) From December 21, 1983, until [INSERT DATE ONE DAY BEFORE EFFECTIVE DATE OF THE FINAL RULE], the name of this viticultural area was "Sonoma County Green Valley". Effective [INSERT EFFECTIVE DATE OF THE FINAL RULE], this viticulture area is named "Green Valley of Russian River Valley". Existing certificates of label approval showing "Sonoma

County Green Valley" as the appellation of origin will be revoked by operation of this regulation on [INSERT DATE 2 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE].

Signed: March 29, 2006.

John J. Manfreda,
Administrator.

[FR Doc. E6-6538 Filed 4-28-06; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 151

[USCG-2006-24580]

Ballast Water Treatment Technology and Analysis Methods

AGENCY: Coast Guard, DHS.

ACTION: Request for public comments.

SUMMARY: The Coast Guard seeks public assistance in gathering information regarding the status of research and development of ballast water management systems and analytical technologies/methods used in testing ballast water management systems. The Coast Guard may then provide this information to the 55th Session of the International Maritime Organization's (IMO) Marine Environment Protection Committee (MEPC 55) to inform the Committee during the review of the status of the development of ballast water management systems. Our specific interest is in ballast water management systems that have been rigorously tested both in land-based test platforms and on board ships. We are also interested in technologies/methods for rapid detection, enumeration, and determination of organism viabilities in ballast water.

DATES: Comments and related material must reach the Docket Management Facility on or before Friday, June 23, 2006.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG-2006-24580 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

- (1) Web site: <http://dms.dot.gov>.
- (2) Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.
- (3) Fax: 202-493-2251.
- (4) 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. The telephone number is 202-366-9329.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, contact LT Heather St. Pierre, Environmental Standards Division, U.S. Coast Guard, via the ballast water information line at 202-267-2716 or via e-mail at environmentalstandards@comdt.uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-493-0402.

SUPPLEMENTARY INFORMATION:

Request for Comments

All comments received will be posted, without change, to <http://dms.dot.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this notice (USCG-2006-24580) and give the reason for each comment. You may submit your comments by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½" by 11", suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments received during the comment period.

Viewing comments and documents: To view comments, go to <http://dms.dot.gov> at any time, click on "Simple Search," enter the last five digits of the docket number for this rulemaking, and click on "Search." You may also visit the Docket Management Facility in room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of

Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

Background and Purpose

The Coast Guard is interested in receiving information about the current status of the development of ballast water management systems. Specifically, the Coast Guard requests comments to be submitted based on two categories:

- Ballast water management systems that have been carefully tested at all scales, including rigorous land-based testing and tests on board ships; and
- Technologies/methods for rapid detection, enumeration, and determination of organism viabilities in ballast water.

Ballast Water Management System Submissions: For those submissions pertaining to shipboard ballast water management systems, specific areas must be addressed for the submission to be considered pertinent to the discussion during the Review:

- (1) Types and sizes of ships, ballast capacities, flow rates, and the geographic region in which the testing occurred;
- (2) The availability of commercial infrastructure and support, including sufficient manufacturing capacity to meet initial requirements of the IMO's Ballast Water Convention (At MEPC 53, it was estimated that between 300 and 500 vessels may be subject to the Convention's discharge requirement in 2009);
- (3) Concise explanation of system requirements, including space, power, consumables, maintenance and manning requirements; and
- (4) Concise quantitative description of the technology's ability to meet IMO's Ballast Water Performance Standard (Regulation D-2) under shipboard circumstances identified in (1) above, including specific information about the ships on which the management system meets this performance standard, and whether or not the IMO guidelines for approval of ballast water management systems were employed.

Testing Technology/Methodology Submissions: For those submissions pertaining to testing ballast water, submissions must address the following areas:

- (1) Types of organisms to which the test technology or method applies;
- (2) The intended purpose of the technology/method (detection, enumeration, viability assessment, etc.);
- (3) Explanation of how this technology/method will facilitate testing of ballast water treatment systems; and

(4) Cost of the technology/method, to include capital costs and maintenance/annual costs (including personnel, special training, and expendable supplies).

General Submission Information: Submissions for both treatment and testing technologies/methods must be five pages or less (Times New Roman font size 12, single spaced with a minimum of one-inch margins) and relate to the specific classifications of organisms as expressed in the Ballast Water Performance Standard (Regulation D-2) of the IMO's International Convention for the Control and Management of Ships' Ballast Water & Sediments. If deemed applicable and pertinent to the discussions of the meeting at IMO, the United States may submit the documents on these technologies and methods to MEPC 55 as information papers. These information papers are documents submitted to the Committee to make note of, and sample papers can be requested via the e-mail address and phone number listed under **FOR FURTHER INFORMATION CONTACT**. The Coast Guard appreciates any assistance and information offered by the public; however, providing this information to the Coast Guard does not guarantee the information will be submitted to IMO.

Supporting information—including relevant citations for reported results, not intended for wider dissemination—may also be provided. Such material need not comply with the formatting and page limitations described above. Any material considered proprietary or commercially sensitive should be plainly marked as such. The Coast Guard will retain all information received, and may use the information for development and implementation of regulations and policies.

Dated: April 27, 2006.

Howard L. Hime,

Acting Director of Standards, Assistant Commandant for Prevention, U.S. Coast Guard.

[FR Doc. E6-6628 Filed 5-1-06; 8:45 am]

BILLING CODE 4910-15-P

**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR Part 52

[Docket No. EPA-R02-OAR-2006-0303;
FRL-8164-3]

**Approval and Promulgation of
Implementation Plans; New York
Ozone State Implementation Plan
Revision**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a revision to the New York State Implementation Plan (SIP) related to the control of oxides of nitrogen (NO_x) and volatile organic compounds (VOC) from stationary sources. The SIP revision consists of amendments to New York's Code of Rules and Regulations Parts 214, "Byproduct Coke Oven Batteries," and 216, "Iron and/or Steel Processes." The revision was submitted to comply with the 1-hour ozone Clean Air Act reasonably available control technology requirements for major sources of VOC and NO_x not covered by Control Techniques Guidelines. The intended effect of this action is to propose approval of control strategies which will result in emission reductions that will help achieve attainment of the national ambient air quality standard for ozone.

DATES: Comments must be received on or before June 1, 2006. •

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R02-OAR-2006-0303, by one of the following methods:

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

- E-mail: Werner.Raymond@epa.gov.
- Fax: 212-637-3901.
- Mail: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.

• Hand Delivery: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R02-OAR-2006-0303. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3381.

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I. What Action Is EPA Proposing Today?

The EPA is proposing to approve a revision to the New York Ozone State Implementation Plan (SIP). The SIP revision consists of amendments to New York's Code of Rules and Regulations, Parts 214, "Byproduct Coke Oven Batteries," and 216, "Iron and/or Steel Processes" and is intended to comply with certain 1-hour ozone Clean Air Act Reasonably Available Control Technology (RACT) requirements.

II. What Are the Clean Air Act Requirements?

A. What are the volatile organic compound (VOC) Reasonably Available Control Technology (RACT) requirements?

The Clean Air Act (Act) as amended in 1990 sets forth a number of requirements that states with areas designated as nonattainment for ozone must satisfy and a timetable for satisfying these requirements. The specific requirements vary depending upon the severity of the ozone problem. One of the requirements, and the subject of this proposed rulemaking, requires states to adopt RACT rules for various VOC source categories. EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762; September 17, 1979).

Section 182 of the Act sets forth two separate RACT requirements for ozone nonattainment areas. The first requirement, contained in section 182(a)(2)(A) of the Act, and referred to as RACT fix-up, requires the correction of RACT rules for which EPA identified deficiencies before the Act was amended in 1990. The second requirement, set forth in section 182(b)(2) of the Act, applies to moderate (or worse) ozone nonattainment areas as well as to ozone transport regions. The goal of this latter requirement is to ensure that areas not required previously to adopt RACT for some or all of the major stationary sources, adopt rules and "catch-up" to those areas subject to more stringent RACT requirements.

EPA issued three sets of Control Techniques Guideline (CTG) documents, establishing a "presumptive norm" for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those

sources not covered by a CTG are referred to as non-CTG sources. Section 182(b)(2) of the Act requires states with ozone nonattainment areas classified as moderate or worse to develop RACT for all pre-enactment CTG source categories, for all sources subject to post-enactment CTGs and for all non-CTG major sources in those areas. Under the pre-1990 Clean Air Act, ozone nonattainment areas were required to adopt RACT rules for sources of VOC emissions.

New York has previously addressed most of these requirements and EPA has approved these revisions into the New York State Implementation Plan (SIP).

B. What are the oxides of nitrogen (NO_x) RACT requirements?

The air quality planning requirements for the reduction of NO_x emissions using RACT are set out in section 182(f) of the Act. EPA further defines the section 182(f) requirements in a notice, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," published November 25, 1992 (57 FR 55620). Refer to the November 25, 1992 notice for detailed information on the NO_x requirements. Also refer to additional guidance memoranda that EPA released subsequent to the NO_x Supplement. The additional guidance includes but is not limited to: EPA publication EPA-452/R-96-005 (March 1996) entitled "NO_x Policy Documents for The Clean Air Act of 1990;" EPA's policy memorandum on the approval options for generic RACT rules submitted by states entitled "Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirement and Certain NO_x RACT Requirements" (November 7, 1996); EPA's draft system-wide averaging trading guidance (December 1993); and EPA's publications of "Alternative Control Technique Documents," which are technical documents identifying alternative controls for most categories of stationary sources of NO_x.

The Act requires that states establish requirements, where practicable, for major stationary sources to include NO_x RACT controls by May 31, 1995.

III. What Did New York Include in Its Submittals?

On July 8, 1994, New York State Department of Environmental Conservation (NYSDEC) submitted to EPA a request to revise its SIP. The revisions consisted of amendments to New York's Code of Rules and Regulations (NYCRR) Parts 214,

"Byproduct Coke Oven Batteries," and 216, "Iron and/or Steel Processes." Parts 214 and 216 were adopted by the State on July 8, 1994 and became effective on September 22, 1994. These regulations are intended to address, at least in part, the requirements of the Act explained in Section I of this notice. It should be noted that because the specific requirements of the Act which New York must address vary relative to the severity of the ozone problem in a specific metropolitan area, the applicability of New York's Parts 214 and 216 also varies accordingly. A summary of EPA's review and findings concerning the revisions to Parts 214 and 216 follows.

IV. What Are the Revisions to Part 214, "By-Product Coke Oven Batteries" and Part 216, "Iron and/or Steel Processes"?

Part 214

Revised Part 214 includes definitions which have been added for convenience in interpreting the provisions of Part 214. Revised Part 214 also includes a new subdivision, subpart 214.9(b) which requires facilities subject to this rule to comply with RACT requirements. Facilities subject to this rule must submit a compliance plan which identifies RACT for each NO_x and VOC emission point or limit the facility's potential to emit these contaminants below threshold applicability levels through federally and state enforceable special conditions in permits to construct and/or certificates to operate. A compliance plan must identify the emission points not equipped with RACT and must include a schedule for installation of RACT. Subpart 214.9(b) required that compliance plans be submitted to the NYSDEC by October 20, 1994, and RACT implemented by May 31, 1995.

VOC emission points which are subject to and are in compliance with subparts L or FF of the national emission standards for hazardous air pollutants in 40 CFR Part 61 are considered to be equipped with RACT for purposes of compliance with subpart 214.9(b).

Pursuant to subpart 214.9(b)(5), any other process specific RACT determinations developed by the facilities, which have been determined by the NYSDEC to be acceptable, must be submitted to EPA for approval as SIP revisions.

Part 216

Revised Part 216 includes definitions which have been added for convenience in interpreting the provisions of Part 216. Revised Part 216 also includes a

new subdivision, subpart 216.5 which requires facilities subject to this rule to comply with RACT requirements. Facilities subject to this rule must submit a compliance plan which identifies RACT for each NO_x and VOC emission point or limit the facility's potential to emit these contaminants below threshold applicability levels through federally and state enforceable special conditions in permits to construct and/or certificates to operate. A compliance plan must identify the emission points not equipped with RACT and must include a schedule for installation of RACT. Subpart 216.5 required that compliance plans be submitted to the NYSDEC by October 20, 1994, and RACT implemented by May 31, 1995.

Pursuant to subpart 216.5(c)(4), any process specific RACT determinations developed by the facilities, which have been determined by the NYSDEC to be acceptable, must be submitted to EPA for approval as SIP revisions.

A. What Is the Definition of Generic RACT and Do Parts 214 and 216 Contain Generic RACT Provisions?

Generic provisions are those portions of a regulation which require the application of RACT to an emission point, but the degree of control is not specified in the rule and is to be determined on a case-by-case basis taking technological and economic factors into consideration. New York refers to these as "process specific RACT demonstrations." Under the Act, these individually determined RACT limits would then need to be submitted by a state as a SIP revision for EPA approval. On November 7, 1996, EPA issued a policy memorandum providing additional guidance for approving regulations which contain these "generic provisions". (Sally Shaver, Director, Air Quality Strategies and Standards Division, memorandum to EPA Division Directors, "Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirement and Certain NO_x RACT Requirements").

EPA policy allows for the full approval of state rules containing generic RACT requirements prior to actual EPA approval of SIP revisions establishing RACT for each individual major source making use of the generic RACT requirements. However, to allow this, the state must provide an analysis that shows that the sources likely to make use of these generic requirements would only represent a small amount or de-minimis level of emissions and that the majority of emissions would be regulated by a specified RACT level of

control included in the general rule. An EPA approval of this generic provision does not exempt the remaining sources from complying with RACT, but does provide an opportunity for EPA to make a determination that the state has met a non-CTG requirement prior to taking action on all of the individual case-by-case RACT determinations. Parts 214 and 216 both include generic RACT provisions requiring the application of RACT on a case-by-case basis for any item of equipment, process or source where the degree of control has not been specified in the general rule.

B. How Has New York Addressed the Case-by-Case RACT Determinations?

In a letter dated March 1, 2006, New York provided sufficient data for EPA to evaluate the de-minimis level of NO_x emissions from generic sources in the State that are subject to Parts 214 and 216. New York also determined that there are no sources located in New York State which are subject to the VOC RACT requirements of Parts 214 and 216 which would need to submit individual case-by-case RACT determinations as single source SIP revisions. Therefore, New York provided de-minimis data for NO_x sources only.

Given the State's data, EPA determined that 0.50 percent of the NO_x emissions subject to RACT controls have either not yet been submitted to EPA as single source SIP revisions or, if submitted, have not yet been approved by EPA. This 0.50 percent level includes NO_x emissions from four facilities for which New York is required to submit single source SIP revisions addressing NO_x RACT requirements for these facilities. EPA policy indicates that 0.50 percent is below the de-minimis level.¹ EPA has determined that New York's NO_x RACT regulation conforms to EPA's policy regarding the approval of generic RACT provisions or rules. Therefore, EPA proposes full approval of the generic RACT provisions of Part 214 and 216. Subparts 214.9(b)(5) and 216.5(c)(4) require New York to submit any remaining case-by-case RACT determinations for the NO_x sources to EPA for approval as single source SIP revisions.

¹ EPA guidance ("Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirement and Certain NO_x RACT Requirements," November 7, 1996) provides that where the non-approved RACT requirements concern sources whose emissions represent less than 5 percent of the 1990 stationary source NO_x inventory, excluding utility boilers, it may be appropriate to issue a full approval of the generic RACT regulation.

V. Conclusion

EPA has evaluated New York's submittal for consistency with the Act, EPA regulations, and EPA policy. EPA is proposing to approve the revisions to Part 214, "By-Product Coke Oven Batteries" and Part 216, "Iron and/or Steel Processes" of New York's regulations as meeting the VOC and NO_x RACT "catch-up" requirements under sections 182(b)(2) and 182(f) of the Act for non-CTG major sources.

VI. Statutory and Executive Order Reviews

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

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the

distribution of power and responsibilities established in the Act. This proposed rule also is not subject to Executive Order 13045 Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it is not economically significant.

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 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 proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

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

Dated: April 24, 2006.

Alan J. Steinberg,

Regional Administrator, Region 2.

[FR Doc. E6-6618 Filed 5-1-06; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-R06-OAR-2005-TX-0034; FRL-8164-5]

National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Texas Commission on Environmental Quality (TCEQ) has submitted a request for receiving delegation of EPA authority for implementation and enforcement of National Emission Standards for Hazardous Air Pollutants (NESHAPs) for all sources (both part 70 and non-part 70 sources). The requests apply to

certain NESHAPs promulgated by EPA, as adopted by TCEQ on May 25, 2005. The delegation of authority under this action does not apply to sources located in Indian Country. EPA is providing notice that proposes to approve the delegation of certain NESHAPs to TDEQ.

DATES: Written comments must be received on or before June 1, 2006.

ADDRESSES: Comments may be mailed to Mr. Jeff Robinson, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the Addresses section of the direct final rule located in the final rules section of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Robinson, Air Permits Section, Multimedia Planning and Permitting Division (6PD-R), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, at (214) 665-6435, or at robinson.jeffrey@epa.gov.

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving TCEQ's request for delegation of authority to implement and enforce certain NESHAPs for all sources (both part 70 and non-part 70 sources). TCEQ has adopted certain NESHAPs into Texas' state regulations. In addition, EPA is waiving its notification requirements so sources will only need to send notifications and reports to TCEQ.

The EPA is taking direct final action without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the preamble to the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is

published in the Rules section of this **Federal Register**.

Authority: 42 U.S.C. 7412.

Dated: April 24, 2006.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. 06-4113 Filed 5-1-06; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA 2006-24236]

Preliminary Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of preliminary theft data; request for comments.

SUMMARY: This document requests comments on data about passenger motor vehicle thefts that occurred in calendar year (CY) 2004 including theft rates for existing passenger motor vehicle lines manufactured in model year (MY) 2004. The preliminary theft data indicate that the vehicle theft rate for CY/MY 2004 vehicles (1.83 thefts per thousand vehicles) decreased by 0.54 percent from the theft rate for CY/MY 2003 vehicles (1.84 thefts per thousand vehicles).

Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data, and publish the information for review and comment.

DATES: Comments must be submitted on or before July 3, 2006.

ADDRESSES: You may submit comments (identified by DOT Docket No. NHTSA-2006-24236) by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

• Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

• Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, S.W., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

Docket: For access to the 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: Ms. Deborah Mazyck, Office of International Vehicle, Fuel Economy and Consumer Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366-4139. Her fax number is (202) 493-2290.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR Part 541. The standard specifies performance requirements for inscribing or affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data, and publish the data for review and comment. To fulfill the § 33104(b)(4) mandate, this document reports the preliminary theft data for CY 2004 the most recent calendar year for which data are available.

In calculating the 2004 theft rates, NHTSA followed the same procedures it used in calculating the MY 2003 theft rates. (For 2003 theft data calculations, see 69 FR 53354, September 1, 2004). As in all previous reports, NHTSA's data were based on information provided to the agency by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a governmental system that

receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources. The 2004 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 2004 vehicles of that line stolen during calendar year 2004, by the total number of vehicles in that line manufactured for MY 2004, as reported by manufacturers

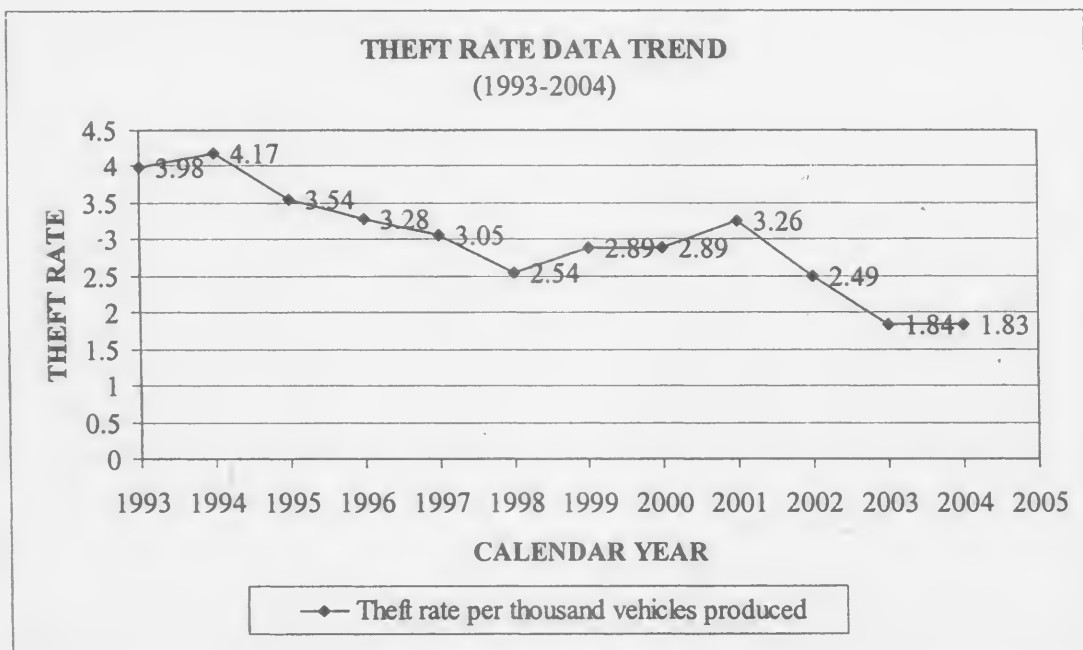
to the Environmental Protection Agency.

The preliminary 2004 theft data show a decrease in the vehicle theft rate when compared to the theft rate experienced in CY/MY 2003. The preliminary theft rate for MY 2004 passenger vehicles stolen in calendar year 2004 decreased to 1.83 thefts per thousand vehicles produced, a decrease of 0.54 percent from the rate of 1.84 thefts per thousand vehicles experienced by MY 2003 vehicles in CY 2003. For MY 2004 vehicles, out of a total of 231 vehicle

lines, 22 lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991 (See 59 FR 12400, March 16, 1994). Of the 22 vehicle lines with a theft rate higher than 3.5826, 20 are passenger car lines, one is a multipurpose passenger vehicle line, and one is a light-duty truck line.

The preliminary MY 2004 theft rate reduction is consistent with the general decreasing trend of theft rates over the past eleven years as indicated by Figure 1.

Figure 1.



The agency believes that the theft rate reduction could be the result of several factors including the increased use of standard antitheft devices (*i.e.*, immobilizers), vehicle partsmarking, increased and improved prosecution efforts by law enforcement organizations and increased public awareness measures that may have contributed to the overall reduction in vehicle thefts.

In Table I, NHTSA has tentatively ranked each of the MY 2004 vehicle lines in descending order of theft rate. Public comment is sought on the accuracy of the data, including the data for the production volumes of individual vehicle lines.

Comments must not exceed 15 pages in length (49 CFR Part 553.21). Attachments may be appended to these submissions without regard to the 15

page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and two copies from which the purportedly confidential information has been deleted should be submitted to Dockets. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment

closing date indicated above for this document will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments on this document will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available for inspection in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket

supervisor will return the postcard by mail.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our docket by the name of the individual submitting the

comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume

65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Authority: 49 U.S.C. 33101, 33102 and 33104; delegation of authority at 49 CFR 1.50.

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2004 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2004

	Manufacturer	Make/model (line)	Thefts 2004	Production (Mfr's) 2004	2004 theft rate (per 1,000 vehicles produced)
1	DAIMLERCHRYSLER	DODGE INTREPID	662	67,289	9.8382
2	TOYOTA	TUNDRA PICKUP	135	14,913	9.0525
3	DAIMLERCHRYSLER	DODGE STRATUS	1,047	140,248	7.4653
4	DAIMLERCHRYSLER	CHRYSLER SEBRING	525	90,897	5.7758
5	HONDA	ACURA NSX	1	198	5.0505
6	GENERAL MOTORS	OLDSMOBILE ALERO	346	69,534	4.9760
7	GENERAL MOTORS	CHEVROLET MALIBU CLASSIC	464	98,025	4.7335
8	DAIMLERCHRYSLER	CHRYSLER CONCORDE	108	22,879	4.7205
9	DAIMLERCHRYSLER	DIAMANTE	19	4,135	4.5949
10	DAIMLERCHRYSLER	IMPENZA	177	38,806	4.5612
11	DAIMLERCHRYSLER	MONTERO SPORT	24	5,414	4.4330
12	GENERAL MOTORS	CHEVROLET MONTE CARLO	268	62,391	4.2955
13	DAIMLERCHRYSLER	DODGE NEON	498	117,601	4.2347
14	DAIMLERCHRYSLER	ECLIPSE	74	17,682	4.1850
15	NISSAN	SENTRA	504	122,208	4.1241
16	FORD MOTOR CO.	FORD MUSTANG	541	135,734	3.9857
17	NISSAN	INFINITI Q45	4	1,006	3.9761
18	KIA	RIO	145	37,599	3.8565
19	DAIMLERCHRYSLER	CHRYSLER SEBRING CONVERTIBLE	248	64,442	3.8484
20	DAIMLERCHRYSLER	GALANT	165	42,902	3.8460
21	GENERAL MOTORS	PONTIAC GRAND AM	639	171,925	3.7167
22	HYUNDAI	ACCENT	155	42,863	3.6162
23	DAIMLERCHRYSLER	LANCER	140	42,776	3.2729
24	DAIMLERCHRYSLER	ENDEAVOR	177	56,030	3.1590
25	GENERAL MOTORS	PONTIAC SUNFIRE	114	36,176	3.1513
26	NISSAN	ALTIMA	273	88,348	3.0901
27	GENERAL MOTORS	CHEVROLET CAVALIER	658	215,275	3.0566
28	TOYOTA	SCION XB	73	25,098	2.9086
29	KIA	OPTIMA	186	66,397	2.8013
30	FORD MOTOR CO.	FORD FOCUS	302	109,050	2.7694
31	GENERAL MOTORS	CHEVROLET IMPALA	743	269,733	2.7546
32	SUZUKI	VERONA	44	16,478	2.6702
33	BMW	7	43	16,245	2.6470
34	GENERAL MOTORS	CADILLAC SEVILLE	16	6,222	2.5715
35	ISUZU	RODEO	43	16,863	2.5500
36	NISSAN	MAXIMA	301	119,146	2.5263
37	TOYOTA	CELICA	21	8,483	2.4755
38	DAIMLERCHRYSLER	CHRYSLER PT CRUISER	255	104,558	2.4388
39	BMW	M3	21	8,632	2.4328
40	KIA	AMANTI	46	19,363	2.3757
41	GENERAL MOTORS	PONTIAC AZTEK	49	20,854	2.3497
42	FORD MOTOR CO.	FORD TAURUS	477	203,126	2.3483
43	MAZDA	6	176	75,843	2.3206
44	GENERAL MOTORS	CHEVROLET BLAZER S10/T10	116	50,855	2.2810
45	SUZUKI	FORENZA	57	25,032	2.2771
46	GENERAL MOTORS	PONTIAC GRAND PRIX	408	179,556	2.2723
47	FORD MOTOR CO.	LINCOLN TOWN CAR	125	55,227	2.2634
48	FORD MOTOR CO.	LINCOLN LS	66	29,344	2.2492
49	SUZUKI	AERIO	37	16,459	2.2480
50	DAIMLERCHRYSLER	OUTLANDER	50	22,336	2.2385
51	TOYOTA	COROLLA	602	272,301	2.2108
52	GENERAL MOTORS	CHEVROLET CORVETTE	74	33,501	2.2089
53	KIA	SPECTRA	96	44,322	2.1660
54	NISSAN	350Z	87	40,255	2.1612
55	TOYOTA	LEXUS GS	21	9,756	2.1525
56	FORD MOTOR CO.	MERCURY SABLE	90	42,236	2.1309
57	TOYOTA	LEXUS IS	24	11,308	2.1224
58	FERRARI	360	2	950	2.1053
59	MERCEDES-BENZ	170 (SLK-CLASS)	8	3,836	2.0855
60	DAIMLERCHRYSLER	CHRYSLER PACIFICA	192	98,340	1.9524

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2004 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2004—Continued

	Manufacturer	Make/model (line)	Thefts 2004	Production (Mfr's) 2004	2004 theft rate (per 1,000 vehicles produced)
61	DAIMLERCHRYSLER	JEEP GRAND CHEROKEE	617	317,381	1.9440
62	HONDA	ACURA RSX	39	20,280	1.9231
63	DAIMLERCHRYSLER	DODGE DAKOTA PICKUP	62	32,355	1.9162
64	FORD MOTOR CO	FORD CROWN VICTORIA	63	32,977	1.9104
65	DAIMLERCHRYSLER	DODGE CARAVAN/GRAND CARAVAN	162	84,965	1.9067
66	GENERAL MOTORS	PONTIAC BONNEVILLE	40	21,163	1.8901
67	HYUNDAI	ELANTRA	196	103,787	1.8885
68	BMW	6	11	5,870	1.8739
69	JAGUAR	XJR	4	2,179	1.8357
70	GENERAL MOTORS	GMC CANYON PICKUP	39	21,402	1.8223
71	MAZDA	RX-8	64	35,147	1.8209
72	GENERAL MOTORS	BUICK RENDEZVOUS	123	68,043	1.8077
73	JAGUAR	XKR	1	557	1.7953
74	DAIMLERCHRYSLER	JEEP LIBERTY	305	173,128	1.7617
75	FORD MOTOR CO	FORD EXPLORER	515	294,622	1.7480
76	VOLKSWAGEN	PHAETON	4	2,326	1.7197
77	MERCEDES-BENZ	129 (SL-CLASS)	20	11,928	1.6767
78	NISSAN	INFINITI FX35	44	26,531	1.6584
79	DAIMLERCHRYSLER	CHRYSLER 300M	34	20,836	1.6318
80	TOYOTA	TACOMA PICKUP	259	159,348	1.6254
81	VOLKSWAGEN	R32	8	5,017	1.5946
82	NISSAN	INFINITI G35	139	87,780	1.5835
83	HYUNDAI	TIBURON	33	20,977	1.5732
84	GENERAL MOTORS	CHEVROLET TRACKER	24	15,276	1.5711
85	HYUNDAI	SONATA	158	101,774	1.5525
86	MERCEDES-BENZ	208 (CLK-CLASS)	31	20,013	1.5490
87	GENERAL MOTORS	BUICK CENTURY	84	54,706	1.5355
88	GENERAL MOTORS	CADILLAC DEVILLE	111	73,274	1.5149
89	FORD MOTOR CO	FORD THUNDERBIRD	19	12,577	1.5107
90	TOYOTA	MATRIX	91	60,311	1.5088
91	VOLVO	S40	34	22,616	1.5034
92	GENERAL MOTORS	CHEVROLET TRAILBLAZER	308	209,348	1.4712
93	HONDA	S2000	11	7,511	1.4645
94	DAIMLERCHRYSLER	DODGE VIPER	3	2,065	1.4528
95	DAIMLERCHRYSLER	JEEP WRANGLER	132	91,631	1.4406
96	LAMBORGHINI	GALLARDO	1	697	1.4347
97	TOYOTA	CAMRY/SOLARA	532	373,268	1.4252
98	TOYOTA	LEXUS SC	14	9,905	1.4134
99	MAZDA	MX-5 MIATA	12	8,620	1.3921
100	GENERAL MOTORS	GMC ENVOY	114	83,013	1.3733
101	MAZDA	3	104	75,915	1.3700
102	JAGUAR	XJ8	15	11,048	1.3577
103	GENERAL MOTORS	GMC SAFARI VAN	6	4,428	1.3550
104	VOLVO	V40	4	2,963	1.3500
105	HONDA	CIVIC	390	289,347	1.3479
106	GENERAL MOTORS	CHEVROLET ASTRO VAN	28	20,892	1.3402
107	JAGUAR	S-TYPE	10	7,469	1.3389
108	GENERAL MOTORS	CHEVROLET AVEO	92	68,741	1.3384
109	KIA	SORENTO	63	47,404	1.3290
110	GENERAL MOTORS	CHEVROLET MALIBU	127	96,605	1.3146
111	FORD MOTOR CO	FORD EXPLORER SPORT TRAC	79	60,166	1.3130
112	NISSAN	FRONTIER PICKUP	100	77,079	1.2974
113	GENERAL MOTORS	BUICK PARK AVENUE	22	16,985	1.2953
114	SUZUKI	VITARA/GRAND VITARA	44	34,227	1.2855
115	DAIMLERCHRYSLER	CHRYSLER CROSSFIRE	22	17,345	1.2684
116	AUDI	A4/A4 QUATTRO/S4/S4 AVANT	59	46,660	1.2645
117	GENERAL MOTORS	BUICK REGAL	24	18,983	1.2643
118	FORD MOTOR CO	FORD ESCAPE	133	106,309	1.2511
119	MERCEDES-BENZ	203 (C-CLASS)	64	51,630	1.2396
120	TOYOTA	SCION XA	18	14,753	1.2201
121	NISSAN	INFINITI QX56	15	12,296	1.2199
122	JAGUAR	X-TYPE	30	24,693	1.2149
123	VOLVO	S60	50	41,804	1.1961
124	ISUZU	AXIOM	4	3,347	1.1951
125	HONDA	ACCORD	448	376,680	1.1893
126	NISSAN	INFINITI M45	2	1,687	1.1855
127	VOLKSWAGEN	JETTA	109	92,979	1.1723

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2004 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2004—Continued

	Manufacturer	Make/model (line)	Thefts 2004	Production (Mfr's) 2004	2004 theft rate (per 1,000 vehicles produced)
128	GENERAL MOTORS	CHEVROLET COLORADO	109	93,411	1.1669
129	FORD MOTOR CO	MERCURY GRAND MARQUIS	104	89,130	1.1668
130	GENERAL MOTORS	SATURN ION	141	121,109	1.1642
131	MAZDA	MPV VAN	26	22,346	1.1635
132	VOLVO	S80	23	19,802	1.1615
133	GENERAL MOTORS	PONTIAC MONTANA VAN	35	30,277	1.1560
134	HYUNDAI	XG300	27	24,262	1.1129
135	TOYOTA	4RUNNER	135	122,034	1.1062
136	MERCEDES-BENZ	220 (S-CLASS)	18	16,416	1.0965
137	GENERAL MOTORS	PONTIAC GTO	13	12,044	1.0794
138	HONDA	ACURA TSX	50	46,494	1.0754
139	ISUZU	ASCENDER	8	7,455	1.0731
140	NISSAN	XTERRA	90	84,478	1.0654
141	PORSCHE	911	10	9,546	1.0476
142	AUDI	A8	8	7,654	1.0452
143	LAND ROVER	FREELANDER	5	4,795	1.0428
144	GENERAL MOTORS	PONTIAC VIBE	65	62,365	1.0423
145	BMW	3	106	103,092	1.0282
146	FORD MOTOR CO	MERCURY MOUNTAINEER	52	50,580	1.0281
147	VOLKSWAGEN	GOLF/GTI	20	20,043	0.9979
148	FORD MOTOR CO	FORD FREESTAR	104	105,280	0.9878
149	TOYOTA	MR2 SPYDER	1	1,023	0.9775
150	GENERAL MOTORS	BUICK LESABRE	117	119,742	0.9771
151	MERCEDES-BENZ	215 (CL-CLASS)	2	2,125	0.9412
152	KIA	SEDONA VAN	50	53,140	0.9409
153	BMW	5	45	48,009	0.9373
154	PORSCHE	BOXSTER	4	4,417	0.9056
155	HONDA	ACURA 3.2 TL	67	75,026	0.8930
156	TOYOTA	LEXUS LS	28	31,881	0.8783
157	DAIMLERCHRYSLER	CHRYSLER TOWN & COUNTRY (MPV)	49	56,361	0.8694
158	GENERAL MOTORS	CHEVROLET VENTURE VAN	66	76,777	0.8596
159	NISSAN	MURANO	55	64,280	0.8556
160	MERCEDES-BENZ	210 (E-CLASS)	39	45,602	0.8552
161	HONDA	ACURA 3.5 RL	7	8,341	0.8392
162	BMW	Z4	11	13,171	0.8352
163	MAZDA	TRIBUTE	25	30,524	0.8190
164	NISSAN	PATHFINDER	23	28,387	0.8102
165	TOYOTA	RAV4	62	77,643	0.7985
166	FORD MOTOR CO	FORD RANGER PICKUP	136	172,566	0.7881
167	GENERAL MOTORS	CADILLAC SRX	24	30,811	0.7789
168	GENERAL MOTORS	CADILLAC XLR	3	3,857	0.7778
169	GENERAL MOTORS	CADILLAC CTS	43	55,984	0.7681
170	GENERAL MOTORS	CHEVROLET S10/T10 PICKUP	9	12,111	0.7431
171	GENERAL MOTORS	OLDSMOBILE SILHOUETTE VAN	7	9,420	0.7431
172	HONDA	ACURA MDX	45	62,397	0.7212
173	GENERAL MOTORS	SATURN LS	13	18,185	0.7149
174	AUDI	ALLROAD QUATTRO	4	5,675	0.7048
175	TOYOTA	ECHO	4	5,697	0.7021
176	TOYOTA	LEXUS RX	101	146,431	0.6897
177	VOLKSWAGEN	PASSAT	48	70,878	0.6772
178	VOLKSWAGEN	NEW BEETLE	30	44,896	0.6682
179	TOYOTA	HIGHLANDER	82	123,726	0.6628
180	HYUNDAI	SANTA FE	86	130,385	0.6596
181	VOLVO	C70	5	7,731	0.6467
182	TOYOTA	LEXUS ES	45	70,774	0.6358
183	AUDI	A6/A6 QUATTRO/S6/S6 AVANT	10	15,885	0.6295
184	GENERAL MOTORS	GMC SONOMA PICKUP	2	3,190	0.6270
185	NISSAN	QUEST VAN	40	63,930	0.6257
186	MAZDA	B SERIES PICKUP	6	9,766	0.6144
187	HONDA	ELEMENT	34	56,002	0.6071
188	BMW	X3	20	33,586	0.5955
189	VOLVO	XC90	31	53,323	0.5814
190	TOYOTA	LEXUS GX	25	43,789	0.5709
191	JAGUAR	VANDEN PLAS/SUPER V8	2	3,712	0.5388
192	NISSAN	INFINITI FX45	2	3,762	0.5316
193	HONDA	ODYSSEY VAN	66	132,919	0.4965
194	TOYOTA	AVALON	25	50,663	0.4935

PRELIMINARY REPORT OF THEFT RATES FOR MODEL YEAR 2004 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2004—Continued

	Manufacturer	Make/model (line)	Thefts 2004	Production (Mfr's) 2004	2004 theft rate (per 1,000 vehicles produced)
195	TOYOTA	SIENNA VAN	106	220,314	0.4811
196	NISSAN	INFINITI I35	6	12,840	0.4673
197	SUBARU	LEGACY/OUTBACK	28	61,160	0.4578
198	VOLVO	V70	7	15,335	0.4565
199	GENERAL MOTORS	SATURN VUE	42	92,536	0.4539
200	SUBARU	BAJA	1	2,208	0.4529
201	GENERAL MOTORS	SATURN LW	1	2,226	0.4492
202	GENERAL MOTORS	CHEVROLET MALIBU MAXX	16	35,760	0.4474
203	HONDA	CR-V	65	153,562	0.4233
204	TOYOTA	PRIUS	20	47,970	0.4169
205	HONDA	PILOT	50	135,591	0.3688
206	VOLVO	XC70	9	24,528	0.3669
207	BMW	MINI COOPER	11	31,126	0.3534
208	SUBARU	FORESTER	22	62,733	0.3507
209	AUDI	TT	2	5,889	0.3396
210	SAAB	9-3	10	29,534	0.3386
211	GENERAL MOTORS	OLDSMOBILE BRAVADA	1	3,475	0.2878
212	SAAB	9-5	2	10,101	0.1980
213	GENERAL MOTORS	BUICK RAINIER	4	28,987	0.1380
214	FORD MOTOR CO	MERCURY MONTEREY	2	20,632	0.0969
215	ASTON MARTIN	VANQUISH	0	79	0.0000
216	FERRARI	575M	0	127	0.0000
217	FERRARI	CHALLENGE	0	328	0.0000
218	FORD MOTOR CO	MERCURY MARAUDER	0	3,177	0.0000
219	GENERAL MOTORS	CADILLAC FUNERAL COACH/HEARSE	0	973	0.0000
220	GENERAL MOTORS	CADILLAC LIMOUSINE	0	778	0.0000
221	HONDA	INSIGHT	0	543	0.0000
222	JAGUAR	XK8	0	981	0.0000
223	LAMBORGHINI	L-140/141	0	697	0.0000
224	LAMBORGHINI	L-147/148	0	121	0.0000
225	LOTUS	ESPRIT	0	39	0.0000
226	MASERATI	COUPE/SPYDER	0	793	0.0000
227	QUANTUM TECH	CHEVROLET CAVALIER	0	391	0.0000
228	ROLLS ROYCE	BENTLEY ARNAGE	0	165	0.0000
229	ROLLS ROYCE	BENTLEY CONTINENTAL	0	737	0.0000
230	ROLLS ROYCE	PHANTOM	0	489	0.0000
231	SAAB	9-7X	0	1,998	0.0000

Issued on: April 27, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking,
[FR Doc. 06-4137 Filed 5-1-06; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 060420106-6106-01; I.D. 041706B]

RIN 0648-AU44

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands King and Tanner Crab Fishery Resources; Economic Data Reports

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would change the economic data report (EDR) submission deadline from May 1 to June 28. This action is necessary to provide adequate time for crab harvesters and processors participating in the Bering Sea and Aleutian Islands Crab Rationalization Program to submit accurate and complete data on an EDR for the previous fishing year and permit enough time for issuance of crab permits for the current year. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received by May 17, 2006.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn:

Records Officer. Comments may be submitted by:

- Mail: P.O. Box 21668, Juneau, AK 99802.

- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

- Fax: 907-586-7557.

- E-mail: 0648-AU44-PR-

CRABEDR@noaa.gov. Include in the subject line of the e-mail the following document identifier: IERS. E-mail comments, with or without attachments, are limited to 5 megabytes.

- Webform at the Federal eRulemaking Portal: <http://www.regulations.gov>.

Follow the instructions at that site for submitting comments.

Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action are available from NMFS Alaska Region at the above address, from the NMFS Alaska Region Web site at <http://www.fakr.noaa.gov/index/analyses/analyses.asp>, or by calling the Alaska Region, NMFS, at 907-586-7228.

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in this proposed rule may be submitted to NMFS, Alaska Region at the above address, and by e-mail to David_Rostker@omb.eop.gov, or fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT:
Patsy A. Bearden, 907-586-7008 or patsy.bearden@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Crab Rationalization Program (CR Program) includes a comprehensive economic data collection program to aid the North Pacific Fishery Management Council and NMFS assess the success of the CR Program and develop amendments to the CR Program. An EDR contains cost, revenue, ownership, and employment data: These data are collected annually from the crab harvesting and processing sectors, including owners and lessees of catcher vessels, catcher/processors, and owners and operators of shoreside and floating processors. The data are used to study the economic impacts of the CR Program on harvesters, processors, and communities. Data submission is mandatory.

An EDR is required for historical data and annual data for each of four categories of participant in the CR fisheries: catcher vessel, catcher/processor, stationary floating crab processor, and shoreside crab processor. This rule would apply only to the annual EDRs.

This action would not add reporting, recordkeeping, and other compliance requirements. The number of small-entity respondents is anticipated to decrease dramatically compared with the current fishery. This decrease is due to the consolidation of BSAI crab operations from initial quota allocation, fleet reduction of 25 vessels in the BSAI crab buyback program, and from the opportunity to form cooperatives. Most of the EDR historical data were collected during this first year of the CR Program as a one-time submission. After the submission of historical data, small entities continuing to participate in the crab fisheries are required to submit an annual EDR. The number of crab harvesting entities that continue to meet SBA criteria for being small entities is anticipated to be greatly reduced over the pre-quota fisheries.

Need for Action

NMFS originally chose May 1 as the EDR submission deadline because NMFS estimated that data records would be readily available after the April 15 income tax filing deadline. However, several individuals have reported that a May 1 deadline for annual EDRs does not allow enough time for preparers to match EDR data to comprehensive and accurate financial documentation, such as financial statements and tax returns. When preparers request tax extensions, tax returns and statements are seldom complete by May 1. Even if taxes were submitted by April 15, EDR preparers have only two weeks to gather tax forms from preparers, complete the EDRs, and file them by May 1. This short period leaves little time to complete EDR data entry fields and could adversely affect the quality of data reported on EDRs.

Providing additional time to file EDRs should not delay issuance of annual quota share permits. Timely submission of a completed annual EDR is a condition to receiving an annual quota share permit from the NMFS Restricted Access Management Program office (RAM). The Pacific States Marine Fisheries Commission reports names of those with completed EDRs filings to RAM shortly after the EDR filing deadline. RAM will issue annual quota share permits approximately one month after the EDR filing deadline.

Classification

NMFS has determined that the proposed rule is consistent with the Magnuson-Stevens Act and other applicable laws. This rule has been determined to be not significant for the purposes of Executive Order 12866.

NMFS prepared an initial regulatory flexibility analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act. 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 the preamble and in the **SUMMARY** section of this document. A copy of the IRFA is available from NMFS (see **ADDRESSES**). A summary of the analysis follows:

The EDRs require data from fishing operations that are small entities as identified by the Small Business Administration (SBA). This action would apply to 311 entities, consisting of 275 catcher vessels, 12 catcher/processors, 20 shoreside processors, 4 stationary floating crab processors. This action would also apply to 6 Western Alaska Community Development Quota (CDQ) groups. Approximately 238 small entities own crab harvesting vessels or crab catcher/processors. Eight processors qualify as small entities. Each of the six CDQ groups is a small entity.

This action would not add reporting, recordkeeping, and other compliance requirements. The number of small-entity respondents is anticipated to decrease dramatically compared with the current fishery. This decrease is due to the consolidation of BSAI crab operations from initial quota allocation, fleet reduction of 25 vessels in the BSAI crab buyback program, and from the opportunity to form cooperatives. Most of the EDR historical data were collected during this first year of the CR Program as a one-time submission. After the submission of historical data, small entities continuing to participate in the crab fisheries are required to submit an annual EDR. The number of crab harvesting entities that continue to meet SBA criteria for being small entities is anticipated to be greatly reduced over the pre-quota fisheries.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by OMB under Control Number 0648-0518. Public reporting burden per individual response is estimated to average 7.5 hours for annual catcher vessel EDR; 12.5 hours for annual catcher/processor EDR; 10 hours for annual stationary floating crab processor EDR; and 10 hours for annual shoreside processor EDR. Response time estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing

the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and by e-mail to *David_Rostker@omb.eop.gov*, or fax to 202-395-7285.

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

This rule does not duplicate, overlap, or conflict with other Federal regulations.

This action does not have any adverse impacts on regulated small entities.

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: April 26, 2006.

William T. Hogarth

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 680 is proposed to be amended as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 680 continues to read as follows:

Authority: Authority: 16 U.S.C. 1862.

§ 680.6 [Amended]

2. In the table below, for each of the paragraphs shown in the "Location" column, remove the phrase indicated in the "Remove" column and replace it with the phrase indicated in the "Add" column for the number of times indicated in the "Frequency per paragraph" column.

Location	Remove	Add	Frequency per paragraph
§ 680.6 paragraphs (b)(1), (d)(1), (f)(1), and (h)(1)	May 1	June 28	2

[FR Doc. E6-6614 Filed 5-1-06; 8:45 am]

BILLING CODE 3510-22-S

Notices

Federal Register

Vol. 71, No. 84

Tuesday, May 2, 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

April 26, 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: PPQ Form 816; Contract Pilot and Aircraft Acceptance.

OMB Control Number: 0579-NEW.

Summary of Collection: The Plant Protection Act of 2000 directs the Secretary of Agriculture to carry out a program, subject to available funds, to control grasshoppers and Mormon crickets on all Federal lands to protect rangeland. The Animal and Plant Health Inspection Service (APHIS) carries out this program primarily by treating infested lands by aerial spraying of pesticides from aircraft.

Need and Use of the Information: Contract Pilot and Aircraft Acceptance Form (PPQ-816) is used by the Plant Protection and Quarantine personnel who are involved with contracts for aerial application services for emergency pest outbreaks. The form is used to document that the pilot and aircraft meet contract specifications.

Description of Respondents: Individuals or households.

Number of Respondents: 100.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 875.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 06-4103 Filed 5-1-06; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 26, 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.

Forest Service

Title: Forest Land Enhancement Program.

OMB Control Number: 0596-0168.

Summary of Collection: The Forest Land Enhancement Program (FLEP) is authorized in the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-711) through an amendment to the Cooperative Forestry Assistance Act (16 U.S.C. 2103). The goals of FLEP are to: (1) Enhance the productivity of timber, fish and wildlife habitat, soil and water quality, wetland, recreational resources and aesthetic values of private non-industrial private forestland; and (2) establish, manage, maintain, enhance, and restore such forests. The act requires establishing a grants program to achieve sustainable forestry; assist owners of non-industrial private forestlands to more actively manage these lands and related resources; and encourage such owners to use State, Federal, and private sector resource management expertise, financial assistance and educational programs. Through FLEP, States can cost-share up

to 75% to implement eligible forest management practices on non-industrial private forest ownerships. In order to be eligible for cost-share, landowners must have a forest management plan that has been approved by their State forester.

Need and Use of the Information: The Forest Service (FS) will collect information to describe how the program will be implemented in each State. The plans must (1) Describe how the State will allocate FLEP funding among the four major categories of administration, resource management expertise, education, and financial assistance; (2) describe how cost-share funds shall be made available to eligible participants; (3) describe ownership and acreage limitations; (4) define what constitutes a forest management plan; (5) identify landowner payment limitations; (6) identify eligible cost-share practices; (7) describe how funds may be distributed to participants; and (8) describe program application and reimbursement processes. If these information collection requirements were not implemented, it would be virtually impossible to provide proper Federal oversight for the new program.

Description of Respondents: State, Local or Tribal Government; Individuals or households; Farms.

Number of Respondents: 16,659.

Frequency of Responses: Reporting: Semi-annually; Annually.

Total Burden Hours: 66,516.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E6-6558 Filed 5-1-06; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic Province Advisory Committee (OPAC) will meet on Friday, May 19th, 2006. The meeting will be held at the North Olympic Learning Center, 201 W. Patison Street, Port Hadlock, Washington. The meeting will begin at 9:30 a.m. and end at approximately 3 p.m. Agenda topics will include: Skokomish Watershed Action Team Update; Sustainable Vegetation Management of Under-story/ Research Results; Geospatial Overview of the Pacific Northwest and Relevance to the Olympic National Forest; Project Updates and Open Forum. All Olympic

Province Advisory Committee Meetings are open to the public. Interested citizens are encouraged to attend. **FOR FURTHER INFORMATION CONTACT:** Karl Denison, Province Liaison, USDA, Olympic National Forest Headquarters, 1835 Black Lake Blvd. Olympia, WA 98512 (360) 956-2306.

Dated: April 25, 2006.

Dale Hom,

Forest Supervisor, Olympic National Forest.

[FR Doc. 06-4094 Filed 5-1-06; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Southwest Idaho Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393), the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will conduct a business meeting, which is open to the public.

DATES: Wednesday, May 17, 2006, beginning at 10:30 a.m.

ADDRESSES: Idaho Counties Risk Management Program Building, 3100 South Vista Avenue, Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Doug Gochnour, Designated Federal Officer, at 208-392-6681 or e-mail dgochnour@fs.fed.us.

SUPPLEMENTARY INFORMATION: Agenda topics will include review and approval of project proposals, and is an open public forum.

Dated: April 25, 2006.

Richard M. Christensen,

Acting Forest Supervisor, Boise National Forest.

[FR Doc. 06-4056 Filed 5-1-06; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Lincoln County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act

(Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393), the Kootenai National Forest's Lincoln County Resource Advisory Committee will meet on Wednesday May 10, 2006 at 6 p.m. at the Forest Supervisor's Office in Libby, Montana for a business meeting. The meeting is open to the public.

DATES: May 10, 2006.

ADDRESSES: Forest Supervisor's Office, 1101 US Hwy 2 West, Libby, Montana.

FOR FURTHER INFORMATION CONTACT:

Barbara Edgmon, Committee Coordinator, Kootenai National Forest at (406) 283-7764, or e-mail bedgmon@fs.fed.us.

SUPPLEMENTARY INFORMATION: Agenda topics include status reports on approved projects, receiving proposals for 2007, and receiving public comment. If the meeting date or location is changed, notice will be posted in the local newspapers, including the Daily Interlake based in Kalispell, Montana.

Dated: April 24, 2006.

Cami Winslow,

Acting Forest Supervisor.

[FR Doc. 06-4106 Filed 5-1-06; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

Sunshine Act; Meetings

AGENCY: Rural Telephone Bank, USDA.

ACTION: Staff Briefing for the Board of Directors.

TIME AND DATE: 2 p.m., Wednesday, May 10, 2006.

PLACE: Conference Room 104-A, Jamie L. Whitten Federal Building, U.S. Department of Agriculture, 12th & Jefferson Drive, SW., Washington, DC.

STATUS: Open.

MATTERS TO BE DISCUSSED:

1. Progress of dissolution of the Bank.
2. Administrative and other issues.

ACTION: Board of Directors Meeting.

TIME AND DATE: 9 a.m., Thursday, May 11, 2006.

PLACE: Conference Room 104-A, Jamie L. Whitten Federal Building, U.S. Department of Agriculture, 12th & Jefferson Drive, SW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The

following matters have been placed on the agenda for the Board of Directors meeting:

1. Call to order.

2. Action on Minutes of the February 23, 2006, board meeting.
3. Secretary's Report.
4. Treasurer's Report.
5. Update on dissolution of the Bank.
6. Adjournment.

CONTACT PERSON FOR MORE INFORMATION:

Jonathan Claffey, Acting Assistant Governor, Rural Telephone Bank, (202) 720-9554.

Dated: April 26, 2006.

James M. Andrew,

Governor, Rural Telephone Bank.

[FR Doc. 06-4152 Filed 4-28-06; 11:59 am]

BILLING CODE 3410-15-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-401-806]

Stainless Steel Wire Rod From Sweden: Notice of Extension of Time Limit for 2004-2005 Administration Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 2, 2006.

FOR FURTHER INFORMATION CONTACT:

Brian Smith, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-1766.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department of Commerce ("Department") to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Background

On October 25, 2005, the Department published in the **Federal Register** a notice of initiation of administrative review of the antidumping duty order on stainless steel wire rod from Sweden, covering the period September 1, 2004, through August 31, 2005. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR

61601 (October 25, 2005). The preliminary results for this administration review are currently due no later than June 2, 2006.

Extension of Time Limits for Preliminary Results

The Department requires additional time to review and analyze the sales and cost information submitted by the respondent in this administrative review. Moreover, the Department requires additional time to analyze complex issues related to product comparisons and level of trade, issue additional supplemental questionnaires and fully analyze the responses. Thus, it is not practicable to complete this review within the original time limit (i.e., June 2, 2006). Therefore, the Department is partially extending the time limit for completion of the preliminary results by 60 days to not later than August 1, 2006, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 26, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6-6623 Filed 5-1-06; 8:45 am]

Billing Code: 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration**

[C-427-819]

Low Enriched Uranium from France: Extension of Time Limit for Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 2, 2006.

FOR FURTHER INFORMATION CONTACT:

Kristen Johnson, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4793.

SUPPLEMENTARY INFORMATION:**Background**

The Department of Commerce ("the Department") published in the **Federal Register** a countervailing duty ("CVD") order on low enriched uranium from France on February 13, 2002. See *Amended Final Determination and Notice of Countervailing Duty Order:*

Low Enriched Uranium from France, 67 FR 6689 (February 13, 2002). On March 23, 2005, the Department initiated an administrative review of the CVD order for the period January 1, 2004, through December 31, 2004. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 14643 (March 23, 2005). The respondent in this administrative review is Eurodif S.A./Compagnie Generale Des Matieres Nucleaires. On February 15, 2006, the Department published in the **Federal Register** its preliminary results. See *Notice of Preliminary Results of Countervailing Duty Administrative Review: Low Enriched Uranium from France*, 71 FR 7924 (February 15, 2006). The final results are currently due no later than June 15, 2006.

Extension of Time Limit for Final Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to issue final results in an administrative review within 120 days after the date on which the preliminary results were published. However, if it is not practicable to complete the final results of review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results to a maximum of 180 days.

Given the complexity of issues raised in the case briefs submitted by interested parties, we find that it is not practicable for the Department to complete the final results of the administrative review within the 120-day statutory time frame. Therefore, the Department is fully extending the time limits for completion of the final results until August 14, 2006.

This notice is issued and published in accordance with section 751(a)(3)(A) of the Act.

Dated: April 26, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6-6625 Filed 5-1-06; 8:45 am]

Billing Code: 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-489-502]

Certain Welded Carbon Steel Standard Pipe from Turkey: Notice of Initiation of Countervailing Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 2, 2006.

SUMMARY: The Department of Commerce ("the Department") has received a request to conduct a new shipper review of the countervailing duty ("CVD") order on certain welded carbon steel standard pipe from Turkey. In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.214, we are initiating a CVD new shipper review for Tosçelik Profil ve Sac Endustrisi A.S. ("Tosçelik"), and its affiliated export trading company, Tosalı Dis Ticaret A.S. ("Tosalı").

FOR FURTHER INFORMATION CONTACT:

Kristen Johnson, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4793

SUPPLEMENTARY INFORMATION:**Background**

On March 30, 2006, the Department received a timely request from Tosçelik, in accordance with 19 CFR 351.214(c), for a new shipper review of the CVD order on certain welded carbon steel standard pipe from Turkey, which has a March anniversary month.¹

As required by 19 CFR 351.214(b)(2)(i) and (iii)(A), Tosçelik certified that it did not export subject merchandise to the United States during the period of investigation ("POI"), and that it has never been affiliated with any exporter or producer that exported subject merchandise during the POI.² Pursuant to 19 CFR 351.214(b)(2)(iv), the company submitted documentation

establishing the date on which it first shipped the subject merchandise to the United States, the date of entry of that first shipment, the volume of that and subsequent shipments, and the date of the first sale to an unaffiliated customer in the United States. Tosçelik also certified that, in accordance with 19 CFR 351.214(b)(2)(v), it has informed the Government of the Republic of Turkey that it will be required to provide a full response to the Department's questionnaire.³

Initiation of Review

In accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214, and based on information on the record, we are initiating a CVD new shipper review for Tosçelik. We intend to issue the preliminary results of this new shipper review no later than 180 days after initiation of this review.⁴ We intend to issue final results of this review no later than 90 days after the date on which the preliminary results are issued.⁵

New Shipper Review Proceeding	Period To Be Reviewed
Tosçelik	01/01/2005 - 12/31/2005

In accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e), we will instruct U.S. Customs and Border Protection to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise exported by Tosalı. We will apply the bonding option under 19 CFR 351.107(b)(1)(i) only to entries from Tosalı for which the respective producer under review is Tosçelik.

Interested parties that need access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214(d).

Dated: April 26, 2006.

Stephen J. Claeys,
Deputy Assistant Secretary for Import Administration.

[FR Doc. E6-6624 Filed 5-1-06; 8:45 am]

Billing Code: 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.: 00061680-6107-12]

NOAA Climate Program for FY 2007

AGENCY: Climate Program Office, Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of funding availability.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) Climate Program publishes this notice to announce the availability of funding for proposals that address the NOAA Climate Program's overall goal, which is to better understand climate variability and change to enhance society's ability

to plan and respond. The NOAA Climate Program represents a contribution to national and international programs designed to improve our ability to observe, understand, predict, and respond to changes in the global environment. The Program builds on NOAA's mission requirements and long-standing capabilities in global change research and prediction. The Program is a key contributing element of the U.S. Climate Change Science Program (CCSP) that is coordinated by the interagency Committee on Environmental and Natural Resources (CENR). NOAA's Climate Program is designed to complement other agencies' contributions to that national effort.

DATES:**Submission Dates and Times (for ALL Competitions)**

Letter of Intent Due Date: May 30, 2006, by 5 p.m. eastern time.

Application Due Date: July 25, 2006 by 5 p.m. eastern time.

Anticipated Award Date: May 1, 2007

ADDRESSES: Letters of Intent are encouraged to be submitted by e-mail to

¹ See Countervailing Duty Order: Certain Welded Carbon Steel Pipe and Tube Products from Turkey, 51 FR 7964 (March 7, 1986).

² See the March 30, 2006, submission to the Department from Tosçelik and Tosalı regarding Request for New Shipper CVD Review.

³ *Id.*

⁴ See 19 CFR 351.214(i).

⁵ *Id.*

the identified NOAA program element's program manager.

NOAA encourages the submission of applications through Grants.gov. If the applicant does not have access to electronic submission, please mail applications to: CPO Grants Manager, Diane Brown, NOAA/CPO, 1100 Wayne Avenue, Suite 1210, Silver Spring, MD 20910-5603, Facsimile transmissions of full proposals will not be accepted. To apply for this NOAA federal funding opportunity, please go to <http://www.grants.gov> and use the following funding opportunity OAR-CPO-2007-2000636.

FOR FURTHER INFORMATION CONTACT: Please visit the CPO Web site for further information <http://www.climate.noaa.gov>. All technical questions should be addressed to the identified NOAA program element's program manager. For Administrative questions: Please contact the CPO Grants Manager, Diane Brown, NOAA/CPO, 1100 Wayne Avenue, Suite 1210, Silver Spring, MD 20910-5603, by phone at 301-427-2357, or e-mail: cpogrants@noaa.gov.

SUPPLEMENTARY INFORMATION: Applicants must comply with all requirements contained in the Full Funding Opportunity announcement available on www.Grants.gov or from CPO Grants Manager (see **FOR FURTHER INFORMATION CONTACT** section above).

Electronic Access

Applicants should read the full text of the Full Funding Opportunity announcement available at <http://www.grants.gov>. It can also be accessed at the CPO Web site, <http://www.climate.noaa.gov>, or the central NOAA site, <http://www.grants.gov/ofa.noaa.gov/~amd/SOLINDEX.HTML>.

Program Information

The overall goal of the NOAA Climate Program is to better understand climate variability and change to enhance society's ability to plan and respond. The Program aims to improve scientific understanding of the earth's past and present climate variability and change to improve climate forecast skill, increase the credibility of climate change projections, and the use of climate information for policy and decision makers and resource managers. The broad objective of NOAA's Climate Program is to establish a national information service based on reliable assessments and quantitative predictions of changing global climate. Once established, this service will help NOAA provide high-quality predictions and assessments to the public and

private sectors, other federal and state agencies, and the international community. The near-term objective is to provide reliable predictions of global climate changes, both natural and human-induced, and their associated societal impacts on time scales ranging from seasons to a century or more. The ten competitions that are accepting proposals are: The Atmospheric Composition and Climate Program; the Climate Change Data and Detection Program; the Climate Dynamics and Experimental Prediction Program; the Climate Prediction Program for the Americas; the Climate Variability and Predictability Program; the Global Carbon Cycle Program; the Regional Integrated Sciences and Assessments Program; the Sector Applications and Research Program; the Scientific Data Stewardship Program; and the Transition of Research Applications to Climate Services Program A full description of the scope of the proposal for each of the ten competitions is contained in the full funding opportunity announcement.

Funding Availability

Please be advised that actual funding levels will depend upon the final FY 2007 budget appropriations. In FY 2006, approximately \$6M in first year funding was available for 54 new awards; similar funds and number of awards are anticipated in FY 2007. Total Anticipated Federal Funding for FY 2007 is \$6M in first year funding for 40-60 number of awards. Federal Funding for FY 2008 may be used in part to fund some awards submitted under this competition. Current plans assume that 100% of the total resources provided through this announcement will support extramural efforts, particularly those involving the broad academic community. Past or current grantees funded under this announcement are eligible to apply for a new award that builds on previous activities or areas of research not covered in the previous award. Current grantees should not request supplementary funding for ongoing research through this announcement. We anticipate that the annual cost of most funded projects will fall between \$50,000 and \$200,000 per year. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Neither NOAA nor the Department of Commerce is responsible for proposal preparation costs if this program is not funded for whatever reason. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

Statutory Authority: 49 U.S.C. 44720(b), 33 U.S.C. 883d, 15 U.S.C. 2904, 15 U.S.C. 2931-2934. *Catalog of Federal Domestic Assistance (CFDA) Number:* CFDA No. 11.431, Climate and Atmospheric Research.

Eligibility

Eligible applicants are institutions of higher education, other nonprofits, commercial organizations, international organizations, and State, local, and Indian tribal governments. Federal agencies or institutions are not eligible to receive Federal assistance under this notice.

Cost Sharing Requirements

Cost Sharing is only required in one program element competition which is the Transition of Research Applications to Climate Services (TRACS) where the Cost Share Percentage must be at least 5% of the total costs. The other nine Competitions have no cost sharing requirement.

Letters of Intent (LOI)

The purpose of the LOI process is to provide information to potential applicants on the relevance of their proposed project to the Climate program and the likelihood of it being funded in advance of preparing a full proposal. While it is in the best interest of the applicants and their institutions to submit an LOI, it is not a requirement; applicants who do not submit an LOI are still allowed to submit a full proposal. Full proposals will be encouraged only for LOIs deemed relevant.

A panel of program managers will review each LOI to determine whether the LOI is responsive to the program goals as advertised in this notice and will provide an e-mail or letter response.

Selection Procedures

NOAA published an omnibus notice announcing the availability of grant funds for projects 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>.

Limitation of Liability

Funding for the programs listed in this notice are contingent upon the availability of FY 2006 appropriations. In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if these

programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

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/NA0216_6_TOC.pdf, and the Council on Environmental Quality implementation regulations, http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm. Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying 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.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

The Department of Commerce Pre-Award Notification Requirements for

Grants and Cooperative Agreements contained in the **Federal Register** notice of December 30, 2004 (69 FR 78389) are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424 and 424A, 424B, SF-LLL, and CD-346 have been approved by 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.

Intergovernmental Review

Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of federal programs.

Administrative Procedure Act/Regulatory Flexibility Act

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for this rule concerning grants, benefits, and contracts (5 U.S.C. 553(a)). 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.

Mark Brown,

Chief, Financial Officer, OAR, National Oceanic and Atmospheric Administration.
[FR Doc. 06-4104 Filed 5-1-06; 8:45am]

BILLING CODE 3510-KD-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Uniform Formulary Beneficiary Advisory Panel

AGENCY: Department of Defense, Assistant Secretary of Defense (Health Affairs).

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Uniform Formulary Beneficiary Advisory Panel. The panel will review and comment on recommendations made to the Director, TRICARE Management Activity, by the Pharmacy and Therapeutics Committee regarding the Uniform Formulary. The meeting will be open to the public. Seating is limited and will be provided only to the first 220 people signing in. All persons must sign in legibly. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: Thursday, June 29, 2006, from 8 a.m. to 4 p.m.

ADDRESSES: Naval Heritage Center Theater, 701 Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mr. Rich Martel, TRICARE Management Activity, Pharmacy Operations Directorate, Beneficiary Advisory Panel, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041, telephone 703-681-0064 ext. 3672, fax 703-681-1242, or e-mail at baprequests@tma.osd.mil.

SUPPLEMENTARY INFORMATION: The Uniform Formulary Beneficiary Advisory Panel will only review and comment on the development of the Uniform Formulary as reflected in the recommendations of the DOD Pharmacy and Therapeutics (P&T) Committee coming out of that body's meeting in May 2006. The P&T Committee information and subject matter concerning drug classes reviewed for that meeting are available at <http://pec.ha.osd.mil>. Any private citizen is permitted to file a written statement with the advisory panel. Statements must be submitted electronically to baprequests@tma.osd.mil no later than June 22, 2006. Any private citizen is permitted to speak at the Beneficiary Advisory Panel meeting, time permitting. One hour will be reserved for public comments, and speaking times will be assigned only to the first twelve citizens to sign up at the meeting, on a first-come, first-served basis. The amount of time allocated to a speaker will not exceed five minutes.

Dated: April 26, 2006.
L.M. Bynum,
OSD Federal Register Liaison Officer, DoD.
[FR Doc. 06-4109 Filed 5-1-06; 8:45 am]
BILLING CODE 5001-06-M

DEPARTMENT OF DEFENSE**Office of the Secretary****Revised Non-Foreign Overseas Per Diem Rates**

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is

publishing Civilian Personnel Per Diem Bulletin Number 244. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 244 is being published in the Federal Register to assure that travelers are paid per diem at the most current rates.

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

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign

areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 243. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the Federal Register now constitute the only notification of revision in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: April 26, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

BILLING CODE 5001-06-M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING		M&IE RATE	MAXIMUM PER DIEM		EFFECTIVE DATE
	AMOUNT (A)	+		=	RATE (C)	
THE ONLY CHANGES IN CIVILIAN BULLETIN 244 ARE THE UPDATES TO THE RATES FOR ALASKA, HAWAII, NORTHERN MARIANA ISLANDS, AND VIRGIN ISLANDS.						
ALASKA						
ADAK	120		79		199	07/01/2003
ANCHORAGE [INCL NAV RES]						
05/01 - 09/15	170		93		263	05/01/2006
09/16 - 04/30	95		85		180	05/01/2006
BARROW	159		95		254	05/01/2002
BETHEL	125		78		203	05/01/2006
BETTLES	135		62		197	10/01/2004
CLEAR AB	80		55		135	09/01/2001
COLD BAY	90		73		163	05/01/2002
COLDFOOT	135		71		206	10/01/1999
COPPER CENTER						
05/01 - 09/30	129		75		204	04/01/2006
10/01 - 04/30	89		71		160	04/01/2006
CORDOVA						
05/01 - 09/30	95		74		169	05/01/2006
10/01 - 04/30	85		72		157	04/01/2005
CRAIG						
04/15 - 09/14	125		67		192	04/01/2006
09/15 - 04/14	95		64		159	04/01/2006
DEADHORSE	95		67		162	05/01/2002
DELTA JUNCTION	90		82		172	04/01/2006
DENALI NATIONAL PARK						
06/01 - 08/31	122		66		188	04/01/2006
09/01 - 05/31	70		61		131	04/01/2006
DILLINGHAM	114		69		183	06/01/2004
DUTCH HARBOR-UNALASKA	121		84		205	04/01/2006
EARECKSON AIR STATION	80		55		135	09/01/2001
EIELSON AFB						
05/01 - 09/15	169		88		257	04/01/2006
09/16 - 04/30	75		79		154	04/01/2006
ELMENDORF AFB						
05/01 - 09/15	170		93		263	05/01/2006
09/16 - 04/30	95		85		180	05/01/2006
FAIRBANKS						
05/01 - 09/15	169		88		257	04/01/2006
09/16 - 04/30	75		79		154	04/01/2006
FOOTLOOSE	175		18		193	06/01/2002
FT. GREELY	90		82		172	04/01/2006
FT. RICHARDSON						
05/01 - 09/15	170		93		263	05/01/2006
09/16 - 04/30	95		85		180	05/01/2006
FT. WAINWRIGHT						
05/01 - 09/15	169		88		257	04/01/2006
09/16 - 04/30	75		79		154	04/01/2006
GLENNALLEN						
05/01 - 09/30	129		75		204	04/01/2006

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT		M&IE RATE (B)	MAXIMUM PER DIEM RATE		EFFECTIVE DATE
	(A)	+		=	(C)	
05/01 - 09/30	171		79		250	04/01/2006
10/01 - 04/30	69		69		138	04/01/2006
SITKA-MT. EDGE CUMBE						
05/01 - 09/30	119		75		194	04/01/2006
10/01 - 04/30	99		73		172	04/01/2006
SKAGWAY						
05/01 - 09/30	135		82		217	04/01/2005
10/01 - 04/30	98		78		176	04/01/2005
SLANA						
05/01 - 09/30	139		55		194	02/01/2005
10/01 - 04/30	99		55		154	02/01/2005
SPRUCE CAPE						
05/01 - 09/30	123		91		214	04/01/2006
10/01 - 04/30	99		88		187	04/01/2006
ST. GEORGE	129		55		184	06/01/2004
TALKEETNA	100		89		189	07/01/2002
TANANA	125		86		211	05/01/2006
TOGI AK	100		39		139	07/01/2002
TOK	90		65		155	05/01/2006
UMIAT	180		107		287	04/01/2005
UNALAKLEET	79		80		159	04/01/2003
VALDEZ						
05/01 - 10/01	129		80		209	04/01/2006
10/02 - 04/30	79		75		154	04/01/2006
WASILLA						
05/01 - 09/30	134		84		218	04/01/2006
10/01 - 04/30	80		79		159	04/01/2006
WRANGELL						
05/01 - 09/30	135		82		217	04/01/2005
10/01 - 04/30	98		78		176	04/01/2005
YAKUTAT	110		68		178	03/01/1999
[OTHER]	80		55		135	09/01/2001
AMERICAN SAMOA						
AMERICAN SAMOA	122		73		195	12/01/2005
GUAM						
GUAM (INCL ALL MIL INSTAL)	135		90		225	06/01/2005
HAWAII						
CAMP H M SMITH	149		100		249	05/01/2006
EASTPAC NAVAL COMP TELE AREA	149		100		249	05/01/2006
FT. DERUSSEY	149		100		249	05/01/2006
FT. SHAFTER	149		100		249	05/01/2006
HICKAM AFB	149		100		249	05/01/2006
HONOLULU (INCL NAV & MC RES CTR)	149		100		249	05/01/2006
ISLE OF HAWAII: HILO	112		93		205	05/01/2006
ISLE OF HAWAII: OTHER	150		95		245	05/01/2006
ISLE OF KAUAI	188		102		290	05/01/2006
ISLE OF MAUI	159		95		254	05/01/2006
ISLE OF OAHU	149		100		249	05/01/2006
KEKAHA PACIFIC MISSILE RANGE FAC	188		102		290	05/01/2006
KILAUEA MILITARY CAMP	112		93		205	05/01/2006

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM	+	M&IE	=	MAXIMUM	EFFECTIVE
	LODGING		RATE		PER DIEM	
	AMOUNT					
	(A)		(B)		(C)	
LANAI	175		130		305	05/01/2006
LUALUALEI NAVAL MAGAZINE	149		100		249	05/01/2006
MCB HAWAII	149		100		249	05/01/2006
MOLOKAI	153		95		248	05/01/2006
NAS BARBERS POINT	149		100		249	05/01/2006
PEARL HARBOR [INCL ALL MILITARY]	149		100		249	05/01/2006
SCHOFIELD BARRACKS	149		100		249	05/01/2006
WHEELER ARMY AIRFIELD	149		100		249	05/01/2006
[OTHER]	72		61		133	01/01/2000
MIDWAY ISLANDS						
MIDWAY ISLANDS						
INCL ALL MILITARY	100		65		165	07/01/2005
NORTHERN MARIANA ISLANDS						
ROTA	129		91		220	05/01/2006
SAIPAN	121		94		215	05/01/2006
TINIAN	85		80		165	06/01/2005
[OTHER]	55		72		127	04/01/2000
PUERTO RICO						
BAYAMON						
04/11 - 12/23	155		71		226	01/01/2000
12/24 - 04/10	195		75		270	01/01/2000
CAROLINA						
04/11 - 12/23	155		71		226	01/01/2000
12/24 - 04/10	195		75		270	01/01/2000
FAJARDO [INCL CEIBA & LUQUILLO]	82		54		136	01/01/2000
FT. BUCHANAN [INCL GSA SVC CTR,						
04/11 - 12/23	155		71		226	01/01/2000
12/24 - 04/10	195		75		270	01/01/2000
HUMACAO	82		54		136	01/01/2000
LUIS MUNOZ MARIN IAP AGS						
04/11 - 12/23	155		71		226	01/01/2000
12/24 - 04/10	195		75		270	01/01/2000
MAYAGUEZ	85		59		144	01/01/2000
PONCE	96		69		165	01/01/2000
ROOSEVELT RDS & NAV STA	82		54		136	01/01/2000
SABANA SECA [INCL ALL MILITARY]						
04/11 - 12/23	155		71		226	01/01/2000
12/24 - 04/10	195		75		270	01/01/2000
SAN JUAN & NAV RES STA						
04/11 - 12/23	155		71		226	01/01/2000
12/24 - 04/10	195		75		270	01/01/2000
[OTHER]	62		57		119	01/01/2000
VIRGIN ISLANDS (U.S.)						
ST. CROIX						
04/15 - 12/14	135		92		227	05/01/2006
12/15 - 04/14	187		97		284	05/01/2006
ST. JOHN						
04/15 - 12/14	163		98		261	05/01/2006
12/15 - 04/14	220		104		324	05/01/2006
ST. THOMAS						
04/15 - 12/14	240		105		345	05/01/2006
12/15 - 04/14	299		111		410	05/01/2006
WAKE ISLAND						
WAKE ISLAND	100		65		165	07/01/2005

DEPARTMENT OF DEFENSE**Department of the Army, Corps of Engineers****Notice of Availability of the Final Environmental Impact Statement, Dated April 2006, for Commercial Sand and Gravel Dredging Operations in the Allegheny and Ohio Rivers, PA**

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers, Pittsburgh District (Corps) is issuing this notice to advise the public that a final Environmental Impact Statement (EIS) has been completed and is available for review in compliance with the National Environmental Policy Act (NEPA). The overall purpose of the EIS is to evaluate the environmental consequences for issuing of Section 10 and 404 permits for Commercial Sand and Gravel Dredging in the Allegheny River (River Miles 0-69.5) and the Ohio River (River Miles 0-40).

DATES: Submit comments by May 22, 2006.

ADDRESSES: U.S. Army Corps of Engineers, Pittsburgh District; ATTN: Regulatory Branch; 1000 Liberty Avenue; Pittsburgh, PA 15222-4186. Comments may also be submitted by electronic mail to Scott.A.Hans@usace.army.mil.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Hans, Pittsburgh District Regulatory Branch, at (412) 395-7154.

SUPPLEMENTARY INFORMATION: The Corps circulated a draft Environmental Impact Statement on Commercial Sand and Gravel Dredging Operations for comment in June of 2002. Based on comments received and additional environmental review, a new alternative was developed. This alternative is identified as Alternative 3 in the final EIS, and is the selected or preferred alternative. Under this alternative the Corps could re-authorize Department of the Army permits to Hanson Aggregates PMA, Inc., Tri-State River Products, Inc., and Glacial Sand and Gravel Company for commercial dredging activities within portions of the Ohio and Allegheny Rivers within Pennsylvania. Such authorization would include new standard conditions and additional site specific conditions developed through an adaptive management process. Such conditions should avoid, minimize and mitigate for potential adverse environmental impacts associated with the dredging.

The EIS is available for review online at <http://www.lrp.usace.army.mil/>

sg_eis.htm. Printed and compact disc (CD) copies of the EIS are available for review at the following locations:

- U.S. Army Corps of Engineers, Pittsburgh District, 2200 William S. Moorhead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222
- Carnegie Library of Pittsburgh, 4400 Forbes Avenue, Pittsburgh, PA 15213
- Carnegie Library of Pittsburgh, 5 Allegheny Square, Pittsburgh, PA 15212
- Oakmont Public Library, 700 Allegheny River Blvd., Oakmont, PA 15139
- Springdale Free Public Library, 331 School Street, Springdale, PA 15144
- People's Library, 3052 Wachter Avenue, New Kensington, PA 15068
- People's Library, 880 Barnes Street, New Kensington, PA 15068
- Community Library of Allegheny, 1522 Broadview Blvd., Natrona Heights, PA 15065
- Freeport Area Library, 428 Market Street, Freeport, PA 16229
- Ford City Public Library, 1136 4th Avenue, Ford City, PA 16226
- Kittanning Public Library, 280 N. Jefferson Street, Kittanning, PA 16201
- Sewickley Public Library, 500 Thorn Street, Sewickley, PA 15143
- Beaver Area Memorial Library, 100 College Avenue, Beaver, PA 15009
- Monaca Public Library, 609 Pennsylvania Avenue, Monaca, PA 15061
- Rochester Public Library, 252 Adams Street, Rochester, PA 15074
- New Brighton Public Library, 1021 3rd Avenue, New Brighton, PA 15066
- Baden Memorial Library, 385 State Street, Baden, PA 15005
- B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001
- Carnegie Free Library, 61 9th Street, Midland, PA 15059
- Laughlin Memorial Free Library, 99 11th Street, Ambridge, PA 15003

A printed copy or CD of the EIS may be obtained by contacting Mr. Hans in writing at the mailing or electronic mail address provided above.

Dated: April 27, 2006.

David B. Olson,

Federal Register Liaison Officer, U.S. Army Corps of Engineers.

[FR Doc. E6-6622 Filed 5-1-06; 8:45 am]

BILLING CODE 3710-92-P

DEPARTMENT OF EDUCATION**Notice of Proposed Information Collection Requests**

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 3, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 26, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Reinstatement.
Title: Academic Libraries Survey: 2006-2008.

Frequency: Biennially.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 3,236.

Burden Hours: 5,393.

Abstract: The Academic Libraries Survey has been a component of the Integrated Postsecondary Education Data System. Since 2002 it has been a separate biennial survey. Changes to the survey itself are minor from prior collections of this universe survey. The data are collected on the Web and consist of information about library holdings, library staff, library services and usage, library technology, library budget and expenditures for 4300 academic libraries in the U.S.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3071. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202-4700. Requests may also be electronically mailed to ICDocketMgr@ed.gov or faxed to 202-245-6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to ICDocketMgr@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E6-6587 Filed 5-1-06; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of open meeting and partially closed meeting.

SUMMARY: The notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify members

of the general public of their opportunity to attend. Individuals who will need special accommodations in order to attend the meeting (*i.e.*, interpreting services, assistive listening devices, materials in alternative format) should notify Munira Mwalimu at 202-357-6938 or at Munira.Mwalimu@ed.gov no later than May 1, 2006. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

DATES: May 18-20, 2006.

Times

May 18

Committee Meetings

Ad Hoc Committee on Planning for NAEP 12th Grade Assessments in 2009: Open Session—12 p.m. to 2 p.m.

Assessment Development Committee: Open Session—2 p.m. to 4 p.m.
Reporting and Dissemination Committee: Open Session—2 p.m. to 4:30 p.m.

Executive Committee: Open Session—4:45 p.m. to 5:15 p.m.; Closed Session 5:15 p.m. to 6:15 p.m.

May 19

Full Board: Open Session—8:30 a.m. to 4:30 p.m.

Committee Meetings

Assessment Development Committee: Open Session—9:45 a.m. to 12:15 p.m.

Committee on Standards, Design and Methodology: Open Session—9:45 a.m. to 12:15 p.m.

Reporting and Dissemination Committee: Open Session—9:45 a.m. to 12:15 p.m.

May 20

Nominations Committee: Closed Session—7:45 a.m. to 8:30 a.m.

Full Board: Closed Session—9 a.m. to 9:15 a.m.; Open Session—9:15 a.m. to 12 p.m.

Location: The Ritz-Carlton Dearborn, 300 Town Center Drive, Fairlane Plaza, Dearborn, MI 48126.

FOR FURTHER INFORMATION: Munira Mwalimu, Operations Officer, National Assessment Governing Board, 800 North Capitol Street, NW., Suite 825, Washington, DC, 20002-4233, Telephone: (202) 357-6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994, as amended.

The Board is established to formulate policy guidelines for the National

Assessment of Educational Progress (NAEP). The Board's responsibilities include selecting subject areas to be assessed, developing assessment objectives, developing appropriate student achievement levels for each grade and subject tested, developing guidelines for reporting and disseminating results, and developing standards and procedures for interstate and national comparisons.

The Ad Hoc Committee on Planning for NAEP 12th Grade Assessments in 2009 will meet in open session on May 18 from 12 p.m. to 2 p.m. The Assessment Development Committee will meet in Open Session on May 18 from 2 p.m. to 4 p.m. and the Reporting and Dissemination Committee will meet in open session on May 18 from 2 p.m. to 4:30 p.m. Thereafter, the Executive Committee will meet in open session from 4:45 p.m. to 5:15 p.m.

The Executive Committee will meet in closed session on May 18, 2006 from 5:15 p.m. to 6:15 p.m. The Committee will receive independent government cost estimates from the Associate Commissioner, National Center for Education Statistics (NCES), for current contracts and proposed contracts for item development, sample selection, analysis, and reporting of NAEP testing for 2007-2012, and their implications on future NAEP activities. The discussion of independent government cost estimates prior to the development of the Request for Proposals for the National Assessment of Educational Progress (NAEP) 2007-2012 contracts is necessary for ensuring that NAEP contracts meet congressionally mandated goals and adhere to Board policies on NAEP assessments. This part of the meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program and will provide an advantage to potential bidders attending the meeting. Discussion of this information would be likely to significantly impede implementation of a proposed agency action is conducted in open session. Such matters are protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

On May 19, the full Board will meet in open session from 8:30 a.m. to 4:30 p.m. From 8:30 a.m. to 9:30 a.m. the Board will approve the agenda, receive the Executive Director's report, and hear an update on the work of the National Center for Education Statistics (NCES).

From 9:45 a.m. to 12:15 p.m. on May 19, the Board's standing committees—the Assessment Development Committee; the Committee on Standards, Design and Methodology;

and the Reporting and Dissemination Committee—will meet in open session.

On May 19, the full Board will meet in closed session from 12:15 p.m. to 1:30 p.m. The Board will receive a briefing provided by the Associate Commissioner, NCES, on the NAEP 2005 Science results for grades 4, 8, and 12. The NAEP 2005 Science data constitute a major basis for the national release of the Science Report Card in late May 2006, and cannot be released in an open meeting prior to the official release of the reports. The meeting must therefore be conducted in closed session as disclosure of data would significantly impede implementation of the NAEP release activities, and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

On May 19, from 1:30 p.m. to 2:30 p.m. the Board will discuss and take action on the NAEP 12th Grade Mathematics Objectives. This session will be followed by a panel presentation and discussion of the Michigan High School initiative, upon which the May 19 session of the Board meeting will conclude.

On May 20, 2006 from 7:45 a.m. to 8:30 a.m. the Nominations Committee will meet in closed session to discuss nominations for Board vacancies. Following this meeting on May 20 from 9 a.m. to 9:15 a.m. the full Board will meet in closed session to review the final list of nominations prior to submission to the Secretary of Education. Board action on the nominations will follow thereafter in open session. The May 20 discussions of the Nominations Committee and of the full Board in closed sessions pertain solely to internal personnel rules and practices of an agency and will disclose information of a personal nature where disclosure would constitute an unwarranted invasion of personal privacy. As such, the discussion are protected by exemptions 2 and 6 of section 552b(c) of Title 5 U.S.C.

The full Board will convene in open session on May 20 from 9:15 a.m. to 12 p.m. At 9 a.m., the Board will receive a briefing on how sampling works in NAEP. This will be followed by an update on the NAEP 2011 Writing Framework project from 9:45 a.m. to 10:30 a.m. Board actions on policies and Committee reports are scheduled to take place between 10:45 a.m. and 12 p.m., upon which the May 20, 2006 session of the Board meeting will adjourn.

Detailed minutes of the meeting, including summaries of the activities of the closed sessions and related matters that are informative to the public and consistent with the policy of section 5 U.S.C. 552b(c) will be available to the

public within 14 days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC, from 9 a.m. to 5 p.m. eastern standard time.

Dated: April 26, 2006.

Charles E. Smith,

Executive Director, National Assessment Governing Board.

[FR Doc. 06-4092 Filed 5-1-05; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. 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, June 1, 2006, 9 a.m.–5 p.m. Friday, June 2, 2006, 8:30 a.m.–4 p.m.

ADDRESSES: Red Lion Hotel, 621 21st Street, Lewiston, Idaho 83501, Phone Number: (208) 748-1033, Fax Number: (208) 746-9467.

FOR FURTHER INFORMATION CONTACT: Erik Olds, Federal Coordinator, Department of Energy Richland Operations Office, 2440 Stevens Drive, P.O. Box 450, H6-60, Richland, WA, 99352; Phone: (509) 376-8656; Fax: (509) 376-1214.

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:

- Ground Water Tutorial
- Fiscal Year 2007 Hanford Advisory Board Priorities
- CERCLA Five-Year Review and outreach activities
- Tri-Party Agreement, Milestone M-15
- Waste Treatment and Immobilization Plant, Estimate at Completion
- Labor and Industries Report on Compensation Program

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 Erik Olds' office at the address or telephone number listed above. 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 by writing to Erik Olds' office at the address or telephone number listed above.

Issued at Washington, DC on April 26, 2006.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E6-6606 Filed 5-1-06; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Office of Science

High Energy Physics Advisory Panel

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the High Energy Physics Advisory Panel (HEPAP). Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, July 6, 2006; 9 a.m. to 6 p.m. and Friday, July 7, 2006; 9 a.m. to 4 p.m.

ADDRESSES: The Latham Hotel, Georgetown, 3000 M Street, NW., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: John Kogut, Executive Secretary; High Energy Physics Advisory Panel; U.S. Department of Energy; SC-25/ Germantown Building, 1000 Independence Avenue, SW., Washington, DC 20585-1290; Telephone: 301-903-1298.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on a continuing

basis with respect to the high energy physics research program.

Tentative Agenda: Agenda will include discussions of the following: Thursday, July 6, 2006, and Friday, July 7, 2006.

- Discussion of Department of Energy High Energy Physics Program
- Discussion of National Science Foundation Elementary Particle Physics Program
- Reports on and Discussions of Topics of General Interest in High Energy Physics
- Public Comment (10-minute rule)

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Panel, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact John Kogut, 301-903-1298 or John.Kogut@science.doe.gov (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Panel will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for public review and copying within 90 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 April 26, 2006.

R. Samuel,
Deputy Advisory Committee Management Officer.

[FR Doc. E6-6605 Filed 5-1-06; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06-267-001]

CenterPoint Energy—Mississippi River Transmission Corporation; Notice of Compliance Filing

April 26, 2006.

Take notice that on April 20, 2006, CenterPoint Energy—Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Fourth Revised Sheet No. 265

and Substitute Fourth Revised Sheet No. 291, with an effective date of April 10, 2006.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6580 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00-305-027]

CenterPoint Energy—Mississippi River Transmission Corporation; Notice of Negotiated Rate Filing

April 26, 2006.

Take notice that on April 20, 2006, CenterPoint Energy—Mississippi River Transmission Corporation (MRT) tendered for filing and approval a negotiated rate agreement between MRT and CenterPoint Energy Services, Inc. MRT requests that the Commission accept and approve the transaction to be effective May 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6578 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00-305-028]

CenterPoint Energy—Mississippi River Transmission Corporation; Notice of Negotiated Rate Filing

April 26, 2006.

Take notice that on April 20, 2006, CenterPoint Energy—Mississippi River Transmission Corporation (MRT)

tendered for filing and approval a negotiated rate agreement between MRT and Laclede Energy Resources, Inc. MRT requests that the Commission accept and approve the transaction to be effective May 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6579 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06-259-001]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

April 25, 2006.

Take notice that on April 17, 2006, Columbia Gas Transmission Corporation (Columbia) tendered for filing data underlying its revised fuel retainerage percentages for transportation, gathering, and storage services, under section 35 of the General Terms and Conditions of its tariff.

Columbia states that the filing is being made in compliance with the Commission's March 31, 2006 order in this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Protest Date: 5 p.m. eastern time on May 2, 2006.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6563 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06-311-000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 25, 2006.

Take notice that on April 19, 2006, Columbia Gas Transmission Corporation tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of May 19, 2006:

Fifth Revised Sheet No. 538.
Second Revised Sheet No. 539.
Original Sheet No. 540.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call

(866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6569 Filed 5-1-06; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04-119-005]

Dominion Transmission, Inc.; Notice of Annual Report on Operational Sales of Gas

April 25, 2006.

Take notice that on April 6, 2006, Dominion filed an Annual Report on Operational Sales of Gas for the period April 1, 2005 through March 31, 2006 in compliance with section 42.D of the General Terms and Conditions (GT&C) of its tariff, which requires Dominion on June 30 of each year to submit its annual report on the sale of gas that is incidental to its operations covering the 12 month period from April 1 to March 31. Dominion reports that it made no operational sales of gas during this period.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call

(866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Protest Date: 5 p.m. eastern time on May 1, 2006.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6562 Filed 5-1-06; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06-310-000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

April 25, 2006.

Take notice that on April 14, 2006, El Paso Natural Gas Company tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1-A, the following tariff sheet, to become effective June 1, 2006:

Ninth Revised Sheet No. 21.
First Revised Sheet No. 25B.
First Revised Sheet No. 25C.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public

Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6568 Filed 5-1-06; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06-308-001]

Entrega Gas Pipeline LLC; Notice of Correction to Tariff Filing

April 26, 2006.

Take notice that on April 20, 2006, Rockies Express Pipeline LLC (Rockies Express), formerly Entrega Gas Pipeline LLC (Entrega), resubmitted the tariff sheets it filed on April 14, 2006, to correct the effective date contained in the footer of the tariff sheets to May 15, 2006, and to insert the sentence: "Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. CP04-413-000, *et al.*, issued on March 30, 2006, 114 FERC ¶ 61,326" on Sheet Nos. 108, 219 and 244.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public

Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6572 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER03-775-004; ER00-136-003]

FortisOntario, Inc. and FortisUS Energy Corporation; Order Accepting Notice of Change in Status and Tariff Revision and Providing Guidance

Issued April 25, 2006.

Before Commissioners: Joseph T. Kelliher,
Chairman; Nora Mead Brownell, and
Sudeen G. Kelly.

1. On July 7, 2005, as amended on March 7, 2006, FortisOntario, Inc. (FortisOntario) and FortisUS Energy Corporation (FortisUS) (collectively, Petitioners) filed a notice of change in status, a request for clarification of the Commission's reporting requirement for changes in status for public utilities with market-based rate authority,¹ and a tariff revision² incorporating the Commission's change in status reporting requirement.³ In this order, the Commission will accept Petitioners' notice of change in status and will accept Petitioners' revised tariff sheets. The Commission also provides guidance concerning foreign sellers with market-based rate authorization.

Background

2. Petitioners state that they are notifying the Commission of a non-material change in status regarding the purchase by their parent, Fortis Inc. (Fortis Parent), of Princeton Light and

Power Company, Limited (Princeton), a Canadian utility. Petitioners state that this change in status does not reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority to either FortisOntario or FortisUS. Petitioners state that they believe that this notice is not required but are submitting it "out of an abundance of caution because Order No. 652 does not, by its express terms, exclude changes in status resulting from the acquisition of electric generation and transmission facilities located wholly outside of the United States."⁴

3. Petitioners state that, as more fully explained in their updated market power analysis accepted by the Commission,⁵ FortisOntario has no generating capacity in the United States and that its only jurisdictional facility is its market-based rate tariff on file with the Commission. Petitioners explain that FortisOntario is a corporation organized under the laws of the province of Ontario, Canada, having its principal place of business in Ontario, Canada. Petitioners state that FortisOntario is a wholly-owned subsidiary of Fortis Parent, a publicly-traded holding company existing under the laws of Newfoundland and Labrador, Canada.⁶

4. FortisUS states that it directly owns a total of approximately 22.5 MW of qualifying small power production facilities (QFs), located in New York. Petitioners explain that FortisUS is wholly-owned by a subsidiary of Fortis Parent, and is a corporation organized under the laws of the State of New York, having its principal place of business in the Canadian city of Charlottetown, Prince Edward Island.

5. Petitioners state that other generation owned by affiliates is located exclusively within Canada, and that none of these affiliates have tariffs or rate schedules on file with the Commission for power sales or transmission of electric energy in the United States. Petitioners explain that they do not possess any transmission facilities in the United States other than step-up transformers and other interconnecting transmission facilities needed to effect sales from the QFs, and that none of these interconnection facilities could be used by any other

party to effectuate sales of electric energy, capacity, or ancillary services at wholesale.

6. Petitioners state that Fortis Parent has acquired Princeton, a utility serving 3,200 customers in British Columbia. Petitioners state that Princeton does not own generation or transmission facilities and is exclusively engaged in the business of distributing electric energy to its customers. Petitioners also state that Princeton's distribution operations are located exclusively within Canada and are not directly interconnected with the United States, and that none of Princeton's facilities could be used by any other party to effectuate sales of electric energy, capacity or ancillary services at wholesale in the United States or the transmission of electric energy, capacity, or ancillary services in the United States.

7. Petitioners further state that Princeton is solely interconnected with and solely obtains its power from FortisBC Inc. (FortisBC), another affiliate, which provides distribution service in surrounding areas of British Columbia, Canada. Petitioners state that FortisBC is primarily a distribution facility and is not directly interconnected to the United States. FortisBC is interconnected with British Columbia Transmission Corporation (BCTC), which is not affiliated with Petitioners or Princeton. BCTC is a corporation owned by the province of British Columbia and is an independent transmission system operator which is interconnected to the United States. Petitioners state that BCTC offers wholesale transmission service under its open access transmission tariff (OATT) that is based on the Commission's Order No. 888 pro forma tariff and is regulated by the British Columbia Utilities Commission.⁷

8. Petitioners assert that Fortis Parent's acquisition of Princeton does not and cannot raise any generation or transmission market power concerns with respect to Petitioners. Petitioners request clarification from the Commission as to whether notification of a change in status is required where generation and/or transmission assets acquired by a jurisdictional facility or its affiliates are located exclusively within Canada and are not and cannot be used to make sales of electric energy

¹ Reporting Requirement for Changes in Status for Public Utilities With Market-Based Rate Authority, Order No. 652, 70 FR 8,253 (February 18, 2005), FERC Stats. & Regs. ¶ 31,175, order on reh'g, 111 FERC ¶ 61,413 (2005) (Order No. 652).

² FERC Electric Tariff, Second Revised Volume No. 1, Substitute Second Revised Sheet No. 1-1A, First Revised Sheet No. 2-5.

³ This revision is made in compliance with the Commission's order accepting Petitioners' updated market power analysis, *FortisOntario, Inc.* 110 FERC ¶ 61,119 (2005).

⁴ Request for Clarification at 1.

⁵ *FortisOntario, Inc.*, 110 FERC 61,119 (2005).

⁶ On January 31, 2003, the Commission authorized the intracorporate transfer of the jurisdictional assets of Canadian Niagara Power Company to a newly formed entity, FortisOntario, pursuant to an amalgamation under Canadian law, *Canadian Niagara Power Co.*, 102 FERC ¶ 62,068 (2003).

⁷ BCTC operates the British Columbia Hydro and Power Authority's transmission system (BC Hydro). BC Hydro's OATT was reviewed by the Commission in 1997, in *British Columbia Power Exchange Corp.*, 80 FERC ¶ 61,343 (1997). The Commission found that the tariff's terms and conditions were identical to the Commission's pro forma tariff in all material respects.

at wholesale into the United States or for the transmission of electric energy in interstate commerce in the United States.

Procedural Matters

9. Notice of Petitioners' July 7, 2005, filing was published in the *Federal Register*, 70 FR 41,698 (2005), with interventions and protests due on or before July 28, 2005. None was filed. Notice of Petitioners' March 7, 2006, filing was published in the *Federal Register*, 71 FR 14,195 (2006), with interventions and protests due on or before March 28, 2006. None was filed.

Discussion

10. As discussed below, the Commission accepts Petitioners' notice of change in status and provides guidance concerning foreign sellers with market-based rate authorization.

11. The Commission requires that market-based rate sellers report any changes in status that would reflect a departure from the characteristics the Commission relied upon in its existing grant of market-based rate authority.⁸ The baseline determination of whether a change in status filing is required is whether the change in status in question would have been reportable in an initial application for market-based rate authority under the Commission's four-part analysis.⁹

12. Petitioners in this case have market-based rate tariffs on file with the Commission. The change in status, described by Petitioners as "non-material," involves the acquisition of a Canadian utility characterized as distant and small that has no generation, and whose transmission and distribution is limited to Canada. Petitioners state that this change in status does not reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority. Petitioners state their belief that notice of the change in status is not required, but that they filed the instant request for clarification "out of an abundance of caution", arguing that Order No. 652 does not expressly preclude change in status filings arising from "the acquisition of electric generation and transmission facilities located wholly outside of the United States."

13. The Commission has clarified that its concerns are more limited for foreign transmission-owning entities than for transmission-owning entities in the United States. The Commission has further stated that its concern is transmission to serve United States

load¹⁰ as well as access for United States competitors into Canadian markets on a reciprocal basis.¹¹ Thus, the Commission seeks to assure reciprocal service into and out of Canada when Canadian entities seek access to United States markets, but the Commission is not seeking to open intra-Canada electric markets through the imposition of open access tariffs for transactions wholly within Canada.¹² Therefore, the Commission requires a Canadian entity seeking market-based rate authority to demonstrate that its transmission-owning affiliate offers non-discriminatory access to its transmission system that can be used by competitors of the Canadian seller to reach United States markets.¹³

14. Fortis Parent has acquired Princeton, whose transmission and distribution facilities are located exclusively within Canada and are not directly interconnected with the United States. Princeton is interconnected to its affiliate, FortisBC, whose facilities are entirely in Canada, and the transactions between Princeton and FortisBC are wholly within Canada. FortisBC is not directly interconnected to the United States but is interconnected with BCTC, a non-affiliate that offers non-discriminatory access under its OATT to reach United States markets.

15. The Commission clarifies herein that, with regard to market-based rate authorization, the Commission does not consider transmission and generation facilities that are located exclusively outside of the United States and that are not directly interconnected to the United States. However, the Commission would consider transmission facilities that are exclusively outside the United States but nevertheless interconnected to an affiliate's transmission system that is directly interconnected to the United States.

The Commission orders:

(A) Petitioners' notice of change in status and tariff sheets are accepted for filing.

(B) The Secretary is directed to publish a copy of this order in the *Federal Register*.

¹⁰ *Energy Alliance Partnership*, 73 FERC ¶ 61,019 at 61,031 (1995) (*Energy Alliance*).

¹¹ *TransAlta Enterprises Corp.*, 75 FERC ¶ 61,268 at 61,875 (1996) (*TransAlta*).

¹² See *British Columbia Power Exchange Corp.*, 78 FERC ¶ 61,024 at 61,100 (1997).

¹³ See *TransAlta*, 75 FERC ¶ 61,268 at 61,875; *Energy Alliance*, 73 FERC ¶ 61,019 at 61,030-31.

By the Commission.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6557 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP04-400-001]

Golden Pass Pipeline LP; Notice of Application

April 26, 2006.

Take notice that on March 31, 2006, Golden Pass Pipeline LP (GPPL) filed in Docket No. CP04-400-001 an application seeking to amend the certificate of public convenience and necessity issued July 6, 2005, in Docket No. CP04-400-000. That certificate issued pursuant to section 7(c) of the NGA and part 157, subpart A of the Commission's Regulations, authorized construction and operation of facilities to transport natural gas originating from liquefied natural gas (LNG) receiving terminal to be located approximately 10 miles south of Port Arthur, Texas, and two miles northeast of the town of Sabine Pass, Texas.

GPPL requests authorization to make certain variations in the design and routing of the proposed pipeline that would reduce its overall construction footprint. The new design component would replace the looped segment of 43 miles of two 36-inch diameter pipelines with a single 42-inch diameter pipeline from Golden Pass LNG Terminal to the AEP Texoma interconnection. The reroute component would relocate the route resulting in an approximately ten mile reduction in length of the pipeline.

This application is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at (866)208-3676, or for TTY, contact (202) 502-8659. Any initial questions regarding these applications should be directed to Mrs. Gina M. Dickerson, 17001 Northchase Drive, Houston, Texas, 77060, at phone number (281) 654-4816.

There are two ways to become involved in the Commission's review of

⁸ See Order No. 652 at P 5.

⁹ See *Id.* at P 8, 11.

this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: 5 p.m. eastern time on May 17, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6-6581 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06-127-000]

Gulf South Pipeline Company, LP; Notice of Request Under Blanket Authorization

April 25, 2006.

Take notice that on April 14, 2006, Gulf South Pipeline Company, LP (Gulf South), 20 East Greenway, Houston, Texas 77046, filed in Docket No. CP06-127-000, a request pursuant to sections 157.205 and 157.208 of the Commission's regulations under the Natural Gas Act, 18 CFR 157.205 and 157.208 (2005), and its blanket certificate issued in Docket No. CP82-430-000 for authorization to construct, own and operate 20.5 miles of 42-inch pipeline loop beginning at its existing Carthage Junction Compressor Station, located near the town of Carthage in Panola County, Texas, to a tie-in with existing transmission lines (Indexes 266 and 266 Loop) located near the town of Keatchie in DeSoto Parish, Louisiana. The 42-inch pipeline will be installed adjacent to Gulf South's existing 24-inch pipeline (Index 266) for the entire length. In addition, Gulf South proposes to construct a new meter station and interconnecting facilities with Houston Pipeline Company and other auxiliary facilities within the existing Carthage Junction Compressor Station yard. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (888) 208-3676 or TTY, (202) 502-8659.

Gulf South states in its filing, that over the last several years the amount of natural gas production in East Texas has increased dramatically, and that this new production has strained the capabilities of the existing pipeline

infrastructure capable of transporting natural gas out of Texas. Gulf South indicates that their existing firm transportation capacity from East Texas is currently sold out through 2009 because the current price of natural gas in East Texas is low, as compared to the price of natural gas in other supply areas connected to Gulf South. Accordingly, Gulf South states that its customers have requested additional capacity for firm transportation from this area.

Any person or the Commission's Staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Any questions regarding this application should be directed to J. Kyle Stephens, Director of Certificates, Gulf South Pipeline Company, LP, 20 East Greenway Plaza, Houston, Texas, 77046, or call (713) 544-7309 or fax (713) 544-3540 or by e-mail kyle.stephens@gulfsouthpl.com.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. E6-6560 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06-307-000]

MarkWest New Mexico L.P.; Notice of Tariff Filing

April 25, 2006.

Take notice that on April 14, 2006, MarkWest New Mexico L.P. tendered for filing as part of its FERC Gas Tariff, First

Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective on May 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6565 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06-312-000]

Mississippi Canyon Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

April 25, 2006.

Take notice that on April 19, 2006, Mississippi Canyon Gas Pipeline, LLC (Mississippi Canyon) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective May 19, 2006:

Sixth Revised Sheet No. 2.
Fifth Revised Sheet No. 55.
First Revised Sheet No. 155.
Original Sheet No. 156.

Mississippi Canyon states that copies of its filing have been mailed to all affected customers of Mississippi Canyon and any interested state commissions. However, due to the voluminous nature of this filing, Mississippi Canyon is not providing copies of the filed agreements or redlines of such agreements as part of each service copy. Mississippi Canyon states that the entire filing (excluding certain confidential information) will be available in its offices and that it will provide copies of such agreements (excluding certain confidential information) to any affected customer or interested state commission who requests such copies.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>.

Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6559 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06-308-000]

Rockies Express Pipeline LLC; Notice of Tariff Filing

April 25, 2006.

Take notice that on April 14, 2006, Rockies Express Pipeline LLC tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets attached to the filing, with an effective date of June 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and

interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6566 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06-309-000]

Stingray Pipeline Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

April 25, 2006.

Take notice that on April 14, 2006, Stingray Pipeline Company, L.L.C. tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed in Appendix A of the filing.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or

protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6567 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06-306-000]

Texas Eastern Transmission, LP; Notice of Proposed Changes in FERC Gas Tariff

April 25, 2006.

Take notice that on April 13, 2006, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to be effective as of May 14, 2006.

First Revised Sheet No. 346.
Second Revised Sheet No. 347.
First Revised Sheet No. 937.
First Revised Sheet No. 941.

Texas Eastern states that copies of its filing have been served upon all affected customers of Texas Eastern and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of

intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6564 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06-126-000]

Texas Gas Transmission, LLC; Notice of Application

April 25, 2006.

Take notice that on April 14, 2006, Texas Gas Transmission, LLC (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP06-126-000, an application pursuant to section 7 of the Natural Gas Act (NGA) for authorization to construct, install and operate one new turbine compressor at the Slaughters Compressor Station located in Webster County, Kentucky; two new reciprocating engine driven gas compressors at the Hanson Compressor Station, and two new horizontal injection/withdrawal wells in the

Hanson Gas Storage Field, located in Hopkins County, Kentucky; five new horizontal injection/withdrawal wells along with the abandonment of two existing wells in the Midland Gas Storage Field, and a 2,000,000 MMBtu increase in the certificated capacity of the Midland Gas Storage Field, located in Muhlenberg County, Kentucky). Additionally, Texas Gas seeks authorization to increase firm withdrawals from its Midland Gas Storage Field and its Hanson Gas Storage Field by a total of 100,749 MMBtu per day, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the Web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (866) 208-3676 or TTY, (202) 502-8659.

Any questions concerning this application may be directed to Kathy D. Fort, Manager of Certificates and Tariffs, Texas Gas Transmission, LLC, P.O. Box 20008, Owensboro, Kentucky 42304.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, before the comment date of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's

rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Comment Date: 5 p.m. eastern time on May 15, 2006.

Magalie R. Salas,
Secretary.

{FR Doc. E6-6570 Filed 5-1-06; 8:45 am}

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06-67-000]

Chesapeake Transmission, LLC, Complainant v. PJM Interconnection, LLC, Respondent; Notice of Complaint

April 26, 2006.

Take notice that on April 25, 2006 Chesapeake Transmission, LLC (Chesapeake), Complainant, filed a complaint against PJM Interconnection, LLC (PJM) pursuant to section 206 and 306 of the Federal Power Act 16 U.S.C. 824(e) and 825(e), and sections 206 and 212 of the Commission's Rules of Practice and Procedures, 18 CFR 385.206 and 385.212, requesting that the Commission direct PJM to allow Chesapeake's merchant transmission project P45B to move forward expeditiously. The complainant also requests fast track processing of its complaint.

Chesapeake certifies that a copy of the complaint has been served on PJM and FirstEnergy Solutions Corporation, a potentially interested party.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions

to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5 p.m. eastern time on May 12, 2006.

Magalie R. Salas,
Secretary.

{FR Doc. E6-6573 Filed 5-1-06; 8:45 am}

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06-65-000]

Roger & Emma Wahl, Complainants v. Allamakee-Clayton Electric Cooperative, Respondent; Notice of Complaint Filing

April 25, 2006.

Take notice that on April 24, 2006 Roger and Emma Wahl (Complainants) filed a complaint against Allamakee-Clayton Electric Cooperative (ACEC) alleging that ACEC violated The Public Utility Regulatory Policies Act of 1978 (PURPA). The Complainants request fast track processing of their complaint.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must

be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5 p.m. eastern time on May 2, 2006.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6561 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

April 25, 2006.

Take notice that the Commission received the following electric securities filings.

Docket Numbers: ES06-36-000.
Applicants: Golden Spread Electric Cooperative, Inc.

Description: Golden Spread Electric Cooperative, Inc. submits an application for authorization to issue short-term debt securities in an aggregate amount not to exceed \$160 million etc. pursuant to section 204 of the Federal Power Act.

Filed Date: April 11, 2006.
Accession Number: 20060418-0352.
Comment Date: 5 p.m. eastern time on Friday, May 5, 2006.

Docket Numbers: ES06-37-000.
Applicants: Consumers Energy Company.

Description: Consumers Energy Co. submits its Application for Authority to Issue Short Term Securities for the period of July 1, 2006 through June 30, 2008, pursuant to section 204 of the Federal Power Act.

Filed Date: April 18, 2006.

Accession Number: 20060418-5034.

Comment Date: 5 p.m. eastern time on Tuesday, May 9, 2006.

Docket Numbers: ES06-38-000.
Applicants: Consumers Energy Company.

Description: Consumers Energy Co. submits its Application for Authority to Issue Long Term Securities for the period of July 1, 2006 through June 30, 2008 pursuant to section 204 of the Federal Power Act.

Filed Date: April 18, 2006.
Accession Number: 20060418-5035.
Comment Date: 5 p.m. eastern time on Tuesday, May 9, 2006.

Docket Numbers: ES06-40-000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc. submits its section 204 application for authority to issue up to \$750 million in short-term securities and to pledge mortgage bonds not to exceed \$750 million to secure the short-term indebtedness.

Filed Date: April 21, 2006.
Accession Number: 20060421-5045.
Comment Date: 5 p.m. Eastern Time on Friday, May 12, 2006.

Docket Numbers: ES06-41-000.
Applicants: Kansas Gas and Electric Company.

Description: Kansas Gas and Electric Company submits an application, pursuant to section 204 of the Federal Power Act, for authority to issue up to \$750 million in short-term securities and to pledge mortgage bonds not to exceed \$750 million etc.

Filed Date: April 21, 2006.
Accession Number: 20060421-5049.
Comment Date: 5 p.m. eastern time on Friday, May 12, 2006.

Docket Numbers: ES06-42-000.
Applicants: Kansas Gas and Electric Company.

Description: Kansas Gas and Electric Company submits an application, pursuant to section 204 of the Federal Power Act, for authority to issue and pledge mortgage bonds not to exceed \$750 million to secure certain indebtedness of its sole shareholder, Westar Energy, Inc.

Filed Date: April 21, 2006.
Accession Number: 20060421-5057.
Comment Date: 5 p.m. eastern time on Friday, May 12, 2006.

Docket Numbers: ES06-43-000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest ISO submits its application, pursuant to Section 204 of the Federal Power Act, to Issue Securities not to exceed \$50 million.

Filed Date: April 21, 2006.
Accession Number: 20060421-5073.

Comment Date: 5 p.m. eastern time on Friday, May 12, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6571 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC06-111-000, et al.]

ESI Energy, LLC, et al.; Electric Rate and Corporate Filings

April 26, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. ESI Energy, LLC; Bison Wind GP, LLC; Heartland LP, LLC; Bison Wind Holdings, LLC; Bison Wind, LLC; FPL Energy Burleigh County Wind, LLC; FPL Wind Cowboy Wind, LLC

[Docket No. EC06-111-000]

Take notice that on April 14, 2006 ESI Energy, LLC; Bison Wind GP, LLC; Heartland LP, LLC; Bison Wind Holdings, LLC; Bison Wind, LLC; FPL Energy Burleigh County Wind, LLC; and FPL Wind Cowboy Wind, LLC filed an application for approval of a corporate organization and request for expedited approval pursuant to section 203 of the Federal Power Act.

Comment Date: 5 p.m. eastern time on May 5, 2006.

2. DeSoto County Generating Company, LLC; Progress Genco Ventures, LLC; Southern Power Company

[Docket No. EC06-112-000]

Take notice that on April 14, 2006 DeSoto County Generating Company, LLC, Progress Genco Ventures, LLC, and Southern Power Company filed an application for approval of a disposition of jurisdictional facilities pursuant to section 203 of the Federal Power Act.

Comment Date: 5 p.m. eastern time on May 5, 2006.

3. Entergy Services, Inc.

[Docket No. EL01-88-004]

Take notice that on April 10, 2006 Entergy Services, Inc. as agent and on behalf of the Entergy Operating Companies filed amendments to its Entergy System Agreement in compliance with the Commission's June 1, 2005 and December 19, 2005 orders.

Comment Date: 5 p.m. eastern time on May 31, 2006.

4. MidAmerican Energy Company

[Docket No. ER96-719-012]

Take notice that on April 3, 2006 MidAmerican Energy Company filed proposed changes to its FERC Electric Tariff, Original Volume No. 11 (Sales Tariff) for sales of capacity and energy within the MidAmerican control area, to

be effective August 7, 2005, to correspond with the effective date that the Commission required for the Sales Tariff in its March 17, 2006 order.

Comment Date: 5 p.m. Eastern Time on May 8, 2006.

5. Cabrillo Power I LLC; Cabrillo Power II LLC; El Segundo Power, LLC; Long Beach Generation, LLC

[Docket Nos. ER99-1115-009; ER99-1116-009; ER06-820-001; ER98-1127-009; ER98-1796-008]

Take notice that on April 17, 2006 Cabrillo Power I LLC, Cabrillo Power II LLC, El Segundo, LLC and Long Beach Generation, LLC filed amendments to their market-based rate tariffs to conform with the other market-based rate tariffs held by subsidiaries of NRG Energy, Inc that have been approved by the Commission in recent proceedings.

Comment Date: 5 p.m. eastern time on May 8, 2006.

6. Governors of the States of Arizona, California; Colorado, Montana, Nevada, New Mexico; Oregon, Utah, Washington and Wyoming

[Docket No. RR06-2-000]

On April 20, 2006, the Governors of the States of Arizona, California, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming filed a petition, pursuant to section 215 of the Federal Power Act, to create a Regulatory Advisory Body for the Western Interconnection. The petitioners propose to organize the Western Interconnection Regional Advisory Body pursuant to a Policy Resolution of the Western Governors' Association.

Comment Date: 5 p.m. eastern time on May 26, 2006.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>.

Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6-6582 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

April 26, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Type of Application:* Preliminary Permit.
- b. *Project No.:* 12652-000.
- c. *Date filed:* February 28, 2006.
- d. *Applicant:* Gerald M. Lutticken.
- e. *Name of Project:* Helltown Ravine Hydroelectric Project.
- f. *Location:* On Helltown Ravine, a tributary to Butte Creek, Butte County, California.
- g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).
- h. *Applicant Contact:* Mr. Gerald M. Lutticken, P.E., 730 Bluegrass Drive, Petaluma, California, (707) 206-2099. The proposed Helltown Ravine Hydroelectric Project would occupy lands within the Bureau of Land Management and private lands.
- i. *FERC Contact:* Patricia W. Gillis at (202) 502-8735.
- j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on

each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would use flows discharged from Pacific Gas & Electric's (PG&E) Upper Centerville Canal, licensed as Project No. 803 and consist of: (1) An intake located at the end of PG&E's Upper Centerville Canal, (2) a proposed 3,800 foot penstock, (3) a proposed powerhouse having a total installed capacity of 515-kilowatts, (4) a proposed 13.8-kilovolt 1.5 mile transmission line, and (5) appurtenant facilities. The proposed project would have an average annual generation of 1,430,000 kilowatt-hours, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington DC 20426, or by calling (202) 502-8371. This filing may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1-866-208-3676 or e-mail FERCOnlineSupport@ferc.gov. For TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a

specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under "e-filing" link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as

applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: Magalie Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6574 Filed 5-1-06; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests and Comments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Type of Application:* Preliminary Permit.
 - b. *Project No.:* 12659-000.
 - c. *Date filed:* March 6, 2006.
 - d. *Applicant:* Richard V. Williamson.
 - e. *Name of Project:* Stony Creek Water Power Project.
 - f. *Location:* On Stony Creek, near Stonyford, Colusa County, California. The proposed project will be located within the Mendocino National Forest.
 - g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).
 - h. *Applicant Contact:* Mr. Richard V. Williamson, 1842-M Camino Verde, Walnut Creek, CA 94597, (925) 457-2971.
 - i. *FERC Contact:* Etta Foster, (202) 502-8769.
 - j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.
- All documents (original and eight copies) should be filed with Magalie R. Salas, Secretary, Federal Energy

Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P-12659-000) on any comments, protests, or motions filed.

k. *Description of Project:* The proposed project would consist of: (1) A proposed 80-foot-high, 240-foot-long concrete dam; (2) a proposed reservoir with a surface area of 1.6 M square-feet; (3) a proposed 42-inch diameter, 5200-foot-long steel penstock; (4) a proposed concrete and steel powerhouse containing a generating unit with an installed capacity of 1600 kW; (5) a proposed 200-foot-long tailrace; (6) a proposed 3-phase, 5000-foot-long, 12 kV transmission line; and (7) appurtenant facilities.

The project would have an estimated annual generation of 12,700 MWh (megawatt-hours). The applicant plans to sell the generated energy to a local utility.

l. *Location of Application:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1-866-208-3676 or e-mail FERCOnlineSupport@ferc.gov. For TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a

specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under "e-filing" link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", "MOTION TO INTERVENE", "NOTICE

OF INTENT", or "COMPETING APPLICATION", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,
Secretary.

[FR Doc. E6-6575 Filed 5-1-06; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF06-16-000]

Kinder Morgan Louisiana Pipeline, L.L.C.; Notice of Site Visit and Public Meetings To Receive Environmental Comments on the Proposed Kinder Morgan Pipeline Project

April 26, 2006.

On March 24, 2006, the staff of the Federal Energy Regulatory Commission issued a Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Kinder Morgan Pipeline Project and Request for Comments on Environmental Issues (NOI). As part of our review process we will visit the proposed project route and hold three public scoping meetings to allow the public an opportunity to comment on the proposed project.

Public scoping meetings are designed to provide an opportunity for landowners and concerned citizens to offer comments on the environmental issues they believe should be addressed in our analysis. To ensure that every comment is accurately recorded, a court reporter will be present to prepare an official transcript of each meeting. Concerned citizens are invited to attend

any of the following public comment meetings:

Monday, May 8, 2006

6:30–8:30 p.m. (CDT), Ville Platte High School Auditorium, 210 West Cotton Street, Ville Platte, LA.

Tuesday, May 9, 2006

6:30–8:30 p.m. (CDT), Sulphur City Hall, 500 N. Huntington Street, Sulphur, LA.

Thursday, May 11, 2006

6:30–8:30 p.m. (CDT), Iowa Community Center, 207 West Highway 90, Iowa, LA.

Additionally, on May 9 through May 11, 2006, staff accompanied by representatives from Kinder Morgan will conduct a series of site visits of the proposed Kinder Morgan Louisiana Pipeline route. All interested parties are welcome to attend the car-based site visit. Those planning to attend must provide their own transportation.

Individuals with questions regarding this notice as well as those interested in attending either the public meetings or the car-based site visit should contact the Commission's Office of External Affairs at 866-208-FERC (3372).

Magalie R. Salas,

Secretary.

[FR Doc. E6-6577 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2237-013—Georgia]

Georgia Power Company; Morgan Falls Hydroelectric Project; Notice of Proposed Revised Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

April 26, 2006.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.¹ The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the Georgia State Historic

Preservation Officer (hereinafter, SHPO) and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR part 800, implementing section 106 of the National Historic Preservation Act, *as amended*, (16 U.S.C. 470f), to prepare and execute a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Morgan Falls Hydroelectric Project No. 2237-013 (SHPO Reference Number HP-040120-022).

The programmatic agreement, when executed by the Commission, the SHPO, and the Council, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13e). The Commission's responsibilities pursuant to section 106 for the Morgan Falls Project would be fulfilled through the programmatic agreement, which the Commission proposes to draft in consultation with certain parties listed below.

The executed programmatic agreement would be incorporated into any Order issuing a license.

Georgia Power Company, as licensee for Project No. 2237, and the Muskogee (Creek) Nation of Oklahoma, the Poarch Band of Creek Indians, the Thlopthlocco Tribal Town, the Kialegee Tribal Town, the Alabama-Quassarte Tribal Town, the Seminole Indian Tribe, the Seminole Nation of Oklahoma, the Cherokee Nation, the Eastern Band of Cherokee Indians, the United Keetoowah Band of Cherokee Indians, and the National Park Service have expressed an interest in this proceeding and are invited to participate in consultations to develop the programmatic agreement.

On January 6, 2006, we established a restricted service list for the Morgan Falls Project. Due to staff changes at the Seminole Nation of Oklahoma, the Eastern Band of Cherokee Indians, and the United Keetoowah Band of Cherokee Indians, we propose to remove Emman Spain, Michelle Hamilton, and Steve Mouse, respectively, from the restricted service list for the aforementioned project, and replace them with the following people:

Eastern Band of Cherokee Indians, Attention: Tyler Howe, THPO, Qualla Boundary, P.O. Box 455, Cherokee, NC 28719;

Pare Bowlegs, Historic Preservation Officer, Seminole Nation of Oklahoma, P.O. Box 1498, Wewoka, OK 74884; and

Lisa Stopp, Acting Tribal Historic Preservation Officer, United

Keetoowah Band of Cherokee Indians, P.O. Box 746, 20525 S. Jules Valdez Rd., Tahlequah, OK 74464.

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also please identify any concerns about historic properties, including Traditional Cultural Properties. If historic properties are to be identified within the motion, please use a separate page, and label it NON-PUBLIC Information.

An original and 8 copies of any such motion must be filed with Magalie R. Salas, the Secretary of the Commission (888 First Street, NE., Washington, DC 20426) and must be served on each person whose name appears on the official service list. Please put the project name "Morgan Falls Project" and number "P-2237-013" on the front cover of any motion. If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on any motion or motions filed within the 15 day period.

Magalie R. Salas,

Secretary.

[FR Doc. E6-6576 Filed 5-1-06; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8164-7]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement, to address a lawsuit filed by Utility Air Regulatory Group ("UARG") in the U.S. Court of Appeals for the District of Columbia: *Utility Air Regulatory Group v. EPA*, No. 06-1056 (D.C. Cir.). This lawsuit, which was filed pursuant to section 307(b) of the Act, is a petition for review of EPA's final rule entitled "Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations," published at 70 FR

¹ 18 CFR 385.2010.

39104 (July 6, 2005). Under the terms of the proposed settlement agreement, EPA has agreed to execute two documents that provide guidance on the revised regional haze regulations and the BART Guidelines.

DATES: Written comments on the proposed settlement agreement must be received by June 1, 2006.

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2006-0315, online at <http://www.regulations.gov> (EPA's preferred method); by e-mail to oei.docket@epa.gov; mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Wordperfect or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: M. Lea Anderson, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564-5571; fax number (202) 564-5603; e-mail address: anderson.lea@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Settlement

Petitioner raised issues concerning: (1) Whether the statement in the preamble to the final rule that the BART Guidelines use the natural visibility baseline for the 20 percent best visibility days for determining a source's impact on visibility incorrectly characterized the provisions of the BART Guidelines; (2) whether it is acceptable under the BART Guidelines to undertake a pollutant-specific analysis when modeling the impacts from a single source; (3) whether a statement in the preamble to the final rule that international emissions are properly accounted for in the 5-year state implementation plan was intended to change EPA's views on the treatment of international emissions; and (4) whether, in making BART determinations, the States are required to consider any nonair quality environmental benefits from reducing emissions of visibility-impairing pollutants. Under the terms of the proposed settlement, EPA has agreed to

execute two documents that provide guidance on the interpretation of the BART Rule and Guidelines.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional Information About Commenting on the Proposed Settlement

A. How Can I Get a Copy of the Settlement?

Direct your comments to the official public docket for this action under Docket ID No. EPA-HQ-OGC-2006-0315 which contains a copy of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center 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 OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through <http://www.regulations.gov>. You may use the <http://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at <http://www.regulations.gov> without change, unless the comment contains copyrighted material, CBI, or other

information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the <http://www.regulations.gov> Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through <http://www.regulations.gov>, your e-mail address is automatically captured and included as part of the comment that is placed in the official

public docket, and made available in EPA's electronic public docket.

Dated: April 24, 2006.

Richard B. Ossias,

Associate General Counsel.

[FR Doc. E6-6619 Filed 5-1-06; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8164-2]

Platinum GaSaver; Final Cancellation Order for a Fuel Additive Registration for Failure to Submit Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Cancellation Order for a Fuel Additive Registration.

SUMMARY: The regulations for Registration of Fuels and Fuel Additives, were promulgated under the authority of sections 211(a), (b) and (e) of the Clean Air Act, as amended. These regulations require the registration by EPA of certain motor-vehicle fuels and fuel additives. In certain cases, the manufacturer of a registered product is required to conduct research and submit various health-effects data to EPA within prescribed time frames. Under section 211(e) of the Clean Air Act, EPA may cancel the registration of any fuel or fuel additive for which the registrant has failed to submit the applicable test reports within the prescribed period. Administrative procedures are afforded and EPA may not cancel the registration for an existing fuel or additive without affording the registrant/manufacturer notice, opportunity to submit the requisite test data, and opportunity for a hearing. This order cancels the registration of the Platinum GaSaver fuel additive for nonsubmittal of applicable test data.

DATES: This final cancellation order is effective May 8, 2006.

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, Office of Transportation and Air Quality, Mail Code 6406J, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 343-9303; fax number: (202) 343-2801; e-mail address: caldwell.jim@epa.gov

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply To Me?

The National Fuelsaver Corporation, the manufacturer and an EPA registrant of the fuel additive known as Platinum

GaSaver, may be potentially affected by this notice. This action is also directed to the public in general. Although this action may be of particular interest to persons who manufacture and use various fuel additives, the EPA has not attempted to describe all the specific entities that may be affected by this action.

B. How Can I Get Copies of This Document or Other Related Information?

1. This information is available from the person in the **FOR FURTHER INFORMATION CONTACT** section above.

2. Electronically.
You may obtain electronic copies of this Federal Register document electronically from the EPA Internet Home page under the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

II. What Action Is the Agency Taking?

Section 211(a) of the Clean Air Act (CAA or Act), authorizes the Administrator of the Environmental Protection Agency (EPA or Agency), to designate and require the registration of fuels and fuel additives (F/FAs) prior to sale or introduction into commerce. The EPA has designated gasoline and diesel F/FAs used in motor vehicles or motor vehicle engines for registration prior to sale or introduction into commerce. (See 40 CFR part 79 (1974).) Section 211(e)(1) mandates that EPA promulgate regulations requiring manufacturers of F/FAs "to conduct tests to determine potential public health effects of such F/FAs," and to furnish other "reasonable and necessary" information that identifies F/FAs emissions, and their effects on public health and welfare and vehicular emission control performance, as required by section 211(b)(2). Health effects tests are to be conducted according to procedures and protocols established by the Administrator. Further, section 211(e)(2) establishes a time limit by which manufacturers must comply with such test requirements. Additionally, under section 211(e)(3), EPA may exempt or make special exceptions for small businesses.

In 1994, EPA promulgated regulations implementing sections 211(b)(2) and (e), which established additional registration requirements to those promulgated in 1974. (See 40 CFR part 79 (1994).) These regulations require certain manufacturers of F/FAs, as part of their registration responsibilities, to conduct health-effects tests on their products, and submit the information to EPA within certain prescribed time periods. Test requirements are organized into three tiers known as Tier 1, 2 and 3. Tier 1 requires analysis of the

combustion and evaporative emissions of F/FAs and a survey of existing scientific information on the public health and welfare effects of these emissions. Tier 2 requires manufacturers to conduct specified toxicology tests to screen for potential adverse health effects of the F/FAs' emissions. Additional testing may be required under Tier 3 at EPA's discretion. With regard to those F/FAs registered at the time of promulgation of the regulations, the requisite Tier 1 and Tier 2 information was required to be submitted by May 27, 1997 and May 27, 2000, respectively. (See 40 CFR 79.51(c)(1).) With regard to all new F/FAs, i.e., F/FAs not registered at the time of our promulgation of the regulations and F/FAs that cannot be enrolled in the same testing group as F/FAs that were already registered, the applicable public health-effects testing data were to be submitted prior to registration. (See 40 CFR 79.51(c)(2) and (c)(3).)

The rule also makes special provisions for small manufacturers of F/FAs as determined by certain financial factors, and grants them exemptions from certain test requirements. (See 40 CFR 79.58(d).) Small F/FAs manufacturers of F/FAs are manufacturers with either total annual sales of less than \$50 million for baseline/non-baseline F/FAs or total annual sales of less than \$10 million for atypical F/FAs. (See 40 CFR 79.58(d).) Small manufacturers of baseline/non-baseline F/FAs are exempt from both Tier 1 and 2 requirements, while small manufacturers of atypical F/FAs are required to comply with the basic registration and Tier 1 requirements, but are otherwise exempt from Tier 2 test requirements. (See 40 CFR 79.58(2) and (3).) Small manufacturers must submit the applicable test data to EPA within the prescribed period described above.

Additionally, the rule allows for the cancellation of any F/FA registration upon the Administrator's determination of failure to timely submit the requisite test data by a manufacturer. (See 40 CFR 79.51(f)(6).) In general, the Agency must issue a notice of intent to cancel that affords such a manufacturer an opportunity to comply with the applicable requirement, submit written comments, or request a hearing on the notice of intent to cancel.

On February 23, 1990 the Agency registered Platinum GaSaver, an atypical fuel additive manufactured by the National Fuelsaver Corporation. On May 27, 1997 the Tier 1 health-effects testing report (Tier 1 Report) for Platinum GaSaver became due. (See 40 CFR 79.51(c)(1)(vi)(A).) On December 2, 2004

EPA notified the National Fuelsaver Corporation of its obligation to submit the Tier 1 report. On August 1, 2005 the Agency issued a notice of intent to cancel the registration of Platinum GaSaver to the National Fuelsaver Corporation, along with instructions for responding (Notice). The Notice stated that the Tier 1 report was necessary in order for the National Fuelsaver Corporation to maintain the registration of Platinum GaSaver. The Notice also provided 60 days from its receipt to submit written comments and/or the Tier 1 report, or to request an informal hearing.

The National Fuelsaver Corporation objected to the Notice, in a response dated September 19, 2005, and reiterated its posture that Platinum GaSaver is not a fuel additive under 40 CFR part 79. The National Fuelsaver Corporation further maintained that the registration of Platinum GaSaver was based on its fulfillment of the terms and conditions of various correspondence between the Agency and its attorney in 1989, instead of the requirements under 40 CFR part 79. Additionally, the National Fuelsaver Corporation maintained that none of the terms and conditions of these letters allowed for cancellation of the registration for Platinum GaSaver.

While the EPA accepted submission of the registration documentation by the National Fuelsaver Corporation on the condition that their submission would not constitute an admission by the National Fuelsaver Corporation that Platinum GaSaver is a fuel additive, as contemplated by 40 CFR part 79, there is nothing, in either the referenced letters, or elsewhere, indicating that EPA either waived or limited its authority under 40 CFR part 79. Similarly, there is also nothing in either these letters, or elsewhere, indicating that EPA either waived or limited the National Fuelsaver Corporation's obligations under 40 CFR part 79.

The Agency registered Platinum GaSaver as a fuel additive under sections 211(a), (b) and (e) of the Act, and the applicable requirements that are set forth at 40 CFR part 79. The National Fuelsaver Corporation was required to submit a Tier 1 Report for Platinum GaSaver by May 27, 1997 as a condition for maintaining this registration. To date the National Fuelsaver Corporation has yet to comply with this requirement.

This is a final cancellation order of the Agency's registration of Platinum GaSaver. A copy of this order has been sent to the National Fuelsaver Corporation through certified mail in the past several days. The cancellation order will become effective five days

after publication in the **Federal Register**.

III. Description of a Fuel Additive Registration Canceled for Nonsubmittal of a Tier 1 Test Report by May 27, 1997

Product Name: Platinum GaSaver (also known as the Pollution Cleaner, and also known as the Platinum Vapor Injector).

Manufacturer: National Fuelsaver Corporation, 227 California Street, Newton, MA 02458-1047.

List of Subjects

Environmental protection, Fuels, Fuels additives, Registration, Reporting requirements.

Dated: April 24, 2006.

Margo Tsirigotis Oge,
Director, Office of Transportation and Air Quality.

[FR Doc. 06-4112 Filed 5-1-06; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. EPA-R04-SFUND-2006-0378; FRL-8164-4]

Baxley Complaint Superfund Site, Baxley, Appling County, Georgia; Notice of Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement for the partial reimbursement of past response costs concerning the Baxley Complaint Superfund Site located in Baxley, Appling County, Georgia.

DATES: The Agency will consider public comments on the settlement until June 1, 2006. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

ADDRESSES: Copies of the settlement are available from Ms. Paula V. Batchelor. Submit your comments, identified by Docket ID No. EPA-R04-SFUND-2006-0378 or Site name Baxley Complaint Superfund Site by one of the following methods:

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

- E-mail: Batchelor.Paula@epa.gov.
- Fax: (404) 562-8842/Attn Paula V. Batchelor.

Mail: Ms. Paula V. Batchelor, U.S. EPA Region 4, WMD-SEIMB, 61 Forsyth Street, SW., Atlanta, Georgia 30303. "In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503."

Instructions: Direct your comments to Docket ID No. EPA-R04-SFUND-2006-0378. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be 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 www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the U.S. EPA Region 4 office located at

61 Forsyth Street, SW., Atlanta, Georgia 30303. Regional office is open from 7:00 am until 6:30 pm. Monday through Friday, excluding legal holidays.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: Paula V. Batchelor at (404) 562-8887.

Dated: April 21, 2006.

Rosalind H. Brown,

Chief, Superfund Enforcement & Information Management Branch, Waste Management Division.

[FR Doc. E6-6620 Filed 5-1-06; 8:45 am]

BILLING CODE 6560-50-P

EXPORT-IMPORT BANK

Sunshine Act Meeting

ACTION: Notice of a Partially Open Meeting of the Board of Directors of the Export-Import Bank of the United States.

TIME AND PLACE: Wednesday, May 3, 2006 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

OPEN AGENDA ITEM: Co-Guarantee Program with the Small Business Administration.

PUBLIC PARTICIPATION: The meeting will be open to public participation for Item No. 1.

FURTHER INFORMATION: For further information, contact: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 205471 (Tele. No. 202-565-3957).

Howard A. Schweitzer,
General Counsel (Acting).

[FR Doc. 06-4153 Filed 4-28-06; 11:59 am]

BILLING CODE 6690-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request; 3064-0121

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collections to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the FDIC hereby gives notice

that it is submitting to the Office of Management and Budget (OMB) a request for OMB review and approval of the renewal or revision of the information collection systems described below.

DATES: Comments must be submitted on or before June 1, 2006.

ADDRESSES: Interested parties are invited to submit written comments on the collection of information entitled: Certification of Compliance with Mandatory Bars to Employment.

All comments should refer to the name and number of the collection. Comments may be submitted by any of the following methods:

- <http://www.FDIC.gov/regulations/laws/federal/propose.html>.
- E-mail: comments@fdic.gov.

Include the name and number of the collection in the subject line of the message.

- Mail: Gary A. Kuiper (202.898.3877), Counsel, Federal Deposit Insurance Corporation, Suite 2100, 550 17th Street, NW., Washington, DC 20429.

- Hand Delivery: Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments may also be submitted to the OMB Desk Officer for the FDIC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collection of Information

1. **Title:** Certification of Compliance with Mandatory Bars to Employment.

OMB Number: 3064-0121.

Form: 2120/16.

Frequency of Response: On occasion.

Affected Public: Individuals and businesses.

Estimated Number of Respondents: 200.

Estimated Time per Response: 10 minutes.

Total Annual Burden: 33 hours.

Previous Burden: 41 hours.

Change in Burden: - 8 hours.

General Description of Collection:

Prior to an offer of employment, job applicants to the FDIC must sign a certification that they have not been convicted of a felony or been in other circumstances that prohibit persons

from becoming employed by or providing services to the FDIC.

Request for Comment

Comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC this 27th day of April, 2006.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E6-6604 Filed 5-1-06; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (collectively, the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of a proposal to extend, without revision, the Country Exposure Report for U.S. Branches and Agencies of Foreign Banks (FFIEC 019), which is a currently approved information collection. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC should modify the

reports. The Board will then submit the reports to OMB for review and approval.

DATES: Comments must be submitted on or before July 3, 2006.

ADDRESSES: Interested parties are invited to submit written comments to the agency listed below. All comments, which should refer to the OMB control number, will be shared among the agencies.

You may submit comments, identified by FFIEC 019, by any of the following methods:

- Agency Web Site: <http://www.federalreserve.gov>. Follow the instructions for submitting comments on the <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- E-mail: regs.comments@federalreserve.gov. Include docket number in the subject line of the message.

- FAX: 202-452-3819 or 202-452-3102.

- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP-500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

Additionally, commenters should send a copy of their comments to the Desk Officer for the agencies 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: Additional information or a copy of the collection may be requested from Michelle Long, Federal Reserve Board Clearance Officer, 202-452-3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call 202-263-4869. Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Proposal to extend for three years, without revision, the following currently approved collection of information:

Report Title: Country Exposure Report for U.S. Branches and Agencies of Foreign Banks.

Form Number: FFIEC 019.

OMB Number: 7100-0213.

Frequency of Response: Quarterly.

Affected Public: U.S. branches and agencies of foreign banks.

Estimated Number of Respondents: 185.

Estimated Average Time per Response: 10 hours.

Estimated Total Annual Burden: 7,400 hours.

General Description of Reports

This information collection is mandatory: 12 U.S.C. 3906 for all agencies; 12 U.S.C. 3105 and 3108 for the Board; sections 7 and 10 of the Federal Deposit Insurance Act (12 U.S.C. 1817, 1820) for the FDIC; and the National Bank Act (12 U.S.C. 161) for the OCC. The FFIEC 019 information collection is given confidential treatment under the Freedom of Information Act (5 U.S.C. 552(b)(8)).

Abstract

All individual U.S. branches and agencies of foreign banks that have more than \$30 million in direct claims on residents of foreign countries must file the FFIEC 019 report quarterly. Currently, all respondents report adjusted exposure amounts to the five largest countries having at least \$20 million in total adjusted exposure. The agencies collect this data to monitor the extent to which such branches and agencies are pursuing prudent country risk diversification policies and limiting potential liquidity pressures. No changes are proposed to the FFIEC 019 reporting form or instructions.

Request for Comment

Comments are invited on:

a. Whether the information collection is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimate of the burden of the information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this notice will be shared among the agencies. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimate and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Board of Governors of the Federal Reserve System, April 27, 2006.

Jennifer J. Johnson,
Secretary of the Board.

[FR Doc. E6-6603 Filed 5-1-06; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 p.m., Monday, May 8, 2006.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle 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 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, April 28, 2006.

Robert deV. Frierson,
Deputy Secretary of the Board.

[FR Doc. 06-4174 Filed 4-28-06; 2:24 pm]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Support, Training and Capacity Building for Infectious Disease Surveillance Networks in Affected Countries in Southeast Asia, Africa and Other Regions of the World

AGENCY: Office of Public Health Emergency Preparedness, Office of the Secretary, HHS.

ACTION: Notice; Correction.

SUMMARY: The Office of Public Health Emergency Preparedness, HHS, published a notice in the **Federal Register** on Wednesday, March 8, 2006 announcing a forthcoming single source cooperative agreement award to the Pasteur Foundation, a not-for-profit affiliate of the Institut Pasteur to enhance the surveillance, epidemiological investigation and laboratory diagnostic capabilities in countries in S.E. Asia, Africa and other regions of the world. That notice contained an error by having omitted certain amounts of funding for enhancement of laboratory capacity at Institut Pasteur-Cambodia (IPC) in the second and third year of the project, for a virologist for IPC for three years, and for a senior project manager to coordinate the activities across the different countries that are involved in this project. This notice corrects the omission.

FOR FURTHER INFORMATION CONTACT: Lily O. Engstrom, 202-205-2882.

Correction

In the **Federal Register** of March 8, 2006, in FR Vol. 71, No. 45, on page 11665, correct the table to add the following omissions:

\$440,000 for enhancement of laboratory capacity at IPC for Year 2 and Year 3 (\$220,000 per year); \$210,000 for a virologist for IPC for three years (\$70,000 per year); and \$450,000 for a project manager for three years (\$150,000 per year).

The cooperative agreement resulting from this Funding Opportunity will be fully funded this fiscal year.

Dated: April 26, 2006.

Stewart Simonsen,

Assistant Secretary for Public Health Emergency Preparedness, Department of Health and Human Services.

[FR Doc. E6-6595 Filed 5-1-06; 8:45 am]

BILLING CODE 4150-37-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Disease Control and Prevention
Mine Safety and Health Research Advisory Committee: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Mine Safety and Health Research Advisory Committee (MSHRAC).

Times and Dates: 9:00 a.m.-4:30 p.m., May 23, 2006. 8:30 a.m.-12:30 p.m., May 24, 2006.

Place: Four Points Hotel by Sheraton, 1201 K Street, NW., Washington, DC, 20005, telephone (202) 289-7600, fax (202) 289-3310.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 75 people.

Purpose: This committee is charged with providing advice to the Secretary, Department of Health and Human Services, the Director, CDC, and the Director, National Institute for Occupational Safety and Health (NIOSH), on priorities in mine safety and health research, including grants and contracts for such research, 30 U.S.C. 812(b)(2), Section 102(b)(2).

Matters to be Discussed: The meeting will focus on NIOSH's current and planned research and prevention activities related to mine disaster prevention and response. The agenda will also include updates on partnership activities and reports from the Director and Associate Director.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Jeffery L. Kohler, Ph.D., Executive Secretary, MSHRAC, NIOSH, CDC, P.O. Box 18070, 626 Cochran Mill Road, Pittsburgh, Pennsylvania 15236, telephone (412) 386-5301, fax (412) 386-5300.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 24, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6-6649 Filed 5-1-06; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Food and Drug Administration

[Docket No. 2006D-0169]

Guidance for Industry: Guidance on the Labeling of Certain Uses of Lecithin Derived From Soy Under the Federal Food, Drug, and Cosmetic Act; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled "Guidance on the Labeling of Certain Uses of Lecithin Derived From Soy Under the Federal Food, Drug, and Cosmetic Act" (the act). The guidance explains FDA's current thinking on the labeling of certain uses of lecithin derived from soy under the act. This guidance is part of FDA's implementation of the Food Allergen Labeling and Consumer Protection Act (FALCPA).

DATES: This guidance is final upon the date of publication. Submit written or electronic comments on the guidance document at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Office of Food Additive Safety (HFS-205), Center for Food Safety and Applied Nutrition, 5100 Paint Branch Pkwy., College Park, MD 20740, 301-436-1200, FAX: 301-436-2972. Send one self-addressed adhesive label to assist the office in processing your requests. Submit written comments on the guidance to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/comments>. To ensure a timelier processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Paul M. Kuznesof, Center for Food Safety and Applied Nutrition (HFS-205), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301-436-1289, or e-mail: paul.kuznesof@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:
I. Background

FDA is announcing the availability of a guidance document entitled

"Guidance on the Labeling of Certain Uses of Lecithin Derived From Soy Under Section 403(w) of the Federal Food, Drug, and Cosmetic Act." This guidance is part of FDA's implementation of FALCPA (Public Law 108-282). If a food is not a raw agricultural commodity and it is, or it contains an ingredient that bears or contains a major food allergen, the food must comply with section 403(w) of the act (21 U.S.C. 343(w)). Section 403(w)(1) requires that the food's label declare the name of the food source from which the major food allergen is derived in a manner specified by that section. This source declaration requirement is extended by section 403(w)(4) to any incidental additive that is, or that bears or contains, a major food allergen, notwithstanding the regulatory exemption for incidental additives in 21 CFR 101.100(a)(3). The requirements of section 403(w) of the act apply to foods labeled on or after January 1, 2006.

II. Discussion

The purpose of the guidance document is to provide guidance to the industry on the labeling, under section 403(w) of the act, of certain uses of lecithin derived from soy in packaged foods. In particular, as discussed in the guidance, FDA intends to consider the exercise of enforcement discretion for a packaged food labeled on or after January 1, 2006, in which lecithin derived from soy is used solely as a component of a release agent and the label for such food does not declare the presence of the lecithin consistent with the requirements of section 403(w). FDA intends to consider exercising such discretion when all of the factors discussed in the guidance are present.

FDA is issuing this guidance as level 1 guidance consistent with FDA's good guidance practices regulation § 10.115 (21 CFR 10.115). Consistent with FDA's good guidance practices regulation, the agency will accept comment, but is implementing the guidance document immediately in accordance with § 10.115(g)(2), because the agency has determined that prior public participation is not feasible or appropriate. As noted, foods labeled on or after January 1, 2006, must comply with section 403(w) of the act's labeling requirements.

This guidance represents the agency's current thinking on the labeling of certain uses of lecithin derived from soy under section 403(w) of the act. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. You may use an alternative approach if such approach satisfies the requirements of the

applicable statutes and regulations. If you want to discuss an alternative approach, contact the FDA staff responsible for implementing this guidance (see **FOR FURTHER INFORMATION CONTACT**).

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this guidance at any time. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the guidance document at <http://www.cfsan.fda.gov/guidance.html>.

Dated: April 25, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6-6551 Filed 5-1-06; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D-0170]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH); Draft Guidance for Industry on Pharmacovigilance of Veterinary Medicinal Products; Data Elements for Submission of Adverse Event Reports (VICH GL42); Request for Comments; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability for comments of a draft guidance document for industry (#182) entitled "Pharmacovigilance of Veterinary Medicinal Products; Data Elements for Submission of Adverse Event Reports" (VICH GL42). This draft guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration

of Veterinary Medicinal Products (VICH). The objective of this draft guidance document is to standardize the data for submission of adverse events relating to veterinary medicinal products.

DATES: Submit written or electronic comments on the draft guidance by June 1, 2006, to ensure their adequate consideration in preparation of the final document. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Communications Staff (HFV-12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the draft guidance to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>. Comments should be identified with the full title of the draft guidance and the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Lynn Post, Center for Veterinary Medicine, (HFV-210), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240-276-9062, e-mail: lynn.post@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Conference on Harmonization of Technical Requirements for Approval of Pharmaceuticals for Human Use for several years to develop harmonized technical requirements for the approval

of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission; European Medicines Evaluation Agency; European Federation of Animal Health; Committee on Veterinary Medicinal Products; the U.S. FDA; the U.S. Department of Agriculture; the Animal Health Institute; the Japanese Veterinary Pharmaceutical Association; the Japanese Association of Veterinary Biologics; and the Japanese Ministry of Agriculture, Forestry, and Fisheries.

Four observers are eligible to participate in the VICH Steering Committee: One representative from the government of Australia/New Zealand, one representative from the industry in Australia/New Zealand, one representative from the government of Canada, and one representative from the industry of Canada. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation for Animal Health (IFAH). An IFAH representative also participates in the VICH Steering Committee meetings.

II. Draft Guidance on Pharmacovigilance of Veterinary Medicinal Products

In November 2005, the VICH Steering Committee agreed that a draft guidance entitled "Pharmacovigilance of Veterinary Medicinal Products: Data Elements for Submission of Adverse Event Reports" (VICH GL42) should be made available for public comment. Elements of this draft guidance were previously published in 2000 as part of a draft guidance entitled "Pharmacovigilance of Veterinary Medicinal Products: Management of Adverse Event Reports (AER's)" (VICH GL24). The objective of draft guidance VICH GL42 is to standardize the data for submission of adverse events relating to VMPs. A consistent set of data will contribute to a harmonized approach for the detection and investigation of adverse effects of marketed VMPs and thus help to increase public and animal health. The draft guidance is the product of the Pharmacovigilance Expert Working Group of the VICH. Comments on this draft will be

considered by FDA and the Pharmacovigilance Expert Working Group.

III. Paperwork Reduction Act of 1995

This draft guidance document refers to previously approved collections of information found in FDA regulations. The collections of information have been approved under OMB control number 0910-0284 (expiration date June 30, 2006). Prior to the finalization and implementation of this guidance, FDA intends to add the new collection of information to the related form for submitting adverse event reports entitled "Veterinary Adverse Drug Reaction, Lack of Effectiveness, Product Defect Report" (Form FDA 1932), and FDA will publish a separate notice in the **Federal Register** requesting comment on any new collection of information in the updated form.

IV. Significance of Guidance

Under 21 CFR 10.115(i)(3), when issuing draft guidance documents that are the product of international negotiations, FDA need not apply 21 CFR 10.115(i)(2), which states that guidance documents must not include mandatory language such as "shall," "must," "required," or "requirement," unless FDA is using these words to describe a statutory or regulatory requirement. However, any final guidance document issued according to 21 CFR 10.115(i) must contain the elements in 21 CFR 10.115(i)(2). In this draft guidance, any language that is mandatory under U.S. laws and/or regulations is followed by a citation to the appropriate statutory or regulatory provision. In accordance with 21 CFR 10.115(i)(3), any mandatory language in this draft guidance that does not describe a statutory or regulatory requirement will be revised in the final guidance document to comply with 21 CFR 10.115(i)(2).

The draft VICH guidance is consistent with the agency's current thinking on this topic. This guidance does not create or confer any rights for or on any person and will not operate to bind FDA or the public. An alternative method may be used as long as it satisfies the requirements of applicable statutes and regulations.

V. Comments

This draft guidance document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit written or electronic comments regarding this draft guidance document to the Division of Dockets Management (see **ADDRESSES**). Submit a single copy

of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

VI. Electronic Access

Comments may be submitted electronically on the Internet at <http://www.fda.gov/dockets/ecomments>. Once on this Internet site, select Docket No. 2006D-0170, entitled draft guidance for industry on "Pharmacovigilance of Veterinary Medicinal Products; Data Elements for Submission of Adverse Event Reports" (VICH GL42), and follow the directions.

Copies of the draft guidance document entitled "Draft Guidance for Industry on "Pharmacovigilance of Veterinary Medicinal Products; Data Elements for Submission of Adverse Event Reports" (VICH GL42), may be obtained on the Internet from the Center for Veterinary Medicine home page at <http://www.fda.gov/cvm>.

Dated: April 26, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6-6601 Filed 5-1-06; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2000D-1632 (formerly 00D-1632)]

International Cooperation on Harmonisation of Technical Requirements for Approval of Veterinary Medicinal Products; Draft Revised Guidance for Industry on Pharmacovigilance of Veterinary Medicinal Products; Management of Adverse Event Reports; Request for Comments; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of draft revised guidance for industry (#117) entitled "Pharmacovigilance of Veterinary Medicinal Products: Management of Adverse Event Reports (AER's)" VICH GL24. This draft revised guidance, which updates a draft guidance on the

same topic for which a notice of availability was published in the **Federal Register** of December 18, 2000 (the 2000 draft guidance), has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This draft revised guidance is intended to describe the reporting system for identification of possible adverse events following the use of marketed veterinary medicinal products (VMPs) submitted to the European Union, Japan, and the United States.

DATES: Submit written comments on the draft revised guidance by June 1, 2006, to ensure their adequate consideration in preparation of the final guidance document. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft revised guidance to the Communications Staff (HFV-12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft revised guidance document.

Submit written comments on the draft revised guidance to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>. Comments should be identified with the full title of the draft revised guidance and the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Lynn Post, Center for Veterinary Medicine (HFV-210), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240-276-9062, e-mail: lynn.post@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical procedures for the development of pharmaceutical products. One of the goals of

harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Conference on Harmonization of Technical Requirements for Approval of Pharmaceuticals for Human Use for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. VICH is a parallel initiative for veterinary medicinal products. VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH steering committee is composed of member representatives from the European Commission; European Medicines Evaluation Agency; European Federation of Animal Health; Committee on Veterinary Medicinal Products; FDA; the U.S. Department of Agriculture; the Animal Health Institute; the Japanese Veterinary Pharmaceutical Association; the Japanese Association of Veterinary Biologics; and the Japanese Ministry of Agriculture, Forestry and Fisheries.

Four observers are eligible to participate in the VICH steering committee: One representative from the government of Australia/New Zealand, one representative from the industry in Australia/New Zealand, one representative from the government of Canada, and one representative from the industry of Canada. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation for Animal Health (IFAH). An IFAH representative also participates in the VICH steering committee meetings.

II. Draft Guidance on Adverse Event Reports

In November 2005, the VICH steering committee held a meeting and agreed that the draft guidance document entitled "Pharmacovigilance of Veterinary Medicinal Products: Management of Adverse Event Reports (AER's)" VICH GL24, should be revised and made available for a second public comment period. This draft revised guidance updates the draft guidance on the same topic for which a notice of availability was published in the **Federal Register** of December 18, 2000 (65 FR 79111). The draft revised

guidance clarifies the 2000 draft guidance, adds information, and provides consistency with more recently published VICH guidances. The draft revised guidance is the product of the Pharmacovigilance Expert Working Group of VICH. Comments on this draft will be considered by FDA and the Pharmacovigilance Expert Working Group.

The draft revised guidance describes the harmonized and common systems, common definitions, and standardized terminology within pharmacovigilance. Harmonization of those elements between the VICH regions facilitates the reporting responsibilities for the marketing authorities or drug sponsors, many with worldwide activities. More specifically, the draft revised guidance presents the terms and definitions intended to harmonize other previously used terms referring to similar pharmacovigilance concepts. This draft revised guidance describes a system for the management of adverse drug event reports following the use of marketed veterinary medicinal products.

This draft revised guidance includes revised text on the definition of a veterinary medicinal product, definition of international birth date, and third country reporting. Data elements for the submission of AERs were removed from this draft revised guidance, but are addressed in a separate VICH draft guidance document entitled "Pharmacovigilance of Veterinary Medicinal Products: Data Elements for Submission of Adverse Event Reports" VICH GL42. The notice of availability for VICH GL42 is published elsewhere in this issue of the **Federal Register**.

III. Paperwork Reduction Act of 1995

This draft revised guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The collections of information in 21 CFR 514.80 have been approved under OMB control number 0910-0284 (expiration date 06/30/2006).

IV. Significance of Guidance

Under part 10 (21 CFR part 10), specifically § 10.115(i)(3), when issuing draft guidance documents that are the product of international negotiations, FDA need not apply § 10.115(i)(2), which states that guidance documents must not include mandatory language such as "shall," "must," "required," or "requirement," unless FDA is using these words to describe a statutory or

regulatory requirement. However, any final guidance document issued according to § 10.115(i) must contain the elements in § 10.115(i)(2). In this draft revised guidance, any language that is mandatory under U.S. laws and/or regulations is followed by a citation to the appropriate statutory or regulatory provision. In accordance with § 10.115(i)(3), any mandatory language in this draft revised guidance that does not describe a statutory or regulatory requirement will be revised in the final guidance document to comply with § 10.115(i)(2).

The draft revised VICH guidance represents the agency's current thinking on the management of AERs of approved new animal drugs. This draft revised guidance does not create or confer any rights for or on any person and will not operate to bind FDA or the public. An alternative method may be used as long as it satisfies the requirements of applicable statutes and regulations.

V. Comments

This draft revised guidance document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Division of Dockets Management (see ADDRESSES) written or electronic comments regarding this draft revised guidance document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft revised guidance and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

VI. Electronic Access

Electronic comments may also be submitted electronically on the Internet at <http://www.fda.gov/dockets/ecomments>. Once on this Internet site, select Docket No. 2000D-1632, entitled "Draft Guidance for Industry on Pharmacovigilance of Veterinary Medicinal Products: Management of Adverse Event Reports (AER's)" VICH GL24 and follow the directions.

Copies of the draft revised guidance document entitled "Pharmacovigilance of Veterinary Medicinal Products: Management of Adverse Event Reports (AER's)" VICH GL24 may be obtained on the Internet from the Center for Veterinary Medicine home page at <http://www.fda.gov/cvm>.

Dated: April 26, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6-6602 Filed 5-1-06; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Submission for OMB Review; Comment Request; The Sister Study: A Prospective Study of the Genetic and Environmental Risk Factors for Breast Cancer

Summary: Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Environmental Health Sciences (NIEHS), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the *Federal Register* on February 23, 2006 on pages 9358-9359 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

5 CFR 1320.5: Reporting and Recordkeeping Requirements: Final Rule: Respondents to this collection of information are not required to respond unless the data collection instruments display a currently valid OMB control number.

Proposed Collection Title: The Sister Study: A Prospective Study of the Genetic and Environmental Risk Factors for Breast Cancer.

Type of Information Collection Request: Revision of OMB No. 0925-0522 and expiration date July 31, 2006.

Need and Use of Information Collection: The purpose of the Sister Study is to study genetic and environmental risk factors for the development of breast cancer in a cohort of sisters of women who have had breast cancer. In the United States, there were approximately 210,000 new cases in 2003, accounting for 30% of all new cancer cases among women. The etiology of breast cancer is complex, with both genetic and environmental

factors likely playing a role. Environmental risk factors, however, have been difficult to identify. By focusing on genetically susceptible subgroups, more precise estimates of the contribution of environmental and other non-genetic factors to disease risk may be possible. Sisters of women with breast cancer are one group at increased risk for breast cancer; we would expect about 2 times as many breast cancers to accrue in a cohort of sisters as would accrue in a cohort identified through random sampling or other means. In addition, a cohort of sisters will be enriched with regard to the prevalence of relevant genes and/or exposures, further enhancing the ability to detect gene-environment interactions. Sisters of women with breast cancer will also be at increased risk for ovarian cancer and possibly for other hormonally-mediated diseases. We are enrolling a cohort of 50,000 women who have not had breast cancer. Initial recruitment of the first 2000 women took place from August 2003-September 2004 before beginning nationwide recruitment in October 2004. The data collected in the initial phase allowed us to evaluate subject recruitment and data collection procedures, and helped us better target our recruitment efforts. We estimate that a cohort of 50,000 sisters aged 35-74 years would provide about 1500 breast cancer cases over five years (approximately 300 new cases per year once the cohort is fully enrolled).

Frequency of Response: Burden calculations include eligibility screening for 22,750 more women, and completion of enrollment activities for 25,000 more women (difference due to expected 2,250 women, and completion of enrollment activities for 25,000 more women (difference due to expected 2,250 women whose time lag between initial screening and fully completing enrollment baseline activities is expected to cross OMB expiration/revision date) to reach 50,000. These women will complete one initial 15-minute screening (either on the telephone OR on the Internet), two 1-hour telephone interviews, 4 mailed self-administered questionnaires (90 minutes total), and will collect biological and household specimens. Also in the next 3 years, all 50,000 sisters will complete one annual update (10 minutes) and one biennial follow-up questionnaire (60 minutes); in addition 25,000 will complete a second annual update. Women diagnosed with breast cancer or other health outcomes of interest (~1800 allowing for 300 bc/year over our first 6 years, plus 1800 other outcomes) will be asked to provide

additional information about their diagnosis (20 minutes per response) and their doctors will be contacted to provide documentation regarding diagnosis and treatments (15 minutes per response). In addition to direct Sister Study participants, up to 300 women will be recruited to provide an anonymous blood sample for Sister Study laboratory quality control activities. A total of up to 200 women (70 during the first year) will be recruited to provide a one-time blood and urine sample and complete a past 24-hour questionnaire. These samples will be used to test long-term storage effects and to provide quality control pools for future assays. Up to 100 women will be sampled on four occasions over the course of a year (20 in the first year), providing blood, urine, and dust samples. On each occasion an abbreviated version of the previously

approved past 24-hour questionnaire will be completed. Thus up to 300 women will complete a 5-minute telephone screener to determine eligibility. The 200 women (maximum) who provide a one-time sample will complete a short form describing activities and medication use in the 24 hours prior to blood draw (10 minutes). The 100 women (maximum) will complete the 24-hour form with each of 4 blood draws.

Estimated Number of Respondents: The estimated total number of respondents is 67,800, which includes ~12,500 enrolled per year over ~4 years, plus ~14,000 persons ultimately determined ineligible or refusals at initial screening, 3,500 persons who partially complete enrollment before terminating, and up to 300 women for anonymous quality sample collection.

Affected Public: Individuals or households; doctors' offices.

Type of Respondents: Unaffected sisters of women diagnosed with breast cancer, aged 35-74, from all socioeconomic backgrounds and ethnicities. The annual reporting burden is as follows:

Estimated Number of Responses per Respondent: The table below shows the estimated number of responses per respondent per activity over the next 3 years.

Average Burden Hours per Response: 6.0;

Estimated Total Burden Hours Requested: 194,131 (over 3 years). The average annual burden hours requested is 64,710.

The annualized cost to respondents is estimated at \$135 (assuming \$20 hourly wage × 6 hours + \$15 babysitting estimate). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Activity (3-yrs)	Estimated number of respondents	Estimated responses per respondent	Average burden hours per response	Estimated total burden hours requested
Eligibility Screening	22,750	1	0.25	5,688
Enrollment Interviews	25,000	1	2	50,000
Enrollment SAQs	25,000	1	1.5	37,500
Enrollment Specimen Collection*	25,000	1	1	25,000
1st Annual Update	50,000	1	0.17	8,500
1st Biennial Follow-Up Questionnaire	50,000	1	1	50,000
2nd Annual Update	25,001	1	0.17	4,250
Ineligible**	14,000	1	0.25	3,500
Dropout**	3,500	1	2.25	7,875
Incident BC Case Follow-Up	1800	1	0.33	594
Incident Other Case Follow-Up	300	1	0.33	99
Incident Case/Physician Contact	2100	1	0.25	525
QC Sample Collection A†	200	1	0.15	200
QC Sample Collection B†	100	4	0.15	400
Total				194,131

*includes waiting time, and scheduling appointment for blood draw.

**expect 17% ineligible at screening plus 7% dropout during enrollment activities.

† includes travel time, 10 minutes for Past-24 hour Qx, and blood draw.

Request for Comments Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (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 the use of appropriate automated, electronic, mechanical, or other technological

collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: (Insert IC applicable information. Include automated, electronic, mechanical, or other technological collection techniques, if applicable.)

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: April 20, 2006.

Laurie K. Johnson, NIEHS,
Acting Associate Director for Management
[FR Doc. 06-4087 Filed 5-1-06; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES
National Institutes of Health
Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

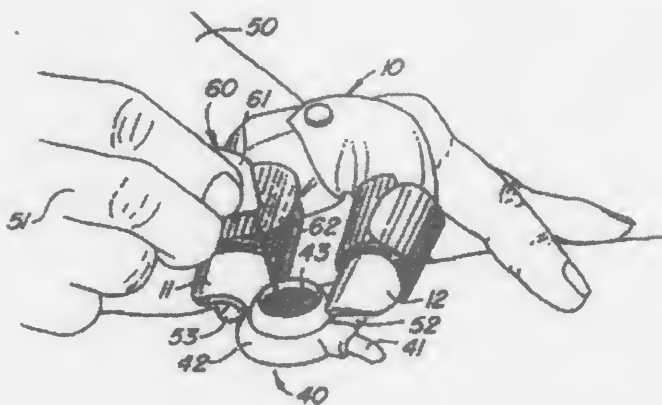
SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of

federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; telephone: 301/496-7057; fax: 301/402-0220.

Hand Puncture Protector for Nurses

Description of Technology: Available for licensing and commercial development is a device that provides nurses or other health care workers with protection against accidental needle sticks. Specifically, a device has been created which protects the most susceptible areas on the back and sides of the thumb, forefinger and the area of the hand there between. This offers the notable advantage of preventing infections from accidental needle sticks. This invention is particularly useful during the risky task of inserting a twisted or kinked needle (such as a Huber needle) into a pot-a-cath.



Inventors: Bonnie C. Thornton *et al.* (CC).

Patent Status: U.S. Patent No. 5,706,520 issued 13 Jan 1998 (HHS Reference No. E-104-1992/0-US-01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Michael A. Shmilovich, Esq.; 301/435-5019; shmilovm@mail.nih.gov.

Dated: April 19, 2006.

Steven M. Ferguson,
Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 06-4111 Filed 5-1-06; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES
National Institutes of Health
Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; telephone: (301) 496-7057; fax: (301) 402-0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Predictive Test for Age-Related Macular Degeneration in Asymptomatic Individuals

Description of Technology: Age-related macular degeneration (ARMD) is the leading cause of severe, irreversible

vision loss for those over the age of fifty in the United States and in other developed countries. Thirteen million Americans over the age of forty have ARMD. ARMD is caused by the deterioration of the central area of the retina, or macula, resulting in a loss of central vision. This disease is believed to be a multigenic disorder, and is triggered by environmental factors such as smoking, age or diet in genetically susceptible individuals.

The present invention describes a highly predictive genetic test for universal practical clinical use to identify individuals at increased risk for ARMD. It comprises a rapid, accurate and affordable genetic screen, utilizing DNA microarray technology on a single chip. Sixteen genes are screened for 90 mutations/polymorphisms associated with ARMD, with a high predictive power (up to 92.7%) to identify asymptomatic carriers at risk. Accurate prediction of genetic susceptibility to this disorder will allow interventions to protect at-risk individuals.

Application(s): Diagnostic kit to identify asymptomatic individuals at risk for age-related macular degeneration; make possible the

identification of genetic factors in an affected individual, aiding in the development of a tailored therapeutic plan; provide genetic epidemiologic data to elucidate the role of genetic factors in the progression of the disease.

Market: Individuals at risk for age-related macular degeneration. There are an estimated 15 million cases of age-related macular degeneration in the United States, and 50 million cases worldwide.

Development Status: This technology requires analytic validation before commercialization.

Inventors: Cigdem F. Dogulu, Owen M. Rennert, and Wai-Yee Chan (NICHD)

Patent Status: U.S. Provisional Application No. 60/733,042 filed 02 Nov 2005 (HHS Reference No. E-023-2006/0-US-01)

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Fatima Sayyid, M.H.P.M.; 301/435-4521; sayyidf@mail.nih.gov

Collaborative Research Opportunity: The NICHD Laboratory of Clinical Genomics is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize Method Evolved for Recognition and Testing of Age-Related Macular Degeneration (MERT-ARMD). Please contact Kenneth J. Rose, Esq, Ph.D., at (301) 496-0477 or rosek@mail.nih.gov for more information.

Method for Promoting Stem Cell Survival

Description of Technology:

Regenerative medicine holds the potential to revolutionize the treatment of a host of diseases, such as neurodegenerative disorders, stroke, and many others. Stem cell technologies are a central focus of regenerative medicine research and treatment of cancer. An essential component of this research is the ability to control stem cell survival.

This technology describes a method to promote stem cell survival and proliferation by manipulating the phosphorylation state a key protein in these processes. This method has been shown to enhance survival and proliferation in stem cell cultures in vitro, and also in neuronal precursor cells in vivo.

Application(s): Clinical treatment for stroke and other neurodegenerative diseases by administration of agents that promote stem cell survival and proliferation; increased generation of stem cells in vitro; diagnostic assay for cancer to determine the phosphorylation state of the protein in

tumors; screening assays for agents that promote proliferation of stem cells or inhibit proliferation of cancer cells.

Market: Treatment for neurodegenerative disorders such as Parkinson's disease or stroke; prognostic marker to help determine response of individuals with cancer; commercial suppliers or large-scale users of stem cells.

Development Status: Early stage.

Inventors: Andreas Androutsellis-Theotokis and Ronald D.G. McKay (NINDS).

Patent Status: U.S. Provisional Application No. 60/715,935 filed 08 Sep 2005 (HHS Reference No. E-239-2005/0-US-01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Fatima Sayyid, M.H.P.M.; (301) 435-4521; sayyidf@mail.nih.gov

Collaborative Research Opportunity: The National Institute of Neurological Disorders and Stroke is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize agents that inhibit or induce phosphorylation of a protein that is a key regulator of proliferation and survival of stem cells and precursor cells. Please contact Martha Lubet at (301) 435-3120 or lubetm@mail.nih.gov.

Dated: April 24, 2006.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer Office of Technology Transfer, National Institutes of Health.

[FR Doc. E6-6547 Filed 5-1-06; 8:45 am]

BILLING CODE 4167-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications

listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; telephone: (301) 496-7057; fax: (301) 402-0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Monoclonal Antibody for Lyme Disease Diagnostic and Research

Alan G. Barbour (NIAID)

HHS Reference No. E-075-2006/0-

Research Materials

Licensing Contact: Susan Ano; 301/435-5515; anos@mail.nih.gov

The hybridoma producing a monoclonal antibody against the major flagellin protein (FlaB) is available for licensing. This antibody can be used in diagnostic and research applications related to Lyme disease or other Borrelia-caused conditions. More information about this antibody can be found in Barbour *et al.*, Infection and Immunity, May 1986, volume 52(5), pages 549-554.

Broad Spectrum Antiviral Compounds

Gary J. Nabel and Jae Ouk Kim (NIAID)

U.S. Provisional Application No. 60/

775,666 filed 21 Feb 2006 (HHS Reference No. E-013-2006/0-US-01)

Licensing Contact: Susan Ano; 301/435-5515; anos@mail.nih.gov

This technology relates to broad spectrum antiviral compounds for treatment of infection caused by enveloped viruses. The compounds are fusions molecules of a phospholipase and a viral binding polypeptide. The subject technology requires the phospholipase component of the antiviral compound to have enzymatic activity, whereas previous studies demonstrating antiviral activity of some phospholipases did not require enzymatic activity. The compounds described by the current technology are not necessarily virus or viral strain specific, unlike many currently available antiviral-compounds. The antiviral activity of the compounds has been demonstrated in vitro with representative viruses pseudotyped with envelope proteins from Ebola, HIV, Marburg, and VSV. Additionally, the antiviral activity was demonstrated with wild type HIV. The potential broad application of these compounds could address a significant health need for effective antivirals.

The Vaccine Research Center at the National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties

interested in collaborative research to further develop, evaluate, or commercialize treatments or vaccines against infections caused by enveloped viruses. Please contact Anna Z. Amar at 301/451-3525 and/or amar@niaid.nih.gov for more information.

Increased Cytokine Expression

Barbara Felber and George Pavlakis (NCI)

U.S. Provisional Application No. 60/758,819 filed 13 Jan 2006 (HHS Reference No. E-254-2005/0-US-01)

U.S. Provisional Application No. 60/758,680 filed 13 Jan 2006 (HHS Reference No. E-267-2005/0-US-01)

Licensing Contact: Susan Anos; 301/435-5515; anos@mail.nih.gov

The current technologies describe optimization of the genes encoding interleukins 12 (IL-12) and 15 (IL-15), resulting in higher levels of protein expression. Cytokines play an important role in both innate and adaptive immune responses. Their utility as immunotherapeutics against infectious disease and cancer as well as vaccine adjuvants has been previously demonstrated. However, cytokine expression from native sequences can be sub-optimal for several reasons, including potential splice sites within RNA and low stability coding sequences. The current technologies offer a means to increase expression of these important molecules. *In vitro* studies show a 5- to 10-fold mean increase in cytokine protein production. In some instances, further increased expression was achieved by use of a heterologous signal peptide. The subject technologies have application to DNA vaccination and treatment of diseases such as HIV, hepatitis B or C, cancer, and influenza. Some fields of use may not be available for licensing.

Dated: April 24, 2006.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E6-6548 Filed 5-1-06; 8:45 am]

BILLING CODE 4167-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; telephone: 301/496-7057; fax: 301/402-0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Tetracyclines and Derivatives as Inhibitors of Human Tyrosyl-DNA-phosphodiesterase (Tdp1)

Description of Technology: The invention describes tetracycline compounds and their derivatives as having anticancer activity, as well as methods of treating cancer. Tetracyclines are commonly used as antibiotics, however testing of these compounds in a high throughput screening system for Tdp1 inhibitors revealed them to be potent Tdp1 inhibitors. Tdp1 is known to be important for mutation avoidance under normal growth conditions. Tetracycline derivatives are expected to increase the selectivity of chemotherapeutic agents (e.g. camptothecin), for tumors, thereby increasing the antitumor activity while reducing their side effects.

Inventors: Yves Pommier, Christophe Marchand, Laurent Thibaut (NCI).

Patent Status: U.S. Provisional Application filed March 27, 2006 (HHS Reference No. E-097-2006/0-US-01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Richard Rodriguez; 301/435-4013; rodrigr@mail.nih.gov.

Collaborative Research Opportunity:

The Laboratory of Molecular Pharmacology at the National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize tetracycline derivatives, particularly optimizing them for therapeutic use. Please contact Lisa Finkelstein at 301-451-7458 for more information.

Insect Cell Production of Recombinant Adeno-Associated Virus That Produce Cytotoxic Gene Products and Applications for Solid Tumor Therapy

Description of Technology: Cancer is the second leading cause of death in United States and it is estimated that there will be approximately 600,000 deaths caused by cancer in 2006. Due to the high incidence of death from cancer despite the use of current therapies, there is a strong need for targeted therapeutic approaches such as gene therapy.

This technology describes a new method for targeting solid tumors using gene therapy. More specifically, mammalian HEC-1 has a critical role in chromosome segregation and thus cell division. This technology involves targeted depletion of HEC-1 using shRNA against the HEC-1 mRNA inhibiting cancer cell growth in cell culture models (*in vitro*) as well as regressed tumor size in mouse model (*in vivo*). Additionally, this is the sole technology using an insect cell based recombinant adeno-associated virus (rAAV) gene transfer vehicle with high titer containing the shRNA of interest thus enabling high dosing during therapeutic intervention if necessary. This technology platform has the potential to treat a broad spectrum of cancers and related diseases.

Applications: A new anti-cancer adjuvant therapy for non-resectable tumors targeting HEC-1 protein; a new method involving insect cell based production of recombinant adeno-associated virus (rAAV) gene transfer vehicle.

Market: 600,000 deaths from cancer related diseases estimated in 2006. The technology platform involving new cancer therapy and gene therapy technology has a potential market of more than 50 billion dollars.

Development Status: The technology is currently in pre-clinical stage of development.

Inventors: Robert M. Kotin and Lina Li (NHLBI).

Publications:

1. EN Gurzov *et al.*, "RNA Interference against Hec 1 inhibits tumor growth *in vivo*," *Gene Ther.* 2006 Jan; 13 (1):1-7.

2. JG DeLuca *et al.*, "Hec1 and nuf2 are core components of the kinetochore outer plate essential for organizing microtubule attachment sites," *Mol Biol Cell.* 2005 Feb; 16 (2):519-531.

3. S Martin-Lluesma *et al.*, "Role of Hec1 in spindle checkpoint signaling and kinetochore recruitment of Mad1/Mad2," *Science* 2002 Sep 27; 297 (5590):2267-2270.

4. T. Hori *et al.*, "Dynamic behavior of Nuf2-Hec1 complex that localizes to the centrosome and centromere and is essential for mitotic progression in vertebrate cells," *J Cell Sci.* 2003 Aug 15; 116 (Pt 16):3347-3362.

5. Y. Chen *et al.*, "Phosphorylation of the mitotic regulator protein Hec1 by Nek2 kinase is essential for faithful chromosome segregation," *J Biol Chem.* 2002 Dec 20; 277 (51):49408-49416.

Patent Status: U.S. Provisional Application No. 60/782,277 filed 15 Mar 2006 (HHS Reference No. E-200-2005/0-US-01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Jesse S. Kindra, J.D.; 301/435-5559; kindraj@mail.nih.gov.

Collaborative Research Opportunity: The National Heart, Lung, and Blood Institute, Laboratory of Biochemical Genetics, is seeking statements of capability or interest from parties interested in collaborative research to further develop therapeutics using rAAV-shRNA to induce selective cytotoxicity in primary and metastatic solid tumors. Partners are sought for conducting translational research from preclinical trials to clinical trials. Please contact Dr. Vincent Kolesnitchenko, Office of Technology Transfer and Development, NHLBI at 301-594-4115 or by e-mail (vk5q@nih.gov) for more information.

Identification of a Novel Folliculin Interacting Protein, FNIP-1

Description of Technology: Renal cell carcinoma is an important health problem in the United States, affecting 32,000 individuals each year and resulting in 12,000 deaths annually. Several familial cancer disorders with a renal epithelial tumor phenotype have been well characterized and the causative genes have been identified including the Birt-Hogg-Dube (BHD) gene. The BHD gene encodes a protein called folliculin. Mutations in BHD lead to the development of Birt-Hogg Dube syndrome, a dermatologic disorder associated with an increased risk for developing renal cancer, spontaneous pneumothorax and lung cysts.

This invention describes the cloning and characterization of the first folliculin interacting protein FNIP-1 and purified antibodies that selectively bind to an epitope of FNIP-1. FNIP-1 interacts with subunits of AMP-dependent protein kinase (AMPK). The FNIP-1/AMPK interaction places FNIP-1 and folliculin as potential interactors in cellular pathways essential for regulating cell growth and cell size. FNIP-1 may play an important role in

folliculin's function. Identification of the FNIP-1 cDNA sequence will enable evaluation of sporadic renal tumors, enable the development of cancer diagnostics and aid in the treatment of BHD skin lesions.

Inventors: Laura S. Schmidt *et al.* (NCI).

Patent Status: U.S. Provisional Application No. 60/689,749 filed June 9, 2005 (HHS Reference No. E-139-2005/0-US-01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: John Stansberry, Ph.D.; 301/435-5236; stansbej@mail.nih.gov.

Collaborative Research Opportunity: The National Cancer Institute, Center for Cancer Research, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize folliculin interacting protein FNIP-1 and purified antibodies. Please contact Kathy Higinbotham at 301-846-5465 or higinbok@mail.nih.gov for more information.

Bone Morphogenetic Variants, Compositions and Methods of Treatment

Description of Technology: The invention identifies proteins belonging to TGF-Beta superfamily that promote repair of menisci, cruciate and collateral ligaments of the knee, and rotator cuff tendons. The application claims nucleic acids encoding human Cartilage-Derived Morphogenetic Protein-1 (hCDMP-1) variant polypeptides. Morphogenetic proteins are able to induce the proliferation and differentiation of progenitor cells into functional bone, cartilage, tendon, or ligament tissue.

Inventors: Malcolm C. Moos *et al.* (FDA).

Patent Status: U.S. Provisional Application No. 60/689,346 filed June 9, 2005 (HHS Reference No. E-196-2004/0-US-01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Thomas P. Clouse, J.D.; 301/435-4076; clouset@mail.nih.gov.

Dated: April 25, 2006.

David R. Sadowski,
Acting Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E6-6549 Filed 5-1-06; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5052-N-02]

Notice of Proposed Information Collection: Comment Request; Applicant/Recipient Disclosure/Update Report—HUD 2880

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 3, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Brenda M. Johnson, Reports Liaison Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500.

FOR FURTHER INFORMATION CONTACT: Timothy Wray, Senior Attorney-Advisor, Ethics Law Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 2130, Washington, DC 20410-0500, telephone (202) 708-3815 (this is not a toll-free number). This form can be viewed or accessed at http://www.hudclips.org/sub_nonhud/cgi/pdfforms/2880.pdf. **SUPPLEMENTARY INFORMATION:** The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This notice is soliciting comments from members of the public and 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: Applicant/Recipient Disclosure/Update Report.

OMB Control Number, if applicable: 2510-0011.

Description of the need for the information and proposed use: Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) requires the Department to ensure greater accountability and integrity in the provision of assistance administered by

the Department. One feature of the statute requires certain disclosures by applicants seeking assistance from HUD, assistance from states and units of local government, and other assistance to be used with respect to the activities to be carried out with the assistance. The disclosure includes the financial interests of persons in the activities, and the sources of funds to be made available for the activities, and the proposed uses of the funds.

Each applicant that submits an application for assistance, within the jurisdiction of the HUD, to a state or to a unit of general local government for a specific project or activity must disclose this information whenever the dollar

threshold is met. This information must be kept updated during the application review process and while the assistance is being provided.

Agency form numbers, if applicable: HUD 2880.

Members of affected public: Applicants for HUD competitively funded assistance.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The form, HUD 2880, must be submitted as part of an applicant's application for competitively funded assistance.

Number of respondents	Burden hours	Frequency of response	Total burden hours
16,900	2.0	1.2	40,560

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 25, 2006.

Camille E. Acevedo,
Associate General Counsel for Legislation and Regulations.

[FR Doc. E6-6544 Filed 5-1-06; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5052-N-04]

Notice of Proposed Information Collection: Comment Request; Legal Instructions Concerning Applications for Full Insurance Benefits—Assignment of Multifamily Mortgages to the Secretary

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 3, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Brenda M. Johnson, Reports Liaison Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500.

FOR FURTHER INFORMATION CONTACT: Millicent Potts, Assistant General Counsel for Multifamily Mortgage Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9230, Washington, DC 20410-0500, telephone (202) 708-4090 (this is not a toll-free number) for a copy of the instructions.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This notice is soliciting comments from members of the public and 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: Legal Instructions Concerning Applications for Full Insurance Benefits—Assignment of Multifamily Mortgage to the Secretary.

OMB Control Number, if applicable: 2510-0006.

Description of the need for the information and proposed use: Mortgagees of HUD-insured mortgages may receive mortgage insurance benefits upon assignment of mortgages to HUD. In connection with the assignment, legal documents (e.g., mortgage, mortgage note, security agreement, title insurance policy) must be submitted to the Department. The instructions describe the documents to be submitted and the procedures for submission.

Agency form numbers, if applicable: N/A.

Members of affected public: Mortgagees when applying for insurance benefits from HUD.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Number of respondents	Burden hours	Frequency of response	Total burden hours
359	26	1	9,334

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 25, 2006.

Camille E. Acevedo,

Associate General Counsel Legislation and Regulations.

[FR Doc. E6-6545 Filed 5-1-06; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4964-N-02]

Annual Indexing of Basic Statutory Mortgage Limits for Multifamily Housing Programs

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In accordance with section 206A of the National Housing Act, HUD has adjusted the basic statutory mortgage limits for multifamily housing programs for calendar year 2006.

EFFECTIVE DATE: January 1, 2006.

FOR FURTHER INFORMATION CONTACT:

Joseph E. Malloy, Acting Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-8000, telephone (202) 708-1142 (this is not a toll-free number). Hearing-or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: The FHA Downpayment Simplification Act of 2002 (Pub. L. 107-326, approved December 4, 2002) amended the National Housing Act by adding a new section 206A (12 U.S.C. 1712a). Under section 206A, the following are affected:

(1) section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));

(2) section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));

(3) section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));

(4) section 221(d)(3)(ii)(I) (12 U.S.C. 1715l(d)(3)(ii)(I));

(5) section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));

(6) section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and

(7) section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A)).

The dollar amounts in these sections, which are collectively referred to as the 'Dollar Amounts,' shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board's adjustment of the \$400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA) (Pub.L. 103-325, approved September 23, 1994). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

HUD has been notified of the percentage change in the CPI-U used for the HOEPA adjustment and the effective date of the HOEPA adjustment. The percentage change in the CPI-U is 3.51 percent and the effective date of the HOEPA adjustment is January 1, 2006. The Dollar Amounts have been adjusted correspondingly and have an effective date of January 1, 2006.

The adjusted Dollar Amounts for calendar year 2006 are shown below:

Basic Statutory Mortgage Limits for Calendar Year 2006

Multifamily Loan Program

- Section 207—Multifamily Housing.
- Section 207 pursuant to section 223(f)—Purchase or refinance housing.
- Section 220—Housing in urban renewal areas.

Bedrooms	Non-elevator	Elevator
0	\$41,154	47,486
1	45,585	53,183
2	54,449	65,213
3	67,112	81,675
4+	75,977	92,349

- Section 213—Cooperatives.

Bedrooms	Non-elevator	Elevator
0	\$44,597	47,486
1	51,420	53,800
2	62,015	65,419
3	79,378	84,631
4+	88,431	92,900

- Section 221(d)(3)—Moderate income housing.

- Section 234—Condominium housing.

Bedrooms	Non-elevator	Elevator
0	\$45,507	47,890
1	52,470	54,897
2	63,279	66,755
3	80,998	86,358
4+	90,235	94,795

- Section 221(d)(4)—Moderate income housing.

Bedrooms	Non-elevator	Elevator
0	\$40,955	44,239
1	46,488	50,714
2	56,192	61,667
3	70,531	79,776
4+	79,923	87,571

Section 231—Housing for the Elderly.

Bedrooms	Non-elevator	Elevator
0	\$38,938	44,239
1	43,529	50,714
2	51,980	61,667
3	62,553	79,776
4+	73,541	87,571

- Section 207—Manufactured Home Parks.

Per Space—\$18,895

Dated: April 19, 2006.

Brian D. Montgomery,
Assistant Secretary for Housing-Federal
Housing Commissioner.

[FR Doc. E6-6543 Filed 5-1-06; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-300-1020-PH]

Notice of Public Meeting, Idaho Falls District Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Idaho Falls

District Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held June 6–7, 2006 starting at the Soda Springs City Council Chambers, 9 West 2nd South, Soda Springs, Idaho 83276. The meeting will start at 1 p.m. on June 6, with the public comment period as the first agenda item. The second day will conclude at or before 5 p.m. Following the first two hours of the meeting at the Soda Springs City Hall, the rest of the meeting will be conducted as a field tour. Meeting attendees outside of BLM staff and RAC members should provide their own transportation if they wish to participate.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in the BLM Idaho Falls District (IFD), which covers eastern Idaho. At this meeting, the Advisory Council will receive updates on current IFD and BLM Idaho issues. The field tour for the RAC will be to Blackfoot Reservoir Campground on June 6 and the Simplot Smoky Canyon Mine on June 7.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided below.

FOR FURTHER INFORMATION CONTACT: David Howell, RAC Coordinator, Idaho Falls District, 1405 Hollipark Dr., Idaho Falls, ID 83401. Telephone (208) 524-7559. E-mail: David_Howell@blm.gov.

Dated: April 26, 2006.

David Howell,
RAC Coordinator, Public Affairs Specialist.
[FR Doc. E6-6585 Filed 5-1-06; 8:45 am]
BILLING CODE 4310-GG-P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing

or related actions in the National Register were received by the National Park Service before April 22, 2006. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202-371-6447. Written or faxed comments should be submitted by May 17, 2006.

John W. Roberts,
Acting Chief, National Register/National
Historic Landmarks Program.

Alabama

Calhoun County

Profile Cotton Mills Historic District,
Alexandria St., A St., H St., and D St.,
Jacksonville, 06000436

Colbert County

Muscle Shoals Sound Studio, 3614 Jackson
Hwy., Sheffield, 06000437

Jefferson County

Woodlawn Highlands Historic District,
Bounded by 5th Ave. S, Crestwood Blvd.,
and 56th and 61st. Sts. S, Birmingham,
06000438

Montgomery County

Winter Place, 454 S. Goldwaite St.,
Montgomery, 06000439

Alaska

Southeast Fairbanks Borough-Census Area
F.E. Company Dredge No. 4, 0.25 mi.
Chicken Airport Rd., mi. 66.4 Taylor Hwy,
Chicken, 06000435

Arizona

Maricopa County

Medlock Place Historic District, Roughly
bounded by Missouri Ave., Camelback Rd.,
7th Ave. and Central Ave. Phoenix,
06000434

Arkansas

Clay County

Piggott National Guard Armory, 775 E. Main
St., Piggott, 06000440

Desha County

McGehee National Guard Armory, 1610 S.
First St., McGehee, 06000441

Florida

Hillsborough County

Roosevelt Elementary School, 3205 S.
Ferdinand Ave., Tampa, 06000443

Martin County

Seminole Inn, 15885 SE Warfield Blvd.,
Indiantown, 06000442

Georgia

Cobb County

Moore, Tarleton, House, 4784 Northside Dr.,
Acworth, 06000453

Illinois

Cook County

Krause Music Store, 4611 N. Lincoln Ave.,
Chicago, 06000452

Union Park Congregational Church and
Carpenter Chapel, 1613 W. Washington
Blvd., Chicago, 06000446

Henry County

Kewanee Public Library, (Illinois Carnegie
Libraries MPS) 102 S Tremont, Kewanee,
06000447

Kankakee County

Downtown Momence Historic District,
Roughly Washington St., from N. Locust to
Pine and Dixie Hwy., from 2nd to River,
Momence, 06000449

Durham—Perry Farmstead, 459 N. Kennedy
Dr., Bourbonnais, 06000445

Sangamon County

Jennings Ford Automobile Dealership, 431 S.
Fourth St., Springfield, 06000450

Will County

McGovney—Yunker Farmstead, 10824
LaPorte Rd., Mokena, 06000448

Iowa

Woodbury County

Swedish Evangelical Lutheran Augustana
Church, 600 Court St., Sioux City,
06000444

Maryland

Anne Arundel County

Linthicum Heights Historic District, Roughly
bounded by Camp Meade Rd., Homewood
Rd., Twin Oaks Rd. Locust Grove Rd. and
Forest View Rd., Linthicum, 06000451

Minnesota

Fillmore County

Milwaukee Elevator, (Grain Elevator Design
in Minnesota MPS), Fillmore Street and
Root River State Trail, Preston, 06000454

St. Louis County

Duluth Commercial Historic District,
Superior and 1st bet. 4th Ave. W and 4th
Ave. E, Duluth, 06000455

South Dakota

Clay County

Bluff View Cemetery Chapel, 0.2 mi. S of jct.
of Crawford Rd. and Pinehurst Dr.,
Vermillion, 06000458

Fall River County

Bartlett—Myers Building, 506½ 2nd Ave.,
Edgemont, 06000457

Hughes County

Hilger Block, 361 S. Pierre, Pierre, 06000456

Miner County

Coughlin House, 260 W. Main St., Carthage,
06000460

Minnehaha County

Tuthill, John W., Lumber Company, 311 E.
8th St., Sioux Falls, 06000459

Union County

Swanson House, 30572 483rd Ave., Alcester,
06000461

A request for REMOVAL has been made for
the following resource:

South Dakota

Lawrence County

Sunderland, James, House 711 Canyon,
Spearfish, 90001648

[FR Doc. 06-4126 Filed 5-1-06; 8:45 am]

BILLING CODE 4312-51-P

DATES: Comments on this notice must be
received by July 3, 2006.

ADDRESSES: Address all comments
concerning this information collection
to Bureau of Reclamation, Central
California Area Office, 7794 Folsom
Dam Road, Folsom, CA 95630.

FOR FURTHER INFORMATION CONTACT: For
further information or a copy of the
proposed collection of information
form, contact Ms. Elizabeth Ayres,
Bureau of Reclamation, telephone 916-
989-7192, or at the address above.

SUPPLEMENTARY INFORMATION: Comments
are invited on: (a) Whether the proposed
collection of information is necessary
for the proper performance of
Reclamation's functions, including
whether the information will have
practical use; (b) the accuracy of
Reclamation's estimated time and cost
burdens of the proposed collection of
information, including the validity of
the methodology and assumptions used;
(c) ways to enhance the quality, use, and
clarity of the information to be
collected; and (d) ways to minimize the
burden of the collection of information
on respondents, including increased use
of automated collection techniques or
other forms of information technology.
Consideration will be given to
comments and suggestions submitted
within 60 days of this publication.

Title: Recreation Survey, New
Melones Lake Project, Sonora, CA.

Abstract: The purpose of the on-site
recreation survey is to characterize

existing users, characterize their use of
the New Melones Project, assess their
satisfaction with their experience and
the facilities, and find out what other
opportunities or facilities they would
like to see developed at the New
Melones Lake Project. The purpose of
the regional telephone survey is to
characterize regional population, their
outdoor recreation use, the demand for
various types of outdoor recreation
activities, trends in outdoor recreation
use, and the extent to which regional
population use New Melones Lake
Project, Sonora, CA. Together the on-site
survey and the regional telephone
survey shall describe the recreational
preferences of visitors to the New
Melones Lake Project and provide
guidance on what recreational planning
objectives should be included in the
New Melones Lake Project RMP/EIS.

Description of respondents: Persons
who recreate at New Melones Lake
Project and the areas surrounding New
Melones Lake Project, and residents in
Sonora and Tuolumne counties.

Frequency: This is a one-time
voluntary survey.

**Estimated Total Number of
Respondents:** 1,500.

**Estimated Number of Responses per
Respondent:** 1.

**Estimated Total Annual Burden on
Respondents:** 375 hours.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Information Collection Activities;
Proposed Collection; Comment
Request

AGENCY: Bureau of Reclamation,
Interior.

ACTION: Notice and request for
comments.

SUMMARY: In accordance with the
Paperwork Reduction Act of 1995, this
notice announces that the Bureau of
Reclamation (Reclamation) intends to
seek approval of the following proposed
new information collection: Recreation
Survey, New Melones Lake Project,
Sonora, CA. Before submitting the
information collection request to the
Office of Management and Budget for
approval, Reclamation is soliciting
comments on specific aspects of the
information collection.

ESTIMATE OF BURDEN FOR EACH FORM

Form	Burden esti- mate per form (in minutes)	Number of respondents	Annual burden on respondents (in hours)
On-site survey	15	1250	312.5
Telephone survey	15	250	62.5
Total		1500	375

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
address from public disclosure, which
we will honor to the extent allowable by
law. There also may be circumstances in
which we would withhold a
respondent's identity from public
disclosure, as allowable by law. If you
wish us to withhold your name and/or
address, you must state this
prominently at the beginning of your
comment. 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 disclosure in their entirety.

Dated: April 24, 2006.

Michael R. Finnegan,

*Area Manager of Central California Area
Office, Mid-Pacific Region.*

[FR Doc. E6-6593 Filed 5-1-06; 8:45 am]

BILLING CODE 4310-MN-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation
and EnforcementNotice of Proposed Information
Collection for 1029-0027

AGENCY: Office of Surface Mining
Reclamation and Enforcement.

ACTION: Notice and request for
comments.

SUMMARY: In compliance with the
Paperwork Reduction Act of 1995, the
Office of Surface Mining Reclamation
and Enforcement (OSM) is announcing
its intention to request approval to
continue the collections of information

under 30 CFR part 740, Surface Coal Mining and Reclamation Operations on Federal Lands. This information collection activity was previously approved by the Office of Management and Budget (OMB), and assigned clearance numbers 1029-0027.

DATES: Comments on the proposed information collection must be received by July 3, 2006, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 202—SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection requests, explanatory information and related forms, contact John A. Trelease, at (202) 208-2783.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8 (d)]. This notice identifies an information collection that OSM will be submitting to OMB for approval. This collection is contained in 30 CFR part 740, General requirements for surface coal mining and reclamation operations on Federal lands (1029-0027). OSM will request a 3-year term of approval for this information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection requests to OMB.

The following information is provided for the information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection; description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: 30 CFR Part 740—General requirements for surface coal mining

and reclamation operations on Federal lands.

OMB Control Number: 1029-0027.

Summary: Section 523 of SMCRA requires that a Federal lands program be established to govern surface coal mining and reclamation operations on Federal lands. The information requested is needed to assist the regulatory authority determine the eligibility of an applicant to conduct surface coal mining operations on Federal lands.

Frequency of Collection: Once.

Description of Respondents:

Applicants for surface coal mine permits on Federal lands, and State Regulatory Authorities.

Total Annual Responses: 42.

Total Annual Burden Hours for Applicants: 2,602.

Total Annual Burden Hours for States: 800.

Total Annual Burden for All Respondents: 3,402.

Dated: April 26, 2006.

John R. Craynon,

Chief, Division of Regulatory Support.

[FR Doc. 06-4125 Filed 5-1-06; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1103 (Preliminary)]

Certain Activated Carbon From China Determination

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of certain activated carbon,²

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

² For purposes of this investigation, the product covered is certain activated carbon defined as a powdered, granular or pelletized carbon product obtained by "activating" with heat and steam various materials containing carbon, including but not limited to coal (including bituminous, lignite and anthracite), wood, coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas (CO₂) in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO₂ gas) activation process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon. This definition covers all

provided for in subheading 3802.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Commencement of Final Phase Investigation

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users,

forms of activated carbon that are activated by steam or CO₂, regardless of raw material, grade, mixture, additives, further washing or post-activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, this definition covers all physical forms of certain activated carbon, including powdered activated carbon ("PAC"), granular activated carbon ("GAC"), and pelletized activated carbon.

Excluded from this definition are chemically-activated carbons. The carbon-based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid or zinc chloride sulfuric acid, that dehydrates molecules in the raw material, and results in the formation of water that is removed from the raw material by moderate heat treatment. The activated carbon created by chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO₂ gas) activated carbons are within this definition, and those containing more than 50 percent chemically activated carbons are outside this definition.

Also excluded from this definition are reactivated carbons and activated carbon cloth. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after use through the application of heat, steam and/or chemicals. Activated carbon cloth is a woven textile fabric made of or containing activated carbon fibers. It is used in masks and filters and clothing of various types where a woven format is required.

Any activated carbon meeting the physical description of subject merchandise provided above that is not expressly excluded from this definition is included within the definition.

and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Background

On March 8, 2006, a petition was filed with the Commission and Commerce by Calgon Carbon Corporation, Pittsburgh, PA, and Norit Americas, Inc., Marshall, TX, alleging that an industry in the United States is materially injured by reason of LTFV imports of certain activated carbon from China. Accordingly, effective March 8, 2006, the Commission instituted antidumping duty investigation No. 731-TA-1103 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of March 15, 2006 (71 FR 13430). The conference was held in Washington, DC, on March 30, 2006, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 24, 2006. The views of the Commission are contained in USITC Publication 3852 (May 2006), entitled *Certain Activated Carbon from China: Investigation No. 731-TA-1103 (Preliminary)*.

By order of the Commission.

Issued: April 26, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6-6546 Filed 5-1-06; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office for Victims of Crime; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Extension of a currently approved collection; Victims of Crime Act, Crime Victim Assistance Grant Program Performance Report.

The Department of Justice (DOJ), Office of Justice Programs (OJP), Office for Victims of Crime (OVC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the *Federal Register* Volume 70, Number 178, page 54573 on September 15, 2005, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until June 1, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395-5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Victims of Crime Act, Crime Victim Assistance Grant Program, Performance Report.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1121-0115. Office of Victims of Crime, Office of Justice Programs, U.S. Department of Justice is sponsoring the collection.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Primary: State government. Other: None. The VOCA, Crime Victim Assistance Grant Program, State Performance Report is a required annual submission by state grantees to report to the Office for Victims of Crime (OVC) on the uses and effects VOCA victim assistance grant funds have had on services to crime victim in the State, to certify compliance with the eligibility requirement of VOCA, and to provide a summary of supported activities carried out within the State during the grant period. This information will be aggregated and serve as supporting documentation for the Director's biennial report to the President and to the Congress on the effectiveness of the activities supported by these grants.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* The information to compile these reports will be drawn from victim assistance program data to the 57 respondents (grantees). The number of victim assistance programs varies widely from state to state. A state could be responsible for compiling subgrant data for as many as 391 programs (Ohio) to as few as 12 programs (District of Columbia). Therefore, the estimated clerical hours can range from 1 to 70 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The current estimated burden is 1,197 (20) hours per respondent (estimate median) + 1 hour per respondent for recordkeeping × 57 respondents = 1,197. There is no increase in the annual recordkeeping and reporting burden.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: April 25, 2006.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 06-4100 Filed 5-1-06; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection: Health Insurance Claim Form (OWCP-1500). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this Notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 3, 2006.

ADDRESSES: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S-3201, Washington, DC 20210, telephone (202) 693-0418, fax (202) 693-1451, E-mail bell.hazel@dol.gov. Please use only one method of transmission for comments (mail, fax, or E-mail).

SUPPLEMENTARY INFORMATION:

I. Background: The Office of Workers' Compensation Programs (OWCP) is the agency responsible for administration of the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101, *et seq.*, the Black Lung Benefits Act (BLBA), 30 U.S.C. 901 *et seq.* and the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384 *et seq.* All three of these statutes require that OWCP pay for medical treatment of

beneficiaries; BLBA also requires that OWCP pay for medical examinations and related diagnostic services to determine eligibility for benefits under that statute. In order to determine whether billed amounts are appropriate, OWCP needs to identify the patient, the injury or illness that was treated or diagnosed, the specific services that are rendered and their relationship to the work-related injury or illness. The regulations implementing these statutes require the use of Form OWCP-1500 for medical bills submitted by certain physicians and other providers (20 CFR 10.801, 30.701, 725.405, 725.406, 725.701 and 725.704). The OWCP-1500 is used by OWCP and contractor bill payment staff to process bills for medical services provided by medical professionals other than medical services provided by hospitals, pharmacies, and certain other providers. This information collection is currently approved for use through November 30, 2006.

II. Review Focus: The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions: The Department of Labor seeks approval for the extension of this information collection in order to carry out its responsibility to provide payment for certain covered medical services to injured employees who are covered under FECA, BLBA and EEOICPA.

Type of Review: Extension.
Agency: Employment Standards Administration.

Title: Health Insurance Claim Form.
OMB Number: 1215-0055.

Agency Number: OWCP-1500.
Affected Public: Individual or households; Business or other for-profit; Not-for-profit institutions.

Total Respondents: 735,000.

Total Responses: 2,940,000.

Time per Response: 7 minutes.

Frequency: On occasion.

Estimated Total Burden Hours: 343,574.

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintenance): \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: April 27, 2006.

Ruben L. Wiley,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E6-6600 Filed 5-1-06; 8:45 am]

BILLING CODE 4510-CR-P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act; Meeting

April 24, 2006.

TIME AND DATE: 10 a.m., Thursday, May 18, 2006.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor v. Cumberland Coal Resources, LP*, Docket Nos. PENN 2004-73-R, PENN 2004-74-R, PENN 2004-75-R, PENN 2004-85-R, PENN 2004-86-R, PENN 2004-87-R, PENN 2004-88-R, PENN 2004-104-R, PENN 2004-105-R, PENN 2004-181, and PENN 2005-8. (Issues include whether substantial evidence supports the judge's findings that Cumberland violated 30 CFR 75.334(b)(1) on three occasions because its bleeder system failed to effectively dilute and carry away methane; whether substantial evidence supports the judge's findings that Cumberland had notice that its bleeder system violated 30 CFR 75.334(b)(1); and whether the judge correctly found that MSHA acted within its discretion in issuing imminent danger withdrawal orders on two occasions).

The Commission will hear oral argument in this matter on May 11, 2006.

Any person attending this meeting who requires special accessibility

features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs, subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION:

Jean Ellen, (202) 434-9950/(202) 708-9300 for TDD Relay/1-800-877-8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 06-4155 Filed 4-28-06; 12:20 pm]

BILLING CODE 6735-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act; Meeting

April 24, 2006.

TIME AND DATE: 10 a.m., Thursday, May 4, 2006.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor v. Plateau Mining Corporation*, Docket Nos. WEST 2002-207 and WEST 2002-278. (Issues include whether the judge correctly determined that Plateau's bleeder system was not functioning in accordance with the requirements of 30 CFR 75.334(b)(1); whether the judge correctly determined that Plateau's alleged violation of section 75.334(b)(1) was of a significant and substantial nature; whether the judge correctly determined that Plateau violated 30 CFR 75.370(a) because its ventilation plan did not include a breached undercast; and whether the judge correctly determined that an operator may be held to have violated section 75.334(b)(1) even if it has complied with the terms of its ventilation plan).

The Commission will hear oral argument in this matter on April 27, 2006.

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs, subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION:

Jean Ellen, (202) 434-9950/(202) 708-

9300 for TDD Relay/1-800-877-8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 06-4156 Filed 4-28-06; 12:20 pm]

BILLING CODE 6735-01-M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* Nuclear Material Events Database (NMED) for the Collection of Event Report, Response, Analyses, and Follow-up Data on Events Involving the Use of Atomic Energy Act (AEA) Radioactive Byproduct Material.

2. *Current OMB approval number:* (3150-0178).

3. *How often the collection is required:* Agreement States are requested to provide copies of licensee material event reports electronically or by hard copy to NRC on a monthly basis or within 30 days of receipt from their licensee. This schedule provides the Agreement States 30 days to assess the licensee information prior to providing the information to NRC. Reportable events involve industrial, commercial, medical use, and/or academic use of radioactive byproduct materials. In addition, Agreement States are requested to report events that may pose a significant health and safety hazard to the NRC Headquarters Operations Officer within the next working day of notification by an Agreement State licensee.

4. *Who is required or asked to report:* Current Agreement States and any State receiving Agreement State status in the future.

5. *The number of annual respondents:* 34.

6. *The number of hours needed annually to complete the requirement or request:* 756 hours (an average of 22 hours per respondent).

7. *Abstract:* NRC regulations require NRC licensees to report incidents and events involving the use, transportation and security of radioactive byproduct material, and source material, such as those involving radiation overexposures, leaking or contaminated sealed source(s), release of excessive contamination of radioactive material, lost or stolen radioactive material, equipment failures, abandoned well logging sources and medical events. Agreement State licenses are also required to report these events to their individual Agreement State regulatory authorities under compatible Agreement State regulations. NRC is requesting that the Agreement States provide information to NRC on the initial notification, response actions, and follow-up investigations on events involving the use (including suspected theft or terrorist activities) of nuclear materials regulated pursuant to the Atomic Energy Act. The event information should be provided in a uniform electronic format, for assessment and identification of any facilities/site specific or generic safety concerns that could have the potential to impact public health and safety. The identification and review of safety concerns may result in lessons learned, and may also identify generic issues for further study which could result in proposals for changes or revisions to technical or regulatory designs, processes, standards, guidance or requirements.

Submit, by July 3, 2006, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC Worldwide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance

Officer, Brenda Jo. Shelton (T-5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by telephone at 301-415-7233, or by Internet electronic mail to INFOCOLLECTS@NRC.GOV.

Dated at Rockville, Maryland, this 25th day of April 2006.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,
NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. E6-6633 Filed 5-1-06; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 30-36974-ML; ASLBP No. 06-843-01-ML]

Atomic Safety and Licensing Board; Before Administrative Judges: Thomas S. Moore, Chairman, Dr. Paul Abramson, Dr. Anthony J. Baratta; In the Matter of Pa'ina Hawaii, LLC (Material License Application); Notice of Hearing

April 26, 2006.

This proceeding involves the application by Pa'ina Hawaii, LLC, submitted on June 27, 2005, for a possession and use materials license to build and operate a commercial pool-type industrial irradiator using a cobalt-60 source at the Honolulu International Airport.¹ In response to the August 2, 2005, Notice of Opportunity for Hearing published at 70 FR 44,396 (August 2, 2005), the Petitioner, Concerned Citizens of Honolulu, on October 3, 2005, timely filed a request for a hearing. Thereafter, on October 13, 2005, this Atomic Safety and Licensing Board was established by the Commission to preside over the proceeding. See 70 FR 60,858 (October 19, 2005).

On January 24, 2006, the Board issued LBP-06-04, 63 NRC 99 (2006), granting the hearing request of the Petitioner, Concerned Citizens of Honolulu, on the application of Pa'ina Hawaii, LLC. Due to the Petitioner's initial lack of access to sensitive non-public information contained in the Application, the January 24, 2006, memorandum and order, addressed only the Petitioner's standing and its two environmental contentions. Subsequently, on March 24, 2006, the Board addressed the Petitioner's safety related contentions and admitted three additional contentions. See LBP-06-12, 63 NRC _____ (March 24, 2006). Parties to

the proceeding are Concerned Citizens of Honolulu, Pa'ina Hawaii, LLC, and the NRC Staff. The issues to be considered are the admitted contentions.

Please take notice that a hearing will be conducted in this proceeding. The hearing will be governed by the informal hearing procedures set forth in 10 CFR part 2, subpart L, 10 CFR 2.1200-.1213. Except to the extent an early settlement or other circumstance renders them unnecessary, the Board may conduct an oral argument, may hold pre-hearing conferences, and may conduct an oral hearing. Unless otherwise ordered, the public is invited to attend any argument, pre-hearing conference, or oral hearing. Notices of these sessions will be published in the *Federal Register* and/or made available to the public at the NRC Public Document Room, located at One White Flint, 11555 Rockville Pike (first floor), Rockville, Maryland, and through the NRC Web site, <http://www.nrc.gov>.

In addition, pursuant to 10 CFR 2.315(a), any person not a party to the proceeding may submit a written limited appearance. Limited appearance statements, which are placed in the docket of the proceeding, provide members of the public with the opportunity to make the Board and the parties aware of their concerns about the matters at issue in the proceeding. Persons wishing to submit a written limited appearance statement should send it by mail to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. A copy of the statement should also be served by mail on the Chairman of this Atomic Safety and Licensing Board, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. In its sole discretion and at a later date, the Board may entertain oral limited appearance statements at a suitable location or locations. Notice of any oral limited appearance sessions will be published in the *Federal Register* and/or made available to the public at the NRC Public Document Room and on the NRC Web site, <http://www.nrc.gov>.

Documents relating to this proceeding are available for public inspection at the NRC's Public Document Room or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site 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 may contact the NRC Public Document Room reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to pdr@nrc.gov.

It is so ordered.

Dated: April 26, 2006 at Rockville, Maryland.

For the Atomic Safety and Licensing Board.²

Thomas S. Moore,
Chairman, Administrative Judge.

[FR Doc. E6-6621 Filed 5-1-06; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on May 30, 2006, Room T-2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, May 30, 2006—1:30 p.m.—5 p.m.

The purpose of this meeting is to discuss the License Renewal Application for the Monticello Nuclear Generating Plant and the related Safety Evaluation Report (SER) with open items prepared by the NRR staff. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, Nuclear Management Company, LLC, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Cayetano Santos (telephone 301/415-7270) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named

² Copies of this Order were sent this date by Internet e-mail transmission to counsel for the (1) Applicant Pa'ina Hawaii, LLC; (2) Intervenor Concerned Citizens of Honolulu; and (3) NRC Staff.

¹ See 70 FR 44,396 (Aug. 2, 2005).

individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: April 25, 2006.

Michael R. Snodderly,
Acting Branch Chief, ACRS/ACNW.

[FR Doc. E6-6608 Filed 5-1-06; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Sunshine Act; Notice of Meetings

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of May 1, 8, 15, 22, 29, June 5, 2006.

PLACE: Commissioner' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 1, 2006

Tuesday, May 2, 2006

9:30 a.m. Briefing on Status of Emergency Planning Activities—Morning Session (Public Meeting) (Contact: Eric Leeds, 301-415-2334).

1 p.m. Briefing on Status of Emergency Planning Activities—Afternoon Session (Public Meeting).

These meetings will be webcast live at the Web address <http://www.nrc.gov>.

Wednesday, May 3, 2006

8:55 a.m. Affirmation Session (Public Meeting) (Tentative)

a. Andrew Siemaszko, Docket No. IA-05-021, unpublished Licensing Board Order (March 2, 2006) (Tentative).

9 a.m. Briefing on Status of Risk-Informed, Performance-Based Reactor Regulation (Public Meeting) (Contact: Eileen McKenna, 301-415-2189).

This meeting will be webcast live at the Web address <http://www.nrc.gov>.

Week of May 8, 2006—Tentative

There are no meetings scheduled for the Week of May 8, 2006.

Week of May 15, 2006—Tentative

Monday, May 15, 2006

1 p.m. Briefing on Status of Implementation of Energy Policy Act of 2005 (Public Meeting) (Contact: Scott Moore, 301-415-7278).

This meeting will be webcast live at the Web address <http://www.nrc.gov>.

Tuesday, May 16, 2006

9:30 a.m. Briefing on Results of the Agency Action Review Meeting—

Reactors/Materials (Public Meeting) (Contact: Mark Tonacci, 301-415-4045).

This meeting will be webcast live at the Web address <http://www.nrc.gov>.

Week of May 22, 2006—Tentative

Wednesday, May 24, 2006

9:30 a.m. Discussion of Security Issues (closed—ex. 1).

1:30 p.m. All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, Salons D-H, 5701 Marinelli Road, Rockville, MD 20852.

Week of May 29, 2006—Tentative

Wednesday, May 31, 2006

Discussion of Security Issues (closed—ex. 1).

Week of June 5, 2006—Tentative

Wednesday, June 7, 2006

9:30 a.m. Discussion of Security Issues (closed—ex. 1 & 3).

* * * * *

Additional Information

The Affirmation of Andrew Siemaszko, Docket No. IA-05-021, unpublished Licensing Board Order (Dec. 22, 2005) previously tentatively scheduled on May 3, 2006, has been postponed and will be rescheduled.

* * * * *

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292. Contact person for more information: Michelle Schroll, (301) 415-1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/what-we-do/policy-making/schedule.html>.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301-415-7041, TDD: 301-415-2100, or by e-mail at DLC@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969).

In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: April 26, 2006.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 06-4164 Filed 4-28-06; 1:03 pm]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 6.6 and 213.103.

FOR FURTHER INFORMATION CONTACT: David Guilford, Center for Leadership and Executive Resources Policy, Division for Strategic Human Resources Policy, 202-606-1391.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedules A, B, and C between March 1, 2006, and March 31, 2006. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 is published each year.

Schedule A

No Schedule A appointments were approved for March 2006.

Schedule B

No Schedule B appointments were approved for March 2006.

Schedule C

The following Schedule C appointments were approved during March 2006:

Section 213.3303 Executive Office of the President

Office of National Drug Control Policy

QQGS00043 Legislative Assistant to the Associate Director, Legislative Affairs. Effective March 22, 2006.

QQGS00040 Legislative Analyst to the Associate Director, Legislative Affairs. Effective March 23, 2006.

Section 213.3304 Department of State
DSGS61037 Foreign Affairs Officer to the Assistant Secretary for Western

- Hemispheric Affairs. Effective March 01, 2006.
- DSGS61050 Staff Assistant to the Deputy Secretary. Effective March 03, 2006.
- DSGS61053 Staff Assistant to the Assistant Secretary, Bureau of Educational and Cultural Affairs. Effective March 3, 2006.
- DSGS61052 Special Assistant to the HIV/AIDS Coordinator. Effective March 9, 2006.
- DSGS61058 Staff Assistant to the Assistant Secretary for Oceans, International Environment and Science Affairs. Effective March 9, 2006.
- DSGS61006 Legislative Management Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective March 16, 2006.
- DSGS61051 Staff Assistant to the Senior Advisor to the Secretary and White House Liaison. Effective March 16, 2006.
- DSGS61057 Writer-Editor to the Assistant Secretary for Oceans, International Environment and Science Affairs. Effective March 28, 2006.
- DSGS61060 Protocol Assistant to the Chief of Protocol. Effective March 28, 2006.
- DSGS60762 Special Assistant to the Assistant Secretary for Public Affairs. Effective March 31, 2006.
- DSGS61005 Legislative Management Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective March 31, 2006.
- Section 213.3305 Department of the Treasury*
- DYGS00439 Executive Secretary to the Chief of Staff. Effective March 9, 2006.
- DYGS00467 Associate Director to the White House Liaison. Effective March 10, 2006.
- DYGS00468 Public Affairs Specialist to the Director, Public Affairs. Effective March 16, 2006.
- DYGS60395 Deputy Executive Secretary to the Executive Secretary. Effective March 22, 2006.
- Section 213.3306 Department of Defense*
- DDGS16927 Staff Assistant to the Special Assistant to the Secretary of Defense for White House Liaison. Effective March 15, 2006.
- DDGS16925 Public Affairs Specialist to the Public Affairs Specialist. Effective March 16, 2006.
- DDGS16923 Research Assistant to the Speechwriter. Effective March 21, 2006.
- DDGS16924 Speechwriter to the Speechwriter. Effective March 21, 2006.
- DDGS16909 Special Assistant to the Special Assistant to the Secretary of Defense for White House Liaison. Effective March 30, 2006.
- DDGS16928 Director, Department of Defense Office of Legislative Counsel to the Deputy General Counsel Legal Counsel. Effective March 31, 2006.
- Section 213.3308 Department of the Navy*
- DNGS06113 Staff Assistant to the Secretary of the Navy. Effective March 16, 2006.
- Section 213.3310 Department of Justice*
- DJGS00027 Counselor to the Assistant Attorney General Environment and Natural Resources. Effective March 17, 2006.
- Section 213.3311 Department of Homeland Security*
- DMGS00486 Supervisory Management and Program Analyst to the Executive Secretary. Effective March 8, 2006.
- DMGS00491 Confidential Assistant to the Chief of Staff. Effective March 8, 2006.
- DMGS00494 Special Assistant to the Under Secretary for Emergency Preparedness and Response. Effective March 14, 2006.
- DMGS00489 Deputy Director of Secretarial Briefing Book to the Executive Secretary. Effective March 15, 2006.
- DMGS00490 Director of Faith-Based and Community Initiatives to the Under Secretary for Preparedness. Effective March 15, 2006.
- DMGS00492 Deputy Director for Legislative Affairs to the Director of Legislative Affairs, Federal Emergency Management Agency. Effective March 15, 2006.
- DMGS00493 Confidential Assistant to the General Counsel. Effective March 22, 2006.
- DMGS00497 Deputy Executive Director, Homeland Security Advisory Committees to the Executive Director, Homeland Security Advisory Committees. Effective March 22, 2006.
- DMGS00480 Deputy Director of Communications to the Chief of Staff. Effective March 25, 2006.
- DMGS00496 Director of Scheduling and Advance to the Chief of Staff. Effective March 25, 2006.
- DMGS00468 Public Liaison Officer to the Director of Strategic Communications. Effective March 30, 2006.
- DMGS00500 White House Liaison and Advisor to the Chief of Staff. Effective March 30, 2006.
- Section 213.3312 Department of the Interior*
- DIGS01059 Special Assistant—Historic Preservation to the Chief of Staff. Effective March 15, 2006.
- DIGS09059 Speechwriter to the Director, Office of Communications. Effective March 15, 2006.
- DIGS01060 Special Assistant to the Assistant Secretary for Water and Science. Effective March 16, 2006.
- DIGS70005 Assistant Director, Legislative and Congressional Affairs to the Director National Park Service. Effective March 16, 2006.
- DIGS01061 White House Liaison to the Deputy Chief of Staff. Effective March 24, 2006.
- DIGS01062 Associate Director—External and Intergovernmental Affairs to the Director, External and Intergovernmental Affairs. Effective March 24, 2006.
- DIGS60133 Chief, Office of Congressional and Legislative Affairs to the Director, External and Intergovernmental Affairs. Effective March 25, 2006.
- DIGS01063 Associate Director—External and Intergovernmental Affairs to the Director, External and Intergovernmental Affairs. Effective March 31, 2006.
- Section 213.3313 Department of Agriculture*
- DAGS00845 Deputy Director, Advance to the Director of Communications. Effective March 10, 2006.
- DAG500847 Confidential Assistant to the Associate Administrator. Effective March 28, 2006.
- DAGS00846 Deputy Director of Communications to the Director of Communications. Effective March 29, 2006.
- DAGS00848 Special Assistant to the Under Secretary for Natural Resources and Environment. Effective March 29, 2006.
- Section 213.3314 Department of Commerce*
- DCGS00506 Public Affairs Specialist to the Director of Public Affairs. Effective March 3, 2006.
- DCGS00696 Deputy Director of Public Affairs to the Director of Public Affairs. Effective March 3, 2006.
- DCGS00683 Senior Advisor to the Assistant Secretary for Import Administration. Effective March 13, 2006.
- DCGS00447 Confidential Assistant to the Director of Scheduling. Effective March 29, 2006.
- DCGS00628 Confidential Assistant to the Director of Public Affairs. Effective March 29, 2006.

Section 213.3315 Department of Labor

- DLGS60222 Special Assistant to the Assistant Secretary for Disability Employment Policy. Effective March 10, 2006.
- DLGS60113 Special Assistant to the Assistant Secretary for Public Affairs. Effective March 15, 2006.
- DLGS60171 Deputy Director of Advance to the Director of Operations. Effective March 30, 2006.

Section 213.3316 Department of Health and Human Services

- DHGS60029 Special Assistant to the Assistant Secretary for Public Affairs. Effective March 1, 2006.
- DHGS60527 Confidential Assistant (Scheduling) to the Director of Scheduling. Effective March 1, 2006.
- DHGS60632 Special Outreach Coordinator to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy). Effective March 1, 2006.
- DHGS60347 Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison). Effective March 10, 2006.
- DHGS60549 Speechwriter to the Assistant Secretary for Public Affairs. Effective March 25, 2006.

Section 213.3317 Department of Education

- DBGS00509 Executive Director, White House Initiative on Historically Black Colleges and Universities to the Chief of Staff. Effective March 3, 2006.
- DBGS00512 Special Assistant to the Deputy Assistant Secretary for External Affairs and Outreach Services. Effective March 14, 2006.
- DBGS00511 Confidential Assistant to the Director, International Affairs Office. Effective March 25, 2006.

Section 213.3318 Environmental Protection Agency

- EPGS06007 Deputy Speech Writer to the Associate Administrator for Public Affairs. Effective March 3, 2006.
- EPGS06009 Press Secretary to the Associate Administrator for Public Affairs. Effective March 27, 2006.
- EPGS06008 Advance Specialist to the Deputy Chief of Staff (Operations). Effective March 31, 2006.

Section 213.3323 Overseas Private Investment Corporation

- PQGS04035 Confidential Assistant to Chief of Staff. Effective March 8, 2006.

Section 213.3325 United States Tax Court

- JCGS60071 Trial Clerk to the Chief Judge. Effective March 3, 2006.

Section 213.3331 Department of Energy

- DEGS00517 Scheduler to the Secretary. Effective March 27, 2006.
- DEGS00513 Senior Advisor/Director of Strategic Initiatives to the Secretary. Effective March 31, 2006.

Section 213.3337 General Services Administration

- GSGS00170 Special Assistant to the Commissioner, Public Buildings Service. Effective March 1, 2006.
- GSGS00172 Senior Advisor to the Commissioner, Public Buildings Service. Effective March 1, 2006.
- GSGS00161 Public Affairs Specialist to the Deputy Director for Communications. Effective March 15, 2006.
- GSGS00163 Special Assistant to the Associate Administrator for Performance Improvement. Effective March 25, 2006.
- GSGS00173 Senior Advisor to the Chief Acquisition Officer. Effective March 30, 2006.

Section 213.3344 Occupational Safety and Health Review Commission

- SHGS00002 Confidential Assistant to the Commission Member (Chairman). Effective March 28, 2006.

Section 213.3348 National Aeronautics and Space Administration

- NNGS00166 Executive Assistant to the Chief of Staff. Effective March 1, 2006.
- NNGS00168 Editor to the Assistant Administrator for Public Affairs. Effective March 15, 2006.

Section 213.3357 National Credit Union Administration

- CUOT00026 Staff Assistant to the Vice Chair. Effective March 10, 2006.

Section 213.3384 Department of Housing and Urban Development

- DUGS60394 Staff Assistant to the Assistant Secretary for Community Planning and Development. Effective March 16, 2006.
- DUGS60344 Staff Assistant to the Assistant Secretary for Public Affairs. Effective March 22, 2006.

Section 213.3391 Office of Personnel Management

- PMGS00057 Executive Director, Chief Human Capital Officers Council to the Executive Director and Senior Counselor to the Director. Effective March 16, 2006.
- PMGS00058 Senior Advisor to the Director. Effective March 17, 2006.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218

Office of Personnel Management.

Dan G. Blair,

Deputy Director.

[FR Doc. 06-4129 Filed 5-1-06; 8:45 am]

BILLING CODE 5325-39-M

RAILROAD RETIREMENT BOARD**Computer Matching and Privacy Protection Act of 1988; Notice of RRB Records Used in Computer Matching**

AGENCY: Railroad Retirement Board (RRB).

ACTION: Notice of Records Used in Computer Matching Programs; Notification to individuals who are beneficiaries under the Railroad Retirement Act.

SUMMARY: As required by the Computer Matching and Privacy Protection Act of 1988, RRB is issuing public notice of its use and intent to use, in ongoing computer matching programs, civil service benefit and payment information obtained from the Office of Personnel Management (OPM).

The purpose of this notice is to advise individuals applying for or receiving benefits under the Railroad Retirement Act of the use made by RRB of this information obtained from OPM by means of a computer match.

ADDRESSES: Interested parties may comment on this publication by writing to Ms. Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Harvey, Privacy Act Officer, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092, telephone number (312) 751-4869.

SUPPLEMENTARY INFORMATION: The Computer Matching and Privacy Protection Act of 1988, Public Law 100-503, requires a Federal agency participating in a computer matching program to publish a notice regarding the establishment of a matching program.

Name of Participating Agencies: Office of Personnel Management and Railroad Retirement Board.

Purpose of the Match: The purpose of the match is to enable the RRB to (1) identify affected RRB annuitants who are in receipt of a Federal public pension benefit but who have not reported receipt of this benefit to the RRB and (2) receive needed Federal public pension benefit information for affected RRB annuitants more timely and accurately. Previously the RRB

relied on the affected annuitant to report adjustments in the amounts of such public pension benefits.

Authority for Conducting the Match: Sections 3(a)(1), 4(a)(1) and 4(f)(1) of the Railroad Retirement Act require that the RRB reduce the Railroad Retirement benefits of certain beneficiaries entitled to Railroad Retirement employee and/or spouse/widow benefits who are also entitled to a government pension based on their own non-covered earnings. This reduction is referred to as Public Service Pension offset. Section 224 of the Social Security Act provides for the reduction of disability benefits when the disabled worker is also entitled to a public disability benefit (PDB). This reduction is referred to as PDB offset. A civil service disability benefit is considered a PDB. Section 224(h)(1) requires any Federal agency to provide RRB with information in its possession that RRB may require for the purposes of making a timely determination of the amount of reduction under section 224 of the Social Security Act. Pursuant to 5 U.S.C. 552a(b)(3) OPM has established routine uses to disclose the subject information to RRB.

Categories of Records and Individuals Covered: The records to be used in the match and the roles of the matching participants are described as follows: OPM will provide RRB twice a year with a magnetic tape file extracted from its annuity and survivor master file of its Civil Service Retirement and Insurance Records. The Privacy Act System of Records designation is OPM/Central-1. The following information from this OPM Privacy Act System of Records will be transmitted to RRB for the approximately 2.5 million records in the system: Name, social security number, date of birth, civil service claim number, first potential month and year of eligibility for civil service benefits, first month, day, year of entitlement to civil service benefits, amount of gross civil service benefits, and effective date (month, day, year) of civil service amount, and where applicable, civil service disability indicator, civil service FICA covered month indicator, and civil service total service months. The RRB will match the Social Security number, name, and date of birth contained in the OPM file against the same fields in its Master Benefit Files. The Privacy Act System of Records designations for these files is: RRB-26, "Payment, Rate and Entitlement History File," as amended in 63 FR 28420 May 22, 1998. For records that are matched, the RRB will extract the civil service payment information.

Inclusive Dates of the Matching Program: The matching program will

become effective 40 days after a copy of the agreement, as approved by the Data Integrity Board of each agency, is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months after the effective date and may be extended for an additional 12 months, if the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

The notice we are giving here is in addition to any individual notice.

A copy of this notice has been or will be furnished to both Houses of Congress and the Office of Management and Budget.

Dated: April 26, 2006.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. E6-6594 Filed 5-1-06; 8:45 am]

BILLING CODE 7905-01-P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request;

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17Ac2-2; SEC File No. 270-298; OMB Control No. 3235-0337
Form TA-2; SEC File No. 270-298; OMB Control No. 3235-0337.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

- Rule 17Ac2-2 and Form TA-2; OMB Control No. 3235-0337; SEC File No. 270-298
- Rule 17Ac2-2 (17 CFR 240.17Ac2-2) and Form TA-2 (17 CFR 249b.102) under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*) require transfer agents to file an annual report of their business activities with the Commission. The amount of time needed to comply with the requirements of Rule 17Ac2-2 and Form TA-2 varies. From the total 786 registered transfer agents, approximately 197 registrants

would be required to complete only Questions 1 through 4 and the signature section of amended Form TA-2, which the Commission estimates would take each registrant about 30 minutes, for a total burden of 99 hours (197 × .5 hours). Approximately 262 registrants would be required to answer Questions 1 through 5, 10, and 11 and the signature section, which the Commission estimates would take about 1 hour and 30 minutes, for a total of 393 hours (262 × 1.5 hours). The remaining registrants, approximately 327, would be required to complete the entire Form TA-2, which the Commission estimates would take about 6 hours, for a total of 1,962 hours (327 × 6 hours). We estimate that the total burden would be 2,454 hours (99 hours + 393 hours + 1,962 hours).

We estimate that the total cost of reviewing and entering the information reported on the Forms TA-2 for respondents is \$31.50 per hour. The Commission estimates that the total cost would be \$77,301.00 annually (\$31.50 × 2,454).

Written 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 estimates 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to (1) the Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: David_Rostker@omb.eop.gov; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 60 days of this notice.

Dated: April 20, 2006.

Nancy M. Morris,
Secretary.

[FR Doc. E6-6554 Filed 5-1-06; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53715; File No. SR-MSRB-2006-03]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change Consisting of Interpretive Guidance on Customer Protection Obligations of Brokers, Dealers and Municipal Securities Dealers Relating to the Marketing of 529 College Savings Plans

April 25, 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 31, 2006, the Municipal Securities Rulemaking Board ("MSRB" or "Board") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the MSRB. 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 MSRB is filing with the Commission a proposed rule change consisting of interpretive guidance on customer protection obligations of brokers, dealers and municipal securities dealers ("dealers") relating to the marketing of 529 college savings plans. The MSRB proposes an effective date for the proposed rule change of 60 calendar days after Commission approval. The text of the proposed rule change is available on the MSRB's Web site (<http://www.msrb.org>), at the MSRB'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 MSRB 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 MSRB 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

In a May 14, 2002 notice (the "2002 Notice"), the MSRB interpreted Rule G-17, on fair dealing, to require dealers selling out-of-state 529 college savings plan interests to customers to disclose at or prior to the sale to the customer (the "time of trade") that, depending upon the laws of the customer's home state, favorable state tax treatment for investing in a 529 college savings plan may be limited to investments made in a 529 college savings plan offered by the customer's home state.³ In addition, the MSRB provided guidance in the 2002 Notice on the application of Rule G-19, on suitability of recommendations and transactions, and other customer protection rules in the context of 529 college savings plan transactions.

The proposed rule change broadens the existing time-of-trade disclosure obligation with respect to the marketing of out-of-state 529 college savings plans. Under the proposed rule change, dealers selling out-of-state 529 college savings plan interests are required to disclose to the customer, at or prior to the time of trade, that: (i) Depending on the laws of the home state of the customer or designated beneficiary, favorable state tax treatment or other benefits offered by such home state may be available only if the customer invests in the home state's 529 college savings plan; (ii) state-based benefits should be one of many appropriately weighted factors to be considered in making an investment decision; and (iii) the customer should consult with his or her financial, tax or other adviser about how such state-based benefits would apply to the customer's specific circumstances and may wish to contact his or her home state or any other 529 college savings plan to learn more about their features. Guidance is provided as to the manner of delivering this revised out-of-state disclosure to ensure that such information is noted by the customer, and dealers are reminded that all

disclosures made to customers, regardless of whether they are made pursuant to a regulatory mandate, must not be false or misleading.

The proposed rule change further reminds dealers that providing disclosures to customers does not relieve them of their suitability duties—including their obligation to consider the customer's financial status, tax status and investment objectives—arising in connection with recommended transactions. The proposed rule change describes certain basic suitability principles applicable to recommended transactions in 529 college savings plans, advising dealers to consider whether a recommendation is consistent with the customer's tax status and any federal or state tax-related investment objectives of the customer. The proposed rule change emphasizes that any dealer that recommends a transaction must undertake an active suitability process involving a meaningful analysis that takes into consideration information about the customer and the security. Dealers are further advised that suitability determinations should be based on the various appropriately weighted factors that are relevant in any particular set of facts and circumstances. Finally, the proposed rule change reaffirms existing guidance from the 2002 Notice on other customer protection obligations applicable to dealer sales practices in the 529 college savings plan market.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15(b)(2)(C) of the Act,⁴ which provides that the MSRB's rules shall:

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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act because it will further investor protection by strengthening and clarifying dealers' customer protection obligations relating to the marketing of 529 college savings plans, including but not limited to the duty to provide important disclosures to customers investing in out-of-state 529 college

³ See Rule G-21 Interpretation—Application of Fair Practice and Advertising Rules to Municipal Fund Securities, May 14, 2002, reprinted in MSRB Rule Book.

⁴ 15 U.S.C. 78o-4(b)(2)(C).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

savings plans and to undertake active suitability analyses for recommended transactions based on appropriately weighted factors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will result in any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

On June 10, 2004, the MSRB published for comment draft interpretive guidance relating to, among other things, the disclosure obligations of dealers selling out-of-state 529 college savings plans, strengthening the out-of-state disclosures originally mandated in the 2002 Notice (the "2004 Proposal").⁵ The MSRB received comments on the 2004 Proposal from eight commentators.⁶ After reviewing these comments, considering the concerns of

NASD and others regarding high levels of out-of-state sales and consulting with Commission staff, the MSRB published on May 19, 2005 a notice seeking further comment on a revised version of the draft interpretive guidance (the "2005 Proposal").⁷ The 2005 Proposal included a discussion of existing resources and challenges in connection with obtaining disclosure information in the 529 college savings plan marketplace and sought comment on the possible substantial expansion of the disclosure and suitability obligations described in the 2002 Notice. The MSRB received comments on the 2005 Proposal from 22 commentators.⁸

The 2004 and 2005 Proposals, as well as the comments received on these proposals, are discussed below. The

MSRB has considered these comments, together with important developments in the mechanisms for ensuring the free and effective flow of information to the public about all 529 college savings plans offered in the marketplace (discussed below), in determining to file this proposed rule change.

General. The 2004 Proposal proposed expanding the existing obligation of dealers under the 2002 Notice to advise their out-of-state 529 college savings plan customers of the potential loss of in-state benefits. The 2004 Proposal did not address issues relating to suitability. All commentators on the 2004 Proposal supported the importance of ensuring some degree of disclosure to customers of the existence of potential in-state benefits of 529 college savings plans but some commentators suggested changes to the specific proposal.

The 2005 Proposal covered a wider range of topics than the portion of the 2004 Proposal relating to disclosure. The 2005 Proposal sought to expand the time-of-trade disclosure obligation for out-of-state sales proposed in the 2004 Proposal to include a requirement that dealers identify for their out-of-state customers the specific tax and other benefits that each of their respective home states offer and that such customers would forego by investing in an out-of-state 529 college savings plan (the "special home state disclosure proposal"). More broadly, the 2005 Proposal discussed general disclosure practices and mechanisms in the 529 college savings plan market, including the possible establishment of centralized information sources. Dealers were reminded that disclosures made to customers do not relieve dealers of their suitability duties—including their obligation to consider the customer's financial status, tax status and investment objectives—arising in connection with recommended transactions. The 2005 Proposal discussed existing suitability standards as applied to recommendations of 529 college savings plan transactions and proposed expanding such standards to require dealers recommending out-of-state 529 college savings plan investments to undertake a comparative suitability analysis involving a comparison of the recommended out-of-state 529 college savings plan with the customer's home state 529 college savings plan (the "comparative suitability proposal"). Finally, the 2005 Proposal discussed other sales practice obligations under the MSRB's fair

⁷ See MSRB Notice 2005-28 (May 19, 2005).

⁸ Letters from: Ms. Alexander, Assistant Professor of Accounting, University of Kansas, and Ms. Luna, Assistant Professor of Accounting, University of Tennessee ("Alexander & Luna"), to Mr. Lanza, dated July 26, 2005; Judith A. Wilson, Compliance Attorney, 1st Global Capital Corp. ("1st Global"), to Mr. Lanza, dated July 28, 2005; Diana Scott, Senior Vice President & General Manager, John Hancock Financial Services ("Hancock"), to Mr. Lanza, dated July 28, 2005; John C. Heywood, Principal, Vanguard Group, Inc. ("Vanguard"), to Mr. Lanza, dated July 28, 2005; Mr. Pearlman, CSF, to Mr. Lanza, dated July 29, 2005 and February 13, 2006; Tim Berry, Chair, CSPN, and Indiana State Treasurer, to Mr. Lanza, dated July 29, 2005; Ms. Salmon, ICI, to Mr. Lanza, dated July 29, 2005; Jacqueline T. Williams, Executive Director, Ohio Tuition Trust Authority ("Ohio TTA"), to Mr. Lanza and Chassan Hitti, Assistant General Counsel, MSRB, dated July 29, 2005; Ira D. Hammerman, Senior Vice President & General Counsel, SIA, to Mr. Lanza, dated July 29, 2005; Ms. Cantor, Executive Director, Virginia College Savings Plan ("Virginia CSP"), to Mr. Lanza, dated July 29, 2005; John D. Perdue, Chairman, Board of Trustees of the West Virginia College Prepaid Tuition and Savings Program, and State Treasurer ("West Virginia"), to Mr. Lanza, dated July 29, 2005; James F. Lynch, Associate Vice President for Finance, University of Alaska ("University of Alaska"), to Mr. Lanza, dated July 29, 2005; Eileen M. Smiley, Vice President & Assistant Secretary, USAA Investment Management Company ("USAA"), to Mr. Lanza, dated July 29, 2005; Ronald C. Long, Senior Vice President, Wachovia Securities, LLC ("Wachovia"), to Mr. Lanza, dated July 29, 2005; Michael L. Fitzgerald, State Treasurer of Iowa ("Iowa"), to Mr. Lanza, received August 1, 2005; Henry H. Hopkins, Vice President, Director & Chief Legal Counsel, T. Rowe Price Investment Services, Inc. ("T. Rowe"), to Mr. Lanza, dated August 1, 2005; Thomas M. Yacovino, Vice President, A.G. Edwards and Sons, Inc. ("AG Edwards"), to Mr. Lanza, dated August 3, 2005; W. Daniel Ebersole, Director, Georgia Office of Treasury and Fiscal Services ("Georgia"), to Mr. Lanza, dated August 4, 2005; Nancy K. Kopp, Treasurer, State of Maryland, and Chair, College Savings Plans of Maryland ("CSP-Maryland"), to Mr. Lanza, dated August 10, 2005; Mr. Pearlman, Senior Vice President and Deputy General Counsel, Fidelity Investments ("Fidelity"), to Mr. Lanza, dated December 7, 2005; James W. Pasman, Senior Vice President & Managing Director, PFFC Inc. ("PFFC"), to Mr. Lanza, dated December 12, 2005; and Randall Edwards, President, National Association of State Treasurers ("NAST"), and Oregon State Treasurer, to Amelia A. J. Bond, Chair, MSRB, dated March 20, 2006.

⁵ See MSRB Notice 2004-16 (June 10, 2004). The 2004 Proposal, together with a related proposal (MSRB Notice 2004-17 (June 15, 2004)), represented a comprehensive initiative of the MSRB to strengthen a broad range of customer protection obligations set out in the 2002 Notice. Portions of the 2004 Proposal significantly strengthening 529 college savings plan advertising requirements have been adopted, with certain additional requirements and modifications, by the MSRB and approved by the Commission. See Exchange Act Release No. 51736 (May 24, 2005), 70 FR 31551 (June 1, 2005). See also Exchange Act Release No. 52289 (August 18, 2005), 70 FR 49699 (August 24, 2005). In addition, the strengthened customer protection obligations with respect to 529 college savings plan sales incentives proposed in the related June 15, 2004 proposal have been adopted by the MSRB and approved by the Commission. See Exchange Act Release No. 52555 (October 3, 2005), 70 FR 59106 (October 11, 2005). The current proposed rule change represents the final stage of the MSRB's 2004 customer protection initiative.

⁶ Letters from: Kenneth B. Roberts, Hawkins Delafield & Wood LLP ("Hawkins"), to Ernesto A. Lanza, Senior Associate General Counsel, MSRB, dated August 20, 2004; Mary L. Schapiro, Vice Chairman, NASD, and President, Regulatory Policy and Oversight, to Mr. Lanza, dated September 9, 2004; Tamara K. Salmon, Senior Associate Counsel, Investment Company Institute ("ICI"), to Mr. Lanza, dated September 10, 2004; David J. Pearlman, Chairman, College Savings Foundation ("CSF"), to Mr. Lanza, dated September 13, 2004; Elizabeth L. Bordowitz, General Counsel, Finance Authority of Maine ("FAME"), to Mr. Lanza, dated September 13, 2004; Diana F. Cantor, Chair, College Savings Plan Network ("CSPN"), and Executive Director, Virginia College Savings Plan, to Mr. Lanza, dated September 15, 2004; Elizabeth Varley and Michael D. Udoff, Co-Staff Advisers, Securities Industry Association ("SIA") Ad Hoc 529 Plans Committee, to Mr. Lanza, dated September 15, 2004; and Raquel Alexander, PhD, Assistant Professor, and LeAnn Luna, PhD, Assistant Professor, University of North Carolina at Wilmington ("UNCW"), to Mr. Lanza, dated September 15, 2004.

practice rule.⁹ Although some commentators supported the concept of centralized information sources for the 529 college savings plan market and the clarification of certain elements of existing basic disclosure and suitability obligations, the vast majority of commentators opposed any requirements to disclose specific in-state features foregone as a result of an out-of-state investment or to undertake a comparative suitability analysis.

The MSRB has determined to strengthen the existing time-of-trade disclosure and basic suitability obligations as applied to transactions in 529 college savings plans. However, in view of significant developments toward the maturation of the disclosure dissemination system for this market and with due regard to concerns expressed by the commentators and in press reports regarding the potentially substantial impact of the special home state disclosure and comparative suitability proposals, the MSRB has determined at this time not to adopt these two proposals pending further assessment of the efficacy of developments in the disclosure infrastructure.

Disclosure, General Time-of-Trade Disclosure Obligation and Established Industry Sources

Summary. The 2005 Proposal described dealers' obligations to make time-of-trade disclosures of all material facts about a 529 college savings plan investment they are selling to their customers that are known to the dealer or that are reasonably accessible from established industry sources.¹⁰ The 2005 Proposal included a discussion of established industry sources for 529 college savings plan information¹¹ and requested comments on whether one or

more centralized Web-based sources of information should be established by the private sector, industry associations or the MSRB. The 2005 Proposal noted that such a resource would ideally provide on-site summary information formatted to allow dealers and customers to make meaningful comparisons of the material features of 529 college savings plans, together with direct links to all 529 college savings plan official statements (typically referred to as "program disclosure documents") and related information. The types of material features summarized on such a site might include (among other things) state tax treatment, other state-based benefits, costs associated with investments and performance information. The 2005 Proposal suggested that such a centralized Web site could embed within its posted summary information direct hyperlinks to the portions of the program disclosure document or other 529 college savings plan materials that provide more detailed descriptions of the summarized information.¹² The 2004 Proposal did not address these issues.

Comments. Two commentators on the 2005 Proposal supported the establishment of a centralized Web site for summary 529 college savings plan information with links to 529 college savings plan materials for more detailed information.¹³ They stated that such a Web site would allow dealers and customers to make meaningful comparisons of features and reduce the complexity of gathering accurate, complete and timely information. Alexander & Luna listed what they viewed as several weaknesses of current third-party Web sites: (i) information that is frequently out-of-date, incomplete or inaccurate; (ii) comparison information that is not universally available; (iii) information that is "summarized at a very high level;" (iv) Web site tools that are often over-simplified, which can distort results and ultimately provide incorrect guidance; and (v) many current Web sites that require users to pay for subscriptions in order to obtain basic information.

Many commentators opposed, or questioned the feasibility of,

establishing a centralized Web site.¹⁴ Some commentators expressed concern that disparate features of 529 college savings plans make presentation of parallel information nearly impossible and that information presented in a summary manner may omit material information or portray such information inaccurately.¹⁵ Some commentators expressed concerns about potential liabilities for dealers that might rely on summarized information obtained from any such centralized Web site.¹⁶ Hancock stated that existing Web sites are adequate for the marketplace.

CSPN stated that the creation of an MSRB-sponsored Web site would be contrary to the municipal securities exemption under federal securities laws and that it is already working to address 529 college savings plan disclosure concerns through its disclosure principles and its own Web site. CSPN noted that it had recently developed Disclosure Principles Statement No. 2 ("DP-2") which, "along with the information available on the CSPN Web site will be the most effective and appropriate approach to enhancing investor accessibility to pertinent 529 Plan information."¹⁷ CSPN stated that DP-2 included "an expanded locator concept, which will assist investors in finding similar information in the offering materials prepared by various State issuers, while still using only the materials authorized by that State issuer."¹⁸

Although the 2004 Proposal did not address broader disclosure issues in the 529 college savings plan market, two commentators on the 2004 Proposal made suggestions in this regard, stating that the MSRB should put in place a broader set of disclosure requirements to accompany the proposed disclosures described in the draft guidance.¹⁹ NASD suggested that the MSRB require standardized point-of-sale disclosure of fees and compensation in a manner similar to the point-of-sale disclosure requirements included by the Commission in its proposed Exchange

⁹ These provisions did not generate comments and have been included in the proposed rule change with only minimal modifications.

¹⁰ Established industry sources include the system of nationally recognized municipal securities information repositories, the MSRB's Municipal Securities Information Library® system and Real-Time Transaction Reporting System, rating agency reports and other sources of information relating to the municipal securities transaction generally used by dealers that effect transactions in the type of municipal securities at issue. See Rule G-17 Interpretation—Interpretive Notice Regarding Rule G-17, on Disclosure of Material Facts, March 20, 2002, published in *MSRB Rule Book*.

¹¹ The MSRB noted that many of the traditional established industry sources are designed specifically for debt securities, not 529 college savings plans, and that it viewed established industry sources for 529 college savings plans as encompassing a broad variety of information sources that professionals in this market can and do use to obtain material information about these investments and the state programs.

¹² The 2005 Proposal noted that the centralized Web site could, for example, provide hyperlinks to Web sites, or other contact information for sources, providing performance data current to the most recent month-end, as required under Rule G-21(e)(ii)(C) relating to 529 college savings plan advertisements containing performance information.

¹³ 1st Global; Alexander & Luna.

¹⁴ AG Edwards, CSF, CSPN (with the concurrence of CSP-Maryland, Georgia, Iowa, Ohio TTA, University of Alaska, Virginia CSP, West Virginia), Hancock, and USAA.

¹⁵ CSF, CSPN, Hancock.

¹⁶ Hancock, Vanguard.

¹⁷ DP-2 updated CSPN's Voluntary Disclosure Principles Statement No. 1 ("DP-1"), which CSPN published in 2004 to provide guidance to state programs in preparing their program disclosure documents. See also NAST.

¹⁸ CSP-Maryland, Georgia, Iowa, Ohio TTA, University of Alaska, Virginia CSP and West Virginia supported CSPN's position.

¹⁹ NASD and UNCW.

Act Rule 15c2-3.²⁰ UNCW described an academic study on factors influencing investor choices of 529 college savings plans and concluded that "investors appear to be choosing high fee/broker sold funds rather than the lower fee, direct investment options * * * [and] appear to be ignoring state tax benefits." Stating that its study suggested that investors may not have sufficient information in these areas, UNCW supported mandating disclosure of not only state tax benefits but also uniform disclosure of fees and performance for each 529 college savings plan portfolio and for each underlying fund in such portfolio, as well as the percentage of total investments that each underlying fund represents with respect to such 529 college savings plan portfolio.

MSRB Response. Since publishing the 2005 Proposal, the MSRB has engaged the 529 college savings plan industry and other federal securities regulators in a dialogue regarding the 2005 Proposal. In particular, the MSRB has emphasized that a crucial factor underlying the special home state disclosure and comparative suitability proposals for out-of-state sales was the difficulty that the average investor faces in obtaining and understanding the key items of information relevant in making an informed investment decision in the context of the varied and complex national 529 college savings plan marketplace.²¹

²⁰ See Securities Act Release No. 8358 (January 29, 2004), 69 FR 6438 (February 10, 2004). See also Securities Act Release No. 8544 (February 28, 2005), 70 FR 10521 (March 4, 2005). The proposed rulemaking by the Commission would apply to dealer sales of 529 college savings plan interests, in addition to sales of mutual funds and variable annuities. The MSRB observes that NASD has provided comments to the Commission on this proposal that are similar to those provided to the MSRB. The MSRB also has provided comments to the Commission in support of its point-of-sale disclosure proposal (available at www.sec.gov/rules/proposed/s70604/s70604-629.pdf). The MSRB has taken NASD's suggestions in this regard under advisement pending final action by the Commission on proposed Rule 15c2-3.

²¹ Investor confusion has often been reported to result from the large number of states offering valuable state tax or other benefits for investing in-state and the fact that virtually every plan has unique and sometimes complicated features not included in most other plans. The difficulties that investors face finding and understanding relevant information (in spite of the existence of a handful of Web-based resources on 529 college savings plans), as well as some recent steps toward improving the ability of investors to understand their choices in the marketplace, have been detailed by the press. See, e.g., Ross Kerber, "Complaints Mounting over College Savings Accounts," *Boston Globe*, February 14, 2006, at www.boston.com/business/personalfinance/articles/2006/02/14/complaints_mounting_over_college_savings_accounts; John Wasik, "How to Find the Best 529 College Savings Programs," *Bloomberg.com*, February 13, 2006, at <http://www.bloomberg.com/ops/news?pid=1000039&>

The MSRB has long been an advocate for the best possible disclosure practices by the 529 college savings plan community, having previously noted that investor protection concerns dictate that disclosure in this market should be based on six basic characteristics: comprehensiveness, understandability, comparability, universality, timeliness and accessibility.²² However, the MSRB has no authority to mandate that 529 college savings plans make specific disclosures, including disclosure of costs associated with investments in the plans, descriptions of the state tax consequences of investing in their plans or in out-of-state plans, or disclosure of performance under uniform standards.²³

The MSRB is of the view that a more comprehensive and user-friendly system of established industry sources is needed in the 529 college savings plan market. Such a system would be based on centralized Web sites providing direct access to official issuer disclosure materials for the entire universe of 529 college savings plan offerings, together with understandable educational information and tools allowing for side-by-side comparisons of different 529 college savings plans. It is crucial for ensuring that dealers and other investment professionals seeking to provide advice to their customers on their college savings options are able to do so with a full view of the available alternatives. In addition, this maturation of the disclosure dissemination system

sid=aU68emzUVE&refer=columnist_wosik; Albert B. Crenshaw, "529 College Savings Plans and State of Confusion," *Washington Post*, February 12, 2006, at F8; Aleksandra Todorova, "529 Plans Get Report Card," *SmartMoney.com*, February 10, 2006, at www.smartmoney.com/consumer/index.cfm?story=200602101; Jonathan Clements, "Choosing a 529 College-Savings Plan: When It Makes Sense to Go Out of State," *Wall Street Journal*, January 4, 2006, at D1; Michelle Singletary, "Get the Straight Facts on Section 529," *Washington Post*, December 1, 2005, at D2; Ashlea Ebling, "College Savers Unite!" *Forbes.com*, September 28, 2005, at www.forbes.com/estotep/2005/09/27/beltway-college-savings-cz_oe_0928beltway.html.

²² See Oversight Hearing on 529 College Savings Plans, Hearing Before the Subcomm. on Financial Management, The Budget, and International Security of the Senate Comm. on Governmental Affairs, 108th Cong. (Sept. 30, 2004) (testimony of Ernesto A. Lanza, Senior Associate General Counsel, MSRB).

²³ When dealers market 529 college savings plans, the MSRB requires time-of-trade disclosures of material information to customers, including but not limited to disclosure of the possible loss of state tax benefits if investing out-of-state. Proposed Exchange Act Rule 15c2-3, if adopted, would mandate that point-of-sale fee disclosures be made by dealers in a uniform manner. Furthermore, the MSRB has adopted uniform requirements for the calculation and presentation of up-to-date performance data in 529 college savings plan advertisements published by dealers that also require that advertisements disclose the possible loss of state tax benefits if investing out-of-state.

for the 529 college savings plan market would be particularly crucial to allowing customers to have direct access to the types of information and other resources they need to make informed investment decisions, thereby promoting investor confidence in their own abilities to make such informed choices, whether with the advice of an investment professional or as a self-directed investor.

The MSRB understands that CSPN has undertaken to upgrade its existing Web site to provide a comprehensive centralized Web-based utility for the 529 college savings plan market.²⁴ This CSPN utility is expected to provide a combination of on-site and hyperlinked resources, including summary information formatted to allow meaningful comparisons of many of the material features of different 529 college savings plans, together with direct links to all 529 college savings plan program disclosure documents and related information as well as to other sources providing tools designed for analyzing potential 529 college savings plan investments. The MSRB understands that the types of material features to be disclosed through this utility include, but are not limited to, state tax treatment and other state-based benefits, costs associated with investments, types of underlying investments, performance information and other important features that can vary considerably from state to state, with hyperlinks embedded within such summary information.

providing direct links to a full description of such specific feature in the issuer's official program disclosure document or other reliable sources. CSPN has also recently published its DP-2, which updates its baseline disclosure standards designed to assist the states in improving the quality and comparability of their 529 college savings plan disclosures in the program disclosure document. In the 2005 Proposal, the MSRB had urged CSPN and the individual 529 college savings plans to strive for the maximum possible ease of access to, and uniformity of content in, the program disclosure documents consistent with providing information that is complete, understandable and not misleading. The MSRB views the upcoming implementation of the CSPN Web site disclosure utility and the development and universal adoption of DP-2 as significant steps toward achieving the goals the MSRB had set out for the 529 college savings plan market.

The CSPN utility will join other commercial, industry group and

²⁴ NAST. CSPN is an affiliate of NAST.

regulator Web-based resources providing useful information for individuals seeking to save for college expenses and for investment professionals active in the 529 college savings plan-market. Several commercial ventures already provide, in summary and often tabular form, some categories of information for all available 529 college savings plans. Such information can include fees and expenses, minimum and maximum investments, nature of the underlying investments, distribution channels, and state tax treatment, as well as proprietary ratings based on varying criteria. Much of this information is available at no cost, with some sources making available, for a fee, premium or membership-based services for professionals that provide greater detail or more comprehensive analyses of the available information. Many of these commercial Web sites have taken recent steps to augment and refine the information they offer to the public, and the MSRB understands that alternative pricing structures suitable for retail investors for access to these premium services are being considered. In addition, the MSRB, the Commission, NASD and the North American Securities Administrators Association ("NASAA") all provide general information about investing in 529 college savings plans useful to individual investors and market participants.²⁵ NASD plans to introduce on its Web site in the near future an improved expense analyzer for the 529 college savings plan market using a live datafeed that should allow for more reliable calculations and cost comparisons among different 529 college savings plans. The CSPN utility is expected to serve as a central hub through which investors can easily access many of these other Web-based resources.

The MSRB believes that improved disclosures can only be effective if potential investors actually access such disclosures with sufficient time to make use of the information in coming to an investment decision. The MSRB urges dealers and other participants in the 529 college savings plan market to provide

the investing public with easy access to, and to affirmatively encourage the use of, this market-wide information. The MSRB will monitor the 529 college savings plan market closely with respect to the concerns it sought to address through the 2005 Proposal. The MSRB will be acutely sensitive to, and will consider whether further rulemaking would be appropriate in the event of, any significant failures in the further development of the disclosure dissemination system or in the efficacy of this dissemination system to address the MSRB's stated investor protection concerns.

Time-of-Trade Disclosure Obligation in Connection With Out-of-State Sales.

Summary. Currently, a dealer's time-of-trade disclosure obligation under Rule G-17 requires the dealer, when selling an out-of-state 529 college savings plan interest to a customer, to disclose that, depending upon the laws of the customer's home state, favorable state tax treatment for investing in a 529 college savings plan may be limited to investments made in a 529 college savings plan offered by the customer's home state.²⁶ The 2004 Proposal sought to broaden this time-of-trade disclosure obligation to include reference to other potential benefits (such as scholarships to in-state colleges, matching grants into 529 college savings plan accounts, or reduced or waived program fees, among other benefits), in addition to state tax benefits, offered solely in connection with in-state investments.²⁷

The 2005 Proposal retained the baseline time-of-trade disclosure proposed in the 2004 Proposal, with a modification to include reference to the designated beneficiary's home state in addition to that of the customer. The 2005 Proposal also would add to the baseline time-of-trade disclosure a requirement that the dealer advise the customer that any state-based benefits offered with respect to a particular 529 college savings plan should be considered as one of many appropriately weighted factors that should be considered by the customer in making his or her investment decision. The dealer also would be required to

suggest that the customer consult with his or her financial, tax or other adviser to learn more about how such home state features (including any limitations) may apply to the customer's specific circumstances, and that the customer also may wish to contact his or her home state or any other 529 college savings plan to learn more about any state-based benefits (and any limitations thereto) that might be available in conjunction with an investment in that state's 529 college savings plan.

In a significant expansion from the 2004 Proposal, the 2005 Proposal sought to impose the special home state disclosure proposal in addition to the baseline time-of-trade disclosure described above. Under this special home state disclosure proposal, a dealer would be required to inquire of any out-of-state customer as to whether the realization of state-based benefits was an important factor in the customer's investment decision. If the customer were to answer affirmatively, the dealer would be required to disclose (i) material information available from established industry sources about state-based benefits offered by the home state of the customer or designated beneficiary for investing in its 529 college savings plan and (ii) whether such state-based benefits are available in the case of an investment in an out-of-state 529 college savings plan.

Finally, the 2005 Proposal reminded dealers that the time-of-trade disclosure obligation with respect to sales of out-of-state 529 college savings plan interests is in addition to dealers' existing general obligation under Rule G-17 to disclose to their customers at the time of trade all material facts known by dealers about the 529 college savings plan interests they are selling to the customers, as well as material facts about such 529 college savings plan that are reasonably accessible to the market through established industry sources. Further, the 2005 Proposal reminded dealers that disclosures made to customers as required under MSRB rules do not relieve dealers of their suitability obligations—including the obligation to consider the customer's financial status, tax status and investment objectives—if they have recommended investments in 529 college savings plans.

Comments. All commentators on the 2004 Proposal supported the importance of ensuring disclosure to customers of the potential existence of state-specific features of 529 college savings plans, with many providing suggested modifications. CSF expressed concern about the potential for over-emphasizing state variations in a way that may

²⁵ The MSRB provides information for investors in 529 college savings plans at www.msrb.org/msrb1/mfs/ruleinfo.asp. The Commission also has published an investor-oriented introduction to 529 college savings plans at www.sec.gov/investor/pubs/intro529.htm. NASD has created a college savings center for investors at http://apps.nasd.com/investor_information/Smart/529/000100.asp. NASAA, an association of state securities regulators, has published (in conjunction with CSPN and ICI) a brochure on understanding college savings plans, available at www.nasaa.org/Investor_Education/3136.cfm.

²⁶ The 2002 Notice also stated that such disclosure, coupled with a suggestion that the customer consult a tax adviser about any state tax consequences of the investment, would provide adequate notice of the potential loss of in-state tax benefits.

²⁷ The 2004 Proposal would require the dealer to suggest that the customer consult with a qualified adviser or contact his or her home state's 529 college savings plan to learn more about any state tax or other benefits that might be available in conjunction with an investment in that state's 529 college savings plan.

detract from more fundamental considerations in making an investment decision. Two commentators stated that not every difference in state treatment ultimately will be a benefit to the investor, particularly in view of potential recapture of state tax benefits or other restrictions that some states impose under certain circumstances.²⁸ These commentators suggested that the best course would be to remind investors to carefully review the program disclosure documents of their home state programs and to consult their own advisors before investing, with one commentator stating that it would be inappropriate to suggest to investors that they seek help from their home state programs because it is unclear whether the programs can provide complete information regarding such consequences and because some states may seek to persuade investors to make an investment in their program rather than to impart disinterested information.²⁹ Two other commentators stated that the proposed disclosure should reflect that some benefits may be dependent on the designated beneficiary's home state (rather than or in addition to the home state of the investor).³⁰

Most commentators on the 2005 Proposal accepted the modified baseline time-of-trade disclosure. However, most commentators strongly opposed the newly proposed special home state disclosure proposal requiring disclosure of specific in-state features that an out-of-state investor may forego,³¹ with no commentator expressing support for this proposal. Several commentators argued that the specific disclosures under the special home state disclosure proposal would inevitably result in state-based benefits being given disproportionate weight as compared to the many other important factors to be considered in making an investment decision.³² In addition, commentators observed that, without a reliable source of market-wide information, dealers would be required to undertake substantial effort (with concomitant expenditure of resources) to understand and track the details of constantly changing state law treatment of all 529 college savings plans.³³ Two

commentators warned that requiring dealers to make specific disclosures about 529 college savings plans they do not offer could result in potential liability.³⁴ SIA stated that the special home state disclosure proposal would have the counter-intuitive result of compromising a dealer's ability to develop in-depth expertise regarding the range of investment products it is reasonably capable of servicing. Wachovia expressed concern that this requirement would have the potential to paralyze investors with an overabundance of information.

The University of Alaska stated that it did not wish to have its program features explained by dealers who are not authorized to market its 529 college savings plan, with other commentators echoing the concern that dealers would often be required to disclose information about a security they do not offer and about which they may not have sufficient expertise.³⁵ CSF observed that the burden this requirement would place on the 529 college savings plan market does not exist for any other type of security. Two commentators suggested that the MSRB await final action by the Commission on its point-of-sale disclosure proposal before finalizing any significant changes in 529 college savings plan disclosure requirements.³⁶

MSRB Response. The MSRB continues to believe that it is important that investors are informed that they may be foregoing state tax and other benefits offered by their home states by investing in out-of-state 529 college savings plans. At the same time, the MSRB agrees that there is a potential for over-emphasizing the importance of a particular state's beneficial state tax treatment of an investment in its 529 college savings plan, such as where a state offers a tax benefit that ultimately is relatively small in value compared to the financial impact that a marginally higher expense figure may have or under a variety of other circumstances. As a result, the MSRB has adopted the revised out-of-state disclosure obligation, which retains the baseline time-of-trade disclosure as modified in the 2005 Proposal. The MSRB believes that this time-of-trade disclosure in connection with out-of-state sales of 529 college savings plans, as embodied in the revised out-of-state disclosure obligation, achieves the appropriate balance between providing for the disclosure to customers of material information about the potential loss of

state tax or other benefits relevant to their investment decision in 529 college savings plans without imposing a significant burden on dealers and other 529 college savings plan market participants that could possibly result in an over-simplification of the complexity of state law factors or an over-emphasis of state law factors as compared to other relevant investment factors. The MSRB has also retained the reminders in the 2005 Proposal to the effect that these disclosures do not obviate other disclosure requirements or suitability obligations arising as a result of a recommendation.

The MSRB has determined not to retain the proposal to expand the time-of-trade disclosure obligation to include disclosures of specific state tax and other state-based features of the investor's home state as set out in the special home state disclosure proposal. The MSRB has based this determination in large measure on the potential adverse impact of this proposal and the significant steps currently in process toward improvements in the 529 college savings plan disclosure system.

Fulfilling the Revised Out-of-State Disclosure Obligation Through the Program Disclosure Document.

Summary. The 2004 Proposal would have clarified that dealers could meet their baseline time-of-trade disclosure obligation with respect to potentially foregone in-state benefits through the issuer's program disclosure document so long as the program disclosure document is provided to the customer at or prior to the time of trade. The 2004 Proposal also would have strengthened the minimum standards for prominence in the program disclosure document in order to meet the baseline time-of-trade disclosure obligation. Thus, to meet this obligation through the program disclosure document, the disclosure must appear in a manner that is reasonably likely to be noted by an investor. A presentation of this disclosure in the program disclosure document in close proximity and with equal prominence to the first presentation of information regarding other federal or state tax-related consequences of investing in the 529 college savings plan, and in close proximity and with equal prominence to each other presentation of information regarding state tax-related consequences of investing in the 529 college savings plan, would be deemed to satisfy this requirement. The 2005 Proposal modified this presentation standard to provide for equal prominence with the principal (rather than first) presentation of substantive information regarding

²⁸ CSF and SIA.

²⁹ CSF. However, Hawkins disagreed, stating that with respect to non-tax state benefits, customers should be directed to the specific state program for more information.

³⁰ CSPN and FAME.

³¹ AG Edwards, CSF, CSP-Maryland, CSPN, Georgia, ICI, Iowa, Ohio TTA, SIA, T. Rowe, University of Alaska, USAA, Vanguard, Virginia CSP, Wachovia and West Virginia.

³² AG Edwards, CSF, ICI and Vanguard.

³³ Hancock, ICI, SIA, T. Rowe, USAA, Vanguard and Wachovia.

³⁴ Hancock and ICI.

³⁵ ICI and Vanguard.

³⁶ USAA and Wachovia.

other federal or state tax-related consequences of investing in the 529 plan, and the inclusion of a reference to this disclosure (rather than restating such disclosure in full) in close proximity and with equal prominence to each other presentation of information regarding state tax-related consequences of investing in the 529 plan. Neither proposal required that such disclosure be made through the program disclosure document, noting that the MSRB does not have the authority to mandate the inclusion of any particular item of information in the issuer's disclosure document. Both proposals provided that dealers would be required to separately make such disclosure if the program disclosure document did not include the information in the manner prescribed.

Comments. Two commentators expressed concern that the 2004 Proposal would effectively establish requirements for what information must be included in the program disclosure document.³⁷ They noted that the MSRB does not have authority to directly impose such requirements. CSF stated that the MSRB should not establish specific requirements for how such disclosure should appear in the program disclosure document, while two other commentators suggested limiting some of the presentation requirements described in the 2004 Proposal.³⁸ SIA stated that the requirement that the information appearing in the program disclosure document must appear in a manner "reasonably likely to be noted by an investor" would place dealers in the position to question the judgment of the state issuers and suggested that there should be a presumption that the placement and adequacy of the disclosure in the program disclosure document is reasonable.

CSPN also expressed concern with respect to the reformulation of this language in the 2005 Proposal, stating that dealers would have to determine whether the issuer has satisfactorily made such disclosures, potentially calling into question the issuer's determination to include or omit particular information.³⁹ CSPN stated that this would create a constant second-guessing aspect as to the validity of offering materials created and distributed by state issuers. SIA stated that this provision would likely lead dealers to create their own disclosure

documents for use in marketing 529 college savings plans, conflicting with most distribution agreements and program disclosure documents.

MSRB Response. The MSRB reaffirms its view that it has no authority to mandate the inclusion of any particular items in the issuer's program disclosure document. As noted in both the 2004 and 2005 Proposals, disclosure through the program disclosure document in the manner described by the MSRB is not the sole manner in which a dealer may fulfill the revised out-of-state disclosure obligation. Just as a dealer could meet this disclosure obligation through a separate communication, it stands to reason that a disclosure made through the program disclosure document in a manner that is reasonably likely to be noted by an investor could also be used by a dealer to fulfill this duty. Thus, the MSRB has provided in the proposed rule change that, if the issuer has not included the information in the program disclosure document in the manner described, inclusion in the program disclosure document in another manner may nonetheless fulfill the dealer's out-of-state disclosure obligation so long as disclosure in such other manner is reasonably likely to be noted by an investor.⁴⁰

General Suitability Obligations

Summary. The 2005 Proposal reaffirmed the guidance originally provided in the 2002 Notice regarding general suitability standards under Rule G-19 for recommended transactions in 529 college savings plans. The 2005 Proposal added reminders to dealers to the effect that their suitability obligation requires a meaningful analysis that

⁴⁰ Some commentators stated that certain portions of the 2005 Proposal might not be consistent with the notion that the issuer's program disclosure document serves as "the fundamental, stand-alone disclosure" for the offering of its securities. See, e.g., AG Edwards. The MSRB believes that dealers generally may view the issuer's program disclosure document as the definitive source from which to obtain information about the securities they are selling to their customers. The requirement that a dealer make the revised out-of-state disclosure separately if such disclosure is not included in the program disclosure document in a manner reasonably likely to be noted by an investor is not intended to imply otherwise, consistent with prior Commission guidance regarding the obligations of underwriters and other dealers in connection with municipal issuers' disclosure materials under the federal securities laws. See Exchange Act Release No. 26100 (September 22, 1988), 53 FR 37778 (Section III—Municipal Underwriter Responsibilities), as modified by Exchange Act Release No. 26985 (June 28, 1989), 54 FR 28799 (Section III—Interpretation of Underwriter Responsibilities), and as reaffirmed by Exchange Act Release No. 33741 (March 9, 1994), 59 FR 12748 (Section V—Interpretive Guidance with Respect to Obligations of Municipal Securities Dealers).

establishes the reasonable grounds for believing that the recommendation is suitable and that they must have and enforce written supervisory procedures reasonably designed to ensure compliance with this obligation for every recommended transaction. The 2004 Proposal did not address suitability issues.

Comments. No commentator opposed the 2005 Proposal's discussion of general suitability standards.

MSRB Response. The MSRB has retained this discussion of general suitability standards.

Comparative Suitability Obligation for Out-of-State Sales

Summary. The 2005 Proposal would require a dealer to undertake a comparative suitability analysis if the dealer has recommended an out-of-state 529 college savings plan transaction to a customer who has indicated that one of his or her investment objectives is realization of state-based benefits, as contemplated under the special home state disclosure proposal. This would involve the consideration of the state-based benefits available from the customer's home state 529 college savings plan in a comparative analysis with the out-of-state 529 college savings plan being offered. Any such state-based benefits offered with respect to a particular 529 college savings plan would be considered as one of many appropriately weighted factors that have an ultimate bearing on the relative strengths of a particular investment, and the existence of state-based benefits would not create a presumption that investment in the home state 529 college savings plan is necessarily superior to an out-of-state 529 college savings plan. If a dealer were to conclude that an investment in the home state 529 college savings plan would be superior to an investment in the offered out-of-state 529 college savings plan under every reasonable scenario, then the dealer would be obligated to inform the customer of this determination and would be permitted to effect a transaction in the offered out-of-state 529 college savings plan only if the customer has directed to do so after this suitability determination has been disclosed and if the out-of-state 529 college savings plan would, without regard to the comparative analysis with the home state 529 college savings plan, be suitable for the customer under traditional suitability standards. The 2004 Proposal did not contain comparable language.

Comments. Most commentators strongly opposed the comparative

³⁷ CSPN and FAME. These commentators, as well as Hawkins, noted that CSPN's DP-1 already contained language on this topic.

³⁸ Hawkins and ICI.

³⁹ CSP-Maryland, Georgia, Iowa, Ohio TTA, University of Alaska, Virginia CSP and West Virginia supported CSPN's position.

suitability proposal,⁴¹ although two commentators conceded that, depending on the facts and circumstances, the availability of in-state benefits may be one of many appropriate factors to consider in making a suitability determination under traditional suitability standards.⁴² Three commentators stated that there has been no evidence of abuse in the offering of out-of-state 529 college savings plans to justify these new requirements, observing that no enforcement actions have been taken.⁴³ Several commentators observed that federal securities regulation has never been premised on the concept that a dealer is obligated to determine the most suitable investment of a particular type for any customer and that the comparative suitability proposal is inconsistent with the application of the suitability rule to every other product sold by dealers.⁴⁴ Two commentators stated that comparisons are highly disfavored by NASD rules.⁴⁵ The University of Alaska noted that one result of a more stringent suitability obligation for recommendations of 529 college savings plan transactions might be that dealers would place their clients in other investment vehicles that do not carry such regulatory risk.

Many commentators viewed the comparative suitability proposal as effectively requiring dealers to become fully familiar with the terms of all 529 college savings plans before offering any particular 529 college savings plan.⁴⁶ These commentators argued that this extraordinary burden is unprecedented

and is likely to significantly discourage the marketing of 529 college savings plans. NAST agreed, emphasizing that the comparative suitability proposal would have substantially increased the burden on the states themselves. Wachovia suggested that the MSRB undertake a cost-benefit analysis before adopting the comparative suitability proposal, while USAA stated that the incremental costs associated with meeting this standard would cause firms to reevaluate whether offering 529 college savings plans continues to make sense or to pass the incremental costs on to investors. AG Edwards argued that it is untenable to require a dealer to inform a client that one 529 college savings plan is unequivocally superior to another. Two other commentators stated that they are receiving anecdotal evidence that some selling dealers are withdrawing from the 529 college savings plan market in response to this proposal and to recent NASD enforcement activity.⁴⁷ CSF noted that one potential result may be that some customers who are accustomed to relying on their financial advisors and who otherwise might invest in suitable 529 college savings plans may ultimately never make such an investment.

SIA expressed concern that the comparison contemplated by the proposal would be difficult to implement from a practical standpoint. ICI agreed, identifying a number of specific practical concerns. Some commentators stated that the comparative suitability proposal would place inordinate focus on state benefits while effectively ignoring the many other reasons why an investor might choose to invest in an out-of-state 529 college savings plan.⁴⁸ Other commentators predicted that the potential liabilities that would arise under the comparative suitability proposal would result in many dealers limiting their sales solely to the in-state 529 college savings plan, regardless of

its advantage or disadvantage.⁴⁹ CSF requested that the MSRB defer action on the comparative suitability proposal pending implementation of the planned CSPN Web site enhancement.

MSRB Response. The MSRB has determined not to retain the comparative suitability proposal, based in large measure on the potential adverse impact of this proposal and the significant steps currently in process toward dramatic improvements in the 529 college savings plan disclosure system. However, the MSRB agrees with those commentators that noted that the availability of in-state benefits may be one of many appropriate factors to consider in making a suitability determination under traditional suitability standards, depending on all the facts and circumstances. Thus, the MSRB has added guidance to this effect in the proposed rule change, in conjunction with additional guidance to the effect that dealers should consider whether a recommendation is consistent with the customer's tax status and any customer investment objectives materially related to federal or state tax consequences of an investment.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The MSRB proposes an effective date for the proposed rule change of 60 calendar days after Commission approval. Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. By order approve such proposed rule change, or
- B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule 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

⁴⁹ AG Edwards, Fidelity and PFPC.

⁴¹ AG Edwards, CSF, CSP-Maryland, CSPN, Fidelity, Georgia, Hancock, ICI, Iowa, NAST, Ohio TTA, PFPC, SIA, T. Rowe, University of Alaska, USAA, Virginia CSP, Wachovia and West Virginia. No commentator expressed support for the comparative suitability proposal.

⁴² AG Edwards and Hancock.

⁴³ CSF, ICI and USAA. NASD subsequently announced on October 26, 2005 that it had reached a settlement agreement with Ameriprise Financial Services, Inc., in connection with the failure of the firm to establish and maintain supervisory systems and procedures reasonably designed to achieve compliance with suitability obligations relating to recommended transactions in 529 college savings plans. See www.nasd.com/web/idcplg?ldcService=SS_GET_PAGE&ssDocName=NASDW_015319. This settlement agreement appears to have been the basis for concern expressed by Fidelity and PFPC that NASD may be incorporating the comparative suitability proposal into its enforcement posture prior to its final approval. The MSRB understands that NASD did not intend certain language included in the settlement agreement to imply that the comparative suitability proposal is currently in effect.

⁴⁴ CSF, Fidelity, Hancock, PFPC, SIA, University of Alaska and USAA.

⁴⁵ CSF and SIA.

⁴⁶ CSPN (with the concurrence of CSP-Maryland, Georgia, Iowa, Ohio TTA, University of Alaska, Virginia CSP, West Virginia), Hancock, ICI, T. Rowe Price and Wachovia.

⁴⁷ Fidelity and PFPC. Concerns regarding the negative impact of the comparative suitability proposal have also been detailed in press reports. See Charles Paikert, "MSRB to Decide on Controversial 529 Proposals," *Investment News*, February 13, 2006, at 2; Terry Savage, "Political Issues Put the Hurt on College Savings," *The Street*, February 10, 2006, at www.thestreet.com/funds/investing/10267688.html; Julian Mincer, "Sales of 529 College Savings Plans Fell in '05 Amid Scrutiny," *Wall Street Journal*, February 9, 2006, at D2; Julian Mincer, "Disclosure Proposals for 529s Risk a Broker Backlash," *Wall Street Journal*, January 3, 2006, at D2; Lauren Barack, "Will Reform Drive Brokers From 529 Sales?" *Registered Rep.*, November 1, 2005, at www.registeredrep.com/mag/finance_reform_drive_brokers.

⁴⁸ ICI, Hancock and Wachovia.

• Send an e-mail to rule-comments@sec.gov. Please include File Number SR-MSRB-2006-03 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-MSRB-2006-03. 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 MSRB's offices. 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-MSRB-2006-03 and should be submitted on or before May 23, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵⁰

Nancy M. Morris,
Secretary.

[FR Doc. E6-6555 Filed 5-1-06; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53720; File No. SR-NASD-2006-051]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the Maximum Single Order Share Amount in Nasdaq's INET Facility

April 25, 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 April 19, 2006, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq"), submitted to the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. Nasdaq filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ 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

Nasdaq proposes to expand the single order maximum share amount in its INET Facility to 999,999 shares. Nasdaq will implement the proposed rule change immediately. The text of the proposed rule change is below. Proposed new language is in *italics*; deletions are in [brackets].⁴

4953. Order Entry Parameters

(a) INET System Orders

(1)-(3) No Change.

(4) *Any order in whole shares up to 999,999 shares may be entered into the System for normal execution processing.*

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ Changes are marked to the rule text that appears in the electronic NASD Manual found at <http://www.nasd.com>. Prior to the date when The NASDAQ Stock Market LLC ("NASDAQ LLC") commences operations, NASDAQ LLC will file a conforming change to the rules of NASDAQ LLC approved in Securities Exchange Act Release No. 53128 (January 13, 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, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq's INET Facility currently operates using a 200,000 share maximum single order limit for orders sent to the New York Stock Exchange's DOT system. For all other orders, INET applies a 999,999 share single order maximum share amount. Nasdaq proposes to codify for its INET Facility a maximum single order share amount standard, for all orders, of 999,999 shares, the same share number maximum already in place in the Nasdaq Market Center.⁵ The proposed rule change will ensure that the INET system provides an adequate and uniform capability to accept large-size orders as well as reduce technological complexity for Nasdaq and users of its systems by enhancing the degree of uniformity among single order share maximums across its systems.⁶

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with Section 15A of the Act,⁷ in general, and furthers the objectives of Section 15A(b)(6) of the Act,⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not

⁵ See NASD Rule 4706(d)(1).

⁶ The single order maximum share number limit for Nasdaq's Brut Facility shall remain 1,000,099 shares. See NASD Rule 4903(f).

⁷ 15 U.S.C. 78o-3.

⁸ 15 U.S.C. 78o-3(6).

⁵⁰ 17 CFR 200.30-3(a)(12).

necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Nasdaq has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act⁹ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁰ 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) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder. As required under Rule 19b-4(f)(6)(iii), Nasdaq provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to filing the proposal with the Commission or such shorter period as designated by the Commission. Nasdaq has requested that the Commission waive 30-day delayed operational date provisions contained in the above rule, based upon a representation that the proposed rule filing would ensure that INET users have the beneficial capability to enter larger size orders as soon as practicable. For this reason, the Commission designates the proposal to be effective and operative 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.

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.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

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-2006-051 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-2006-051. 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 Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASD-2006-051 and should be submitted on or before May 23, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Nancy M. Morris,

Secretary.

[FR Doc. E6-6556 Filed 5-1-06; 8:45 am]

BILLING CODE 8010-01-P

¹¹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53730; File No. SR-NASD-2006-054]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change for Handling by INET and Brut of Sub-Penny Orders in Securities Listed on the New York Stock Exchange LLC or the American Stock Exchange LLC

April 26, 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 April 21, 2006, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. Nasdaq has filed this proposal pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq has filed with the Commission a proposed rule change for the handling by Nasdaq's INET and Brut systems of sub-penny orders priced under \$1.00 for securities listed on the New York Stock Exchange LLC ("NYSE") or the American Stock Exchange LLC ("Amex"). Nasdaq has made this filing at the request of the Commission staff. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in [brackets].⁶

* * * * *

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 On March 31, 2006, Nasdaq filed this rule proposal without designating it as immediately effective. See SR-NASD-2006-042. At the request of the Commission staff, Nasdaq has withdrawn that filing.

⁶ Changes are marked to the rule text that appears in the electronic NASD Manual found at www.nasdaq.com. Prior to the date when The NASDAQ Stock Market LLC ("NASDAQ LLC") commences operations, NASDAQ LLC will file a conforming change to the rules of NASDAQ LLC

4904. Entry and Display of Orders

- (a) No change.
- (b) Display of Orders—The System will display orders submitted to the System as follows:
- (1) and (2) No change.
- (3) Minimum Price Variation—The minimum quotation increment for System Securities shall be \$0.01 for quotations priced at or above \$1.00 per share and \$0.0001 for quotations priced below \$1.00 per share; provided, however, that if the Securities and Exchange Commission (“SEC”) permits, with respect to any security, the display, rank or acceptance of quotations priced at or above \$1.00 per share in an increment smaller than \$0.01, then the minimum quotation increment for such a security shall be the minimum permitted by the SEC or \$0.0001, whichever is greater. Quotations failing to meet this standard shall be rejected. *A quotation for a security listed on the New York Stock Exchange or the American Stock Exchange and properly (not in violation of this paragraph) priced in an increment of less than \$0.01 will be adjusted by the System down (for bids) or up (for offers) to the nearest \$0.01 increment prior to display, execution or routing. A quotation so adjusted will have no price priority over equivalent quotations that did not require adjustment under this paragraph.*
- (4) No change.

* * * * *

4962. Minimum Quotation Increment

The minimum quotation increment in the INET System for quotations of \$1.00 or above in Nasdaq-listed securities and in securities listed on a national securities exchange shall be \$0.01. The minimum quotation increment in the INET System for quotations below \$1.00 in Nasdaq-listed securities and in securities listed on a national securities exchange shall be \$0.0001. However, if the Securities and Exchange Commission (“SEC”) permits, with respect to any security, the display, rank of acceptance of quotations priced at or above \$1.00 per share in an increment smaller than \$0.01, then the minimum quotation increment for such a security shall be the minimum permitted by the SEC or \$0.0001, whichever is greater. *A quotation for a security listed on the New York Stock Exchange or the American Stock Exchange and properly (not in violation of this paragraph) priced in an increment of less than \$0.01 will be adjusted by the INET*

approved in Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006).

System down (for bids) or up (for offers) to the nearest \$0.01 increment prior to display, execution or routing. A quotation so adjusted will have no price priority over equivalent quotations that did not require adjustment under this paragraph.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**1. Purpose**

Consistent with Rule 612 of Regulation NMS,⁷ as of January 31, 2006, the Nasdaq Market Center (“NMC”) and Nasdaq's Brut and INET facilities accept quotes that are in increments of least \$0.0001 if these quotes are priced below \$1.00. Quotes priced above \$1.00 are accepted by the NMC, Brut, and INET in increments of at least \$0.01. These principles apply equally to Nasdaq-listed securities and to securities listed on other exchanges.

At the request of the Commission staff, in order to accommodate the NYSE and the Amex, the NMC continues to adjust all proper (*i.e.*, priced under \$1.00 and in increments of not less than \$0.0001) sub-penny quotes in NYSE- and Amex-listed securities as soon as it receives them.⁸ Offers are adjusted upwards to the next whole cent, while bids are adjusted downward to the next whole cent. However, Nasdaq's INET and Brut facilities currently do not adjust proper sub-penny quotes in NYSE- or Amex-listed securities and instead allow sub-penny executions in such securities as contemplated under Rule 612.

The purpose of this filing is to implement within INET and Brut the same adjustment mechanism as was

⁷ 17 CFR 242.612.

⁸ See Securities Exchange Act Release No. 34-53203 (Jan. 31, 2006), 71 FR 6300 (Feb. 7, 2006) (rule change to enable the NMC to continue adjusting sub-penny quotes priced below \$1.00 in NYSE and Amex securities).

implemented earlier this year in the NMC. Specifically, proper (*i.e.*, priced under \$1.00 and in increments of not less than \$0.0001) sub-penny quotes in NYSE- and Amex-listed securities will be adjusted on receipt by the Brut and INET Systems. Offers will be adjusted upwards to the next whole cent, while bids will be adjusted downward to the next whole cent. The ability of Brut or INET to accept sub-penny quotes in Nasdaq-, NYSE-, or Amex-listed securities is not affected by this proposal.

As with the NMC sub-penny quote adjustments, Nasdaq views this rule change for Brut and INET, which is also being made at the request of the Commission staff, as temporary in nature because it will continue to deprive investors of the ability, envisioned in Rule 612, to trade in sub-pennies those NYSE- and Amex-listed stocks that are priced below \$1.00. When Nasdaq determines that this approach is no longer appropriate, it will change the rule described herein by making an immediately effective filing with the Commission.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,⁹ in general, and with Section 15A(b)(6) of the Act,¹⁰ in particular, in that it is designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the

⁹ 15 U.S.C. 78o-3.

¹⁰ 15 U.S.C. 78o-3(b)(6).

protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

The Exchange has asked the Commission to waive the 30-day operative delay and allow the proposed rule change to become operative on May 1, 2006. The Commission hereby grants that request.¹³ The Commission believes that the Exchange's proposal to round away all proper sub-penny quotes in NYSE- and Amex-listed securities immediately upon receipt by Brut or INET raises no new regulatory issues, as Nasdaq implemented the same adjustment mechanism earlier this year in the NMC and Rule 612 does not require that accepted sub-penny quotes priced below \$1.00 be displayed, executed, or routed in sub-pennies. Furthermore, this rule change will bring the quoting conventions of two Nasdaq trading facilities, Brut and INET, into line with those of the NMC without any further delay, thereby reducing the possibility of investor confusion. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.

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 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

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6). As required by Rule 19b-4(f)(6)(iii) under the Act, the Exchange also provided with the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the proposed rule change.

¹³ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Number SR-NASD-2006-054 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-NASD-2006-054. 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 NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASD-2006-054 and should be submitted on or before May 23, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Nancy M. Morris,

Secretary.

[FR Doc. E6-6597 Filed 5-1-06; 8:45 am]

BILLING CODE 8010-01-P

¹⁴ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53728; File Nos. SR-NYSE-2006-13; SR-CBOE-2006-14]

Self-Regulatory Organizations; New York Stock Exchange LLC; Chicago Board Options Exchange, Incorporated; Notice of Extension of Comment Periods for the Proposed Rule Changes Relating to Customer Portfolio Margining Requirements

April 26, 2006.

On March 2, 2006, the New York Stock Exchange LLC ("NYSE"), and on February 2, 2006, the Chicago Board Options Exchange, Incorporated ("CBOE"), filed with the Securities and Exchange Commission ("Commission") proposed rule changes pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")¹ and Rule 19b-4 thereunder,² that would further expand the scope of products that are eligible for treatment as part of their respective customer portfolio margin pilot programs.³ A complete description of the proposed rule changes is found in the notices of filing, which were published in the *Federal Register* on April 6, 2006.⁴ The comment periods expire on April 27, 2006.⁵

In response to requests to extend the comment periods, and to give the public additional time to comment on the proposed rule changes, the Commission has decided to extend the comment periods pursuant to Section 19(b)(2) of the Act.⁶ Accordingly, the comment periods shall be extended until May 11, 2006.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Act Release No. 52031 (July 14, 2005), 70 FR 42130 (July 21, 2005) (SR-NYSE-2002-19); and Exchange Act Release No. 52032 (July 14, 2005), 70 FR 42130 (July 21, 2005) (SR-CBOE-2002-03). On July 14, 2005, the Commission approved on a pilot basis expiring July 31, 2007, amendments to NYSE Rule 431 and CBOE Rule 12.4 to permit the use of customer portfolio margining for certain specified products (e.g., listed, broad-based U.S. index options and warrants, along with any underlying instruments), as an alternative to the strategy based margin requirements required by the NYSE's and CBOE's margin rules.

⁴ See Exchange Act Release No. 53576 (March 30, 2006), 71 FR 17519 (April 6, 2006) (SR-CBOE-2006-14); and Exchange Act Release No. 53577 (March 30, 2006), 71 FR 17539 (April 6, 2006) (SR-NYSE-2006-13).

⁵ *Id.*

⁶ 15 U.S.C. 78s(b)(2).

Electronic Comments

• Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

• Send e-mail to rule-comments@sec.gov. Please include File Number SR-NYSE-2006-13 or SR-CBOE-2006-14 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-NYSE-2006-13 or SR-CBOE-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 NYSE or 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 submission should refer to File Number SR-NYSE-2006-13 or SR-CBOE-2006-14 and should be submitted on or before May 11, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Nancy M. Morris,
Secretary.

[FR Doc. E6-6596 Filed 5-1-06; 8:45 am]

BILLING CODE 8010-01-P

⁷ 17 CFR 200.30-3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5398]

Culturally Significant Objects Imported for Exhibition Determinations: "Baksy Krater"

AGENCY: Department of State.

ACTION: Notice, correction.

SUMMARY: On April 5, 2006, notice was published on page 17148 of the *Federal Register* (volume 71, number 65) of determinations made by the Department of State pertaining to the exhibition "Baksy Krater." The referenced notice is corrected as to the date of the exhibition, which will be at the J. Paul Getty Museum's Villa, Malibu, CA, from on or about June 14, 2006, until on or about September 3, 2007, and at possible additional venues yet to be determined. Public Notice of this correction is ordered to be published in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Richard Lahne, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453-8058). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: April 24, 2006.

Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6-6610 Filed 5-1-06; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice 5399]

Culturally Significant Objects Imported for Exhibition Determinations: "Rubens and Brueghel: A Working Friendship"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Rubens and Brueghel: A Working Friendship," imported from abroad for temporary

exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The J. Paul Getty Museum, Los Angeles, CA, from on or about July 5, 2006, until on or about September 24, 2006, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453-8049). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: April 21, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6-6609 Filed 5-1-06; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice 5400]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: FY 2006 U.S.-Russia Language, Technology, Math, and Sciences (LTMS) Teacher Program

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/S/X-06-13.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates: Application Deadline, June 5, 2006.

Executive Summary: The Teacher Exchange Branch in the Office of Global Educational Programs of the Bureau of Educational and Cultural Affairs (ECA), U.S. Department of State, announces an open competition for an assistance award in the amount of \$700,000 to support the FY 2006 U.S.—Russia Language, Technology, Math, and Sciences (LTMS) Teacher Program. This program provides a three- to four-week professional development program in the U.S. for secondary-level teachers from Russia, followed by a program in Russia for U.S. teachers and the Russian educators, and a series of workshops in Russia led by the Russian teachers for their colleagues. U.S. organizations meeting the provisions described in

Internal Revenue Code section 26501(c)(3) are eligible to apply.

In a proposal, applicants should address their capacity to recruit teachers of English as a Foreign Language (EFL), history, social studies, math, science, and information technology in Russia.

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

Overview: The U.S.-Russia Language, Technology, Math, and Sciences (LTMS) Teacher Program will bring outstanding secondary school teachers from Russia to the United States to augment their subject area teaching skills and knowledge of the U.S., as well as provide opportunities for U.S. teachers to participate in a professional development program in Russia. The goals of the program are: (1) To provide opportunities for Russian and U.S. teachers to learn from one another's education systems and foster excellence in the classroom through increased exchange of ideas and expertise; (2) to develop the leadership skills of Russian and U.S. teachers by providing opportunities to share educational best practices in professional development through seminars and workshops in the United States and Russia; (3) to raise the status of teaching in Russia and create among key Russian professionals a deeper understanding of the U.S., so that they may share their experiences of living in a diverse democratic society with students and teachers in their home communities.

Proposals should outline six distinct program components:

A. Program publicity, recruitment, and selection in Russia.

B. Program publicity, recruitment, and selection of U.S. teachers.

C. Two three- to four-week U.S.-based institutes (each comprising a group of 16 teachers from Russia): The first institute should support teachers of English as a Foreign Language (EFL), social studies, and history and should be given in English in spring of 2007; the second institute should support teachers of math, science, and information technology and should be given in Russian in fall of 2007. Russian participants should be teaching professionals with at least five to ten years of experience. Teachers participating in the English-speaking institute should have strong written and oral English skills, as evidenced by an institutional TOEFL score of 195 CBT or higher. The second institute, for teachers from the disciplines of math, science, and information technology, will be conducted in Russian with facilitators and translators;

D. Visit of a group of eight U.S. teachers to the home schools of the Russian teachers who participated in the U.S. program to share best practices during the 2007-08 academic year;

E. Professional development workshops in Russia led by teachers who participated in the U.S. program for their non-English-speaking colleagues; and

F. Follow-On Activities.

Applicants should propose a calendar that will include a coherent sequence of the various program phases.

A. Recruitment/Selection of Russian Teachers

Applicants should propose creative, cost-efficient recruitment and selection strategies involving an on-the-ground partner organization in Russia to attract qualified teachers to the program. The recruitment strategy should ensure a pool of highly qualified candidates, while also limiting the number that will not be accepted. Applicants are invited to propose, based on their experience and knowledge, appropriate grant-to-applicant ratios that should be targeted in the recruitment effort. Please include letters of project commitment from the on-the-ground partner and describe in detail relevant previous projects undertaken by the organization or individuals. A sub-grant agreement and an accompanying budget are required. Please include this documentation with your proposal submission.

The cooperating institution, together with the local partner, should collaborate in Russia with the English Language Officer (ELO) on the program for English-speaking teachers. The ELO, based at the U.S. Embassy in Moscow, is a credentialed, experienced Foreign Service and English as a Foreign Language officer who works with the Russian Ministry of Education, universities and teacher-training officials on targeted English language programs. The ELO may participate in reviewing applications, interviewing

and nominating candidates, and approving and monitoring follow-up activities.

In all cases, the top candidates' applications will be submitted to the cooperating institution, which should organize external peer review panels to determine the final selection of candidates in collaboration with ECA.

B. Recruitment and Selection of U.S. Teachers

The cooperating institution should invite applications from outstanding U.S. teachers in the fields of English, English as a Foreign Language (EFL), social studies, history, math, science, and information technology. In consultation with the Teacher Exchange Branch (ECA/A/S/X), the cooperating institution should select approximately 8 teachers for participation.

C. U.S. School-Based Internships/ Professional Development Institutes

Two competitively selected schools of education at U.S. universities should coordinate the professional development institutes—one for the spring institute in English, history, and social studies, and one for the fall institute in math, science, and information technology. The cooperating institution should administer an open sub-grant competition among U.S. schools of education to host the teachers. The cooperating institution should arrange a three-day orientation program in Washington, DC, for each group of Russian teachers. Then, the teachers will travel to the U.S. host university for the three- to four-week institute. Each program will conclude with a two- or three-day conference and debriefing session at the host university.

For each cohort of participants, the institutes should provide:

(1) Intensive training in teaching methodologies in the Teaching of English as a Foreign Language, social studies, civics, history, or math, science, and technology, especially student-centered and applied or problem-based learning;

(2) Training in the use of technology appropriate for the Russian classroom (all subjects) and in the use of computers for Internet research and word processing;

(3) Consultations with leading U.S. teacher training and curriculum development specialists and practitioners;

(4) Visits to various types of U.S. schools to observe a variety of teaching methods (inquiry, applied/problem-based learning, active classroom, group projects, etc.);

(5) Individual and group work periods for research and curriculum writing activities;

(6) Involvement with Americans at civic and volunteer organizations, at school board meetings, parent-teacher conferences or other

community and cultural activities, and through home stays;

(7) The English-speaking group should be provided a school-based internship with U.S. mentor teachers and opportunities to teach or team-teach in a U.S. classroom.

(8) At the end of each institute, the host university should organize a conference/debriefing meeting with the visiting Russian educators and the selected U.S. teachers who will travel to Russia. The conference may include joint presentations, poster sessions or round-table discussions on topics such as technology in the classroom, effective instruction, teacher professional development, school partnerships, and civic education.

D. Russia Visit

The program will provide a two-week visit to Russia for 8 U.S. teachers to foster school linkages and collaboration on joint projects. The visits should feature the sharing of best practices, team-teaching with counterparts abroad, seminars on methodology, and opportunities to learn from regional master teachers about teaching styles, curriculum, and educational issues in Russia. The cooperating institution should work with ECA/A/S/X and international counterparts to identify and arrange host placements in Russia for the U.S. teachers.

E. Professional Development Workshops in Russia

The third component, which will take place after the Russian participants return home, is a series of workshops they will conduct for their non-English-speaking colleagues. Proposals should outline a plan for Russian teachers who have taken part in the program to organize and lead professional development workshops in Russia in summer 2008, with the collaboration and guidance of U.S. education consultants from the host universities. The workshops are designed to reach as many (non-English-speaking, particularly) Russian teachers as possible. While still in the U.S., the teachers should develop curriculum units to be used in their Russian classrooms. During the in-country workshops, the participants in the U.S. program should share their curriculum units with fellow teachers, as well as information they received while on the exchange about student-centered learning, applied and problem-based learning, technology in education, civic education, and new pedagogical methods. The participating teachers and their host university education consultants should develop the workshops in coordination with the cooperating institution, relevant in-country non-governmental organization, the Russian Ministry of Education, the

U.S. Embassy in Moscow (including the ELO for workshops in EFL, where appropriate), and the ECA Teacher Exchange Branch.

The Bureau will work with the recipient of this cooperative agreement award on administrative and program issues and questions as they arise over the duration of the award.

F. Follow-On Activities

After the Russian participants return home, follow-on programming will take place. The Russian teachers will be eligible to apply for small grants to purchase essential materials for their schools, to offer follow-on training for other teachers (in addition to the workshops previously described), to open a teacher resource center, and to conduct other activities that will build on the exchange visits. The development and approval of follow-on grants must be coordinated by the cooperating institution with the relevant non-governmental organizations, the U.S. Embassy in Moscow (including the ELO, where appropriate), and the Teacher Exchange Branch. Cooperating institutions' proposals should allot a total of \$40,000 to fund a total of 10 or 12 small grants.

Program Planning and Implementation

Applicants are requested to submit a narrative outlining a comprehensive strategy for the administration and implementation of the U.S.-Russia Language, Technology, Math, and Sciences (LTMS) Teacher Program. The narrative should include a proposed design for the institutes, a strategy for selecting university hosts and for cooperating with them through subgrants, a plan for recruiting, selecting, and placing Russian teachers at the U.S. institutes, a plan for monitoring the teachers' academic and professional programs, an idea for the end-of-program debriefing/conference for Russian and U.S. teachers, a design for the Russia visits by U.S. teachers, and a proposal for follow-on support.

The comprehensive program strategy should reflect a vision for the program as a whole, interpreting the goals of the U.S.-Russia LTMS Teacher Program with creativity and providing innovative ideas for the program. The strategy should include a description of how the various components of the program will be integrated to build upon and reinforce one another. Pending availability of funds, this grant should begin on September 1, 2006, and will run through June 30, 2008.

In a cooperative agreement, ECA's Teacher Exchange Branch will be substantially involved in program

activities above and beyond routine grant monitoring. ECA/A/S/X activities and responsibilities for this program are as follows:

- Formulation of program policy;
- Clearing texts and program guidelines for publication;
- Approval of recruitment mechanisms and the selection of Russian and U.S. teachers;
- Review and approval of solicitation materials for sub-grant competition of university hosts;
- Review and approval of the university-based program schedules and enhancement activities for Russian teachers, the Washington, DC, orientation and the end-of-program debriefing schedules; and
- Approval of schedules for in-country workshops and follow-on awards.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: 2006.
Approximate Total Funding: \$700,000.

Approximate Number of Awards: 1.
Approximate Average Award: Pending availability of funds, \$700,000.
Anticipated Award Date: Pending availability of funds, September 1, 2006.
Anticipated Project Completion Date: June 30, 2008.

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, applicants must maintain written records to

support all costs, which are claimed as their 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: Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to \$60,000 in Bureau funding. ECA anticipates issuing one award in an amount up to \$700,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete 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 Patricia Mosley of the Teacher Exchange Branch, ECA/A/S/X, Room 349, U.S. Department of State, SA-44, 301 4th Street, SW., Washington, DC 20547, telephone: (202)453-8897, fax (202)453-8890, e-mail: MosleyPJ@state.gov to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/S/X-06-13 when making your request.

Alternatively, an electronic application may be obtained from grants.gov. Please see section IV.3f. for further information.

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.

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> or from the Grants office Web site at <http://www.grants.gov>. Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The original and seven copies of the application should be sent per the instructions under IV.3f. "Application Deadline and Methods of Submission 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 Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor

Programs as set forth in 22 CFR part 62, including the oversight of 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, record-keeping, reporting and other requirements.

An employee of the Bureau will be named the Responsible Officer for the program; employees of the cooperating institution will be named Alternate Responsible Officers and will be responsible for issuing DS-2019 forms to participants and performing all actions to comply with the Student and Exchange Visitor Information System (SEVIS). A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at <http://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.

Please refer to Solicitation Package for further information.

IV.3.d.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 disabilities. 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.3.d.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 cooperating institution will track participants and 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, how and when you intend to measure these outcomes (performance indicators), and how these outcomes relate to the above goals. The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), 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 of teachers to apply knowledge in home schools and community; interpretation and explanation of experiences and new knowledge gained to school administrators and other colleagues; continued contacts between participants and others.

4. Institutional changes influencing policy improvement, 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.)

ECA/A/S/X and the Bureau's Office of Policy and Evaluation will work with the recipient of this cooperative agreement to develop appropriate evaluation goals and performance indicators.

The cooperating institution 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.3.d.4. Describe your plans for staffing: Please provide a staffing plan which outlines the responsibilities of each staff person and explains which staff member will be accountable for each program responsibility. Wherever possible please streamline administrative processes.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3.e.1. HJ Applicants must submit a comprehensive budget for the program. The budget should not exceed \$700,000 for program and administrative costs.

There must be a summary budget as well as breakdowns reflecting both administrative and program budgets for host campus and foreign teacher involvement in the program. Applicants should provide separate sub-budgets for the professional institutes/internships, Russia visits by U.S. teachers, and the in-country workshop components in Russia.

The summary and detailed administrative and program budgets should be accompanied by a narrative which provides a brief rationale for each line item including a methodology for estimating appropriate average maintenance allowance levels and tuition costs (as applicable) for the participants, and the number that can be accommodated at the levels proposed. The total administrative costs funded by the Bureau must be reasonable and appropriate.

IV.3.e.2. Allowable costs for the program and additional budget guidance are outlined in detail in the POGI document.

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, June 5, 2006.

Reference Number: ECA/A/S/X-06-13.

Methods of Submission: Applications will 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 Project 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".

The original and seven copies of the application should be sent to: U.S. Department of State, SA-44, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/S/X-06-13, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants submitting hard-copy applications must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal in text (.txt) format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs section at the U.S. embassy for its review.

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.

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 assistance awards (cooperative agreements) 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 Development and Management: The proposal narrative should exhibit originality, substance, precision, and relevance to the Bureau's mission as well as the objectives of the U.S.-Russia Language, Technology, Math, and Sciences (LTMS) Teacher Program. It should include an effective, feasible program plan for U.S.-based institutes and in-country workshops in Russia and demonstrate how the distribution of administrative resources will ensure adequate attention to program administration, including host institution selection.

2. Multiplier effect/impact: The proposed administrative strategy should maximize the program's potential to build on the participants' training upon their return to their countries.

3. 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 (selection of participants, host institutions chosen through sub-grants, and program evaluation) and program content, resource materials and follow-up activities.

4. Institutional Capacity and Record: Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals.

5. Follow-on and Alumni Activities: Proposals should provide a plan for continued follow-on activity (both with and without Bureau support) ensuring that the U.S.-Russia LTMS Teacher Program training is not an isolated event. Activities should include administering a small grants competition for alumni, and tracking and maintaining updated lists of all alumni and facilitating follow-up activities.

6. Project Evaluation: Proposals should include a plan and methodology to evaluate the U.S.-Russia Language, Technology, Math, and Sciences (LTMS) Teacher Program's degree of success in meeting program objectives, both as the activities unfold, at the end of the first program iteration, and at their conclusion. Draft survey questionnaires or other techniques plus description of methodologies to use to link outcomes to original project objectives are recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded, or quarterly, whichever is less frequent.

7. Cost-effectiveness and 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.1a. 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#article1>.

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus one copy of the following reports:

Quarterly financial reports; Annual program reports for the first and second year of the agreement; and final program and financial reports no more than 90 days after the expiration of the award.

The cooperating institution 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: Michael Kuban, Office of Global Educational Programs, ECA/A/S/X, Room 349, U.S. Department of State, SA-44, 301 4th Street, SW., Washington, DC 20547, telephone: 202-453-8878, fax 202-453-8890, KubanMM@state.gov.

All correspondence with the Bureau concerning this RFGP should reference the title and number ECA/A/S/X-06-13.

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.

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: April 21, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 06-4122 Filed 5-1-06; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Commercial Driver's License Information System (CDLIS) Modernization Plan

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) plans to modernize the Commercial Driver's License Information System (CDLIS) in response to Title IV (Motor Carrier Safety Reauthorization Act of 2005) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU), which was signed into law on August 10, 2005. As required by SAFETEA-LU, the modernization plan must: (a) Comply with applicable Federal information technology security standards; (b) provide for the electronic exchange of all information, including posting of convictions; (c) contain self-auditing features to ensure that data is being posted correctly and consistently by the States; (d) integrate the commercial driver's license and medical certificate; and (e) provide a schedule for modernization of the system. SAFETEA-LU authorizes a total of \$28 million (FY 2006-2009) to carry out this project. This notice publishes the plan

which provides an overview of the key tasks associated with the CDLIS Modernization project, and will result in a system that satisfies the criteria specified in section 4123 of SAFETEA-LU.

DATES: The dates associated with this effort assume that a grant will be awarded by FMCSA to the American Association of Motor Vehicle Administrators (AAMVA) so that the CDLIS Modernization effort can begin in May 2006. Under this plan, all States will implement the modernized CDLIS software by December 2010. However, FMCSA will adjust dates and project activities based on actual funds appropriated and other needs identified during the course of the project.

FOR FURTHER INFORMATION CONTACT:

Dominick Spataro, Division Chief, Commercial Driver's License (CDL) Division (MC-ESL), 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366-2995. E-mail: Dominick.Spataro@fmcsa.dot.gov.

SUPPLEMENTARY INFORMATION:

Key Tasks

1. Systems Analysis

FMCSA estimates that the systems analysis stage will take approximately one year to complete. This initial stage is composed of the following phases:

Project Definition/Solution Planning Phase (May 2006-July 2006)

AAMVA will prepare a comprehensive project definition as a deliverable of this phase. The CDLIS Modernization stakeholders will be representatives from the States, FMCSA, other government agencies, the motor carrier industry, law enforcement, Canada, Mexico, and AAMVA, and will be invited to participate throughout the process. This participation is crucial as stakeholder input will help to identify existing problems, and develop and implement needed improvements. Systems analysts will prepare and then review the project definition report before publishing a final draft version. AAMVA will deliver the final draft to the key project stakeholders for review. AAMVA will then deliver the final draft to FMCSA representatives for review and approval.

During the Project Definition/Solution Planning phase, AAMVA will develop the master project plan and outline the project tasks and sub-tasks at a detailed level. AAMVA will evaluate timelines and other factors and assign resources. AAMVA will create a master project plan in Microsoft Project and deliver it to the key stakeholders. AAMVA will establish one or more Working Groups

(WG) in this phase based on the approach. The Project Definition/Solution Planning Phase will result in the project kickoff meeting and refinements to the project definition report and the master project plan.

Requirements Definition Phase (May 2006–February 2007)

The Requirements Definition Phase will establish the foundation of the project. During this phase, the business requirements will be evaluated and documented. These include: Requirements for modernized CDLIS processes and reporting, the technical environment, business rules, procedures, performance indices, interfaces with third party applications, and the impact on State systems supporting CDLIS. The requirements will specify that the CDLIS program take into consideration and address SAFETEA–LU provisions, specifically that the program: (a) Complies with applicable Federal information technology security standards; (b) provides for the electronic exchange of all information, including posting of convictions; (c) contains self-auditing features to ensure that data is being posted correctly and consistently by the States; and (d) integrates the commercial driver's license and medical certificate. The requirements will also incorporate recommendations from the baseline audit of the current CDLIS information system, which is required by section 4123 of SAFETEA–LU, and will seek to incorporate findings and recommendations from the Commercial Driver's License task force required to be convened by the Secretary under section 4135 of SAFETEA–LU. This task force will study and address current impediments and foreseeable challenges to the commercial driver's license program's effectiveness and measures needed to realize the full safety potential of the commercial driver's license program.

Requirements for CDLIS modernization will be gathered by different activities involving the stakeholders and existing CDLIS users. The goal is to address known issues and problems with the existing CDLIS environment and implement the enhancements mandated by Congress. This will create a modernized CDLIS that supports FMCSA's goals to increase highway safety and reduce fatalities through improved oversight of commercial drivers. Specifically, the modernized system will facilitate the exchange of commercial driver's license information among State driver's licensing agencies, law enforcement, and FMCSA. AAMVA will conduct

meetings, forums, conference calls, and site visits involving the users and stakeholders of the existing CDLIS. AAMVA will take advantage of the following meetings in 2006 to pursue CDLIS modernization requirements:

- AAMVA Regional Meetings—Summer 2006. AAMVA is organized geographically into four regions. Each region meets annually to discuss major issues and share solutions to common problems. The membership includes technical specialists, and law enforcement and State driver licensing administrators and representatives.
 - CDL Coordinator's Meeting—Fall 2006. This is a gathering of State representatives who work directly with CDLIS and have responsibility for the oversight of CDL programs within their States. The group includes driver licensing representatives, technical specialists, and law enforcement.
 - CDLIS Modernization Conference Calls—Ongoing. As requirements are identified, AAMVA will conduct conference calls to inform the States and solicit feedback regarding the impact of the requirements. These will begin as monthly calls in May 2006 and then increase in frequency to biweekly calls and weekly calls as needed.
 - CDLIS Modernization Working Group—Ongoing. The Working Group formed during the Project Definition/Solution Planning Phase will meet weekly by conference call and bimonthly for face-to-face meetings. The conference calls and meetings of the Working Group will continue throughout the duration of the project.
- AAMVA will develop a comprehensive requirements definition document and deliver it to the key stakeholders as the major deliverable from this phase.

Functional Specifications Phase (November 2006–April 2007)

As the business requirements gathering and documentation nears completion, AAMVA will begin developing the functional specifications for a modernized CDLIS. AAMVA will use the business requirements captured during the Requirements Definition phase and transform each into a functional specification for a modernized CDLIS. These functional specifications provide details regarding the requirements for the functions of the CDLIS Central Site and also the dependent functions for State systems supporting CDLIS. The functional specifications provide direction to the technical teams at AAMVA and the States to guide them with the technical designs to transition the existing CDLIS into a modernized system.

External (Technical) Design Phase (December 2006–June 2007)

During this stage, functional specifications will be transformed into a comprehensive technical design. AAMVA will develop the technical design for the modernized CDLIS Central Site and teams working at the State level will address the technical design for those systems that will need to support and interface with the modernized CDLIS. Technical programmers at the central site and State level will use these specifications to produce the software that will constitute the modernized CDLIS.

Procedure Design Phase (July 2007–December 2007)

In parallel with the External (Technical) Design phase, the functional specifications will be evaluated to address those aspects of a modernized CDLIS that do not involve automated computer-based code. This pertains to the business procedures that support all of the activities involved in managing the Commercial Drivers Licensing program at the State and Federal level. As the modernized CDLIS is deployed, stakeholders will need to alter their business procedures to take advantage of the capabilities and support provided by a modernized CDLIS.

2. States to Apply for Federal Grants (2007–2009)

The functional specifications and external and procedure designs that result from the system analysis phase will be provided to the States. This will help them determine the scope of the functional enhancements or changes to their respective applications with reference to the CDLIS modernization project. Based on the level of effort required for the CDLIS modernization project, States may be reimbursed by FMCSA for as much as 80 percent of the FMCSA-approved, eligible costs.

3. Programming

Central Site Programming (March 2007–February 2009)

During this stage, AAMVA will develop the software for the modernized CDLIS Central Site. The main tasks of the programming stage at all levels include coding, unit testing, and integration testing. Coding involves programmers writing the code to implement the logic that will provide the functionality of the modernized CDLIS. The programmer will conduct unit testing to ensure that the code satisfies the requirements and technical design as specified. Integration testing will ensure that the components of the

system, produced by multiple programmers, function properly together and in accordance with the specifications. The central site programming is expected to take between two and three years to complete.

State Application Programming (June 2007–March 2009)

In parallel to the central site programming, the States will initiate their programming effort to incorporate the newly added or modified CDLIS business functions into their applications. Each State will be responsible for developing and executing its own project plan at all levels (that is, coding, unit testing, integration testing, etc.) of the CDLIS modernization project.

Note: Duration for the application programming will vary from State to State. The plan uses approximately four years as the overall duration for all of the States to complete the application programming.

4. Acceptance Testing (June 2007–March 2009)

As the integration testing in the programming stage nears completion, AAMVA will begin formal acceptance testing of the software for the modernized CDLIS Central Site. In parallel with this activity at the central site, States will conduct acceptance testing of the code at the State level to support the modernized CDLIS. The States will execute specific test scenarios to ensure that the CDLIS Central Site functions in accordance with the specifications.

5. Develop State-Structured Test Plans (October 2008–March 2009)

States will complete coding and testing at the State level, but this code will need to undergo structured testing by AAMVA before it can be placed into the modernized CDLIS environment. This ensures that a State's code works properly according to the specifications and prevents the possibility of faulty State code disrupting the entire CDLIS environment. Structured testing is a series of test cases designed by AAMVA that a State must successfully execute in order to have its code certified for production. This activity covers the design of the test cases and data by AAMVA to support structured testing.

6. State-Structured Testing (March 2009–December 2010)

This activity is the implementation of the State-structured test plans developed in the previous activity. It includes the actual structured testing of their modernized CDLIS code by each

State. AAMVA and State personnel will work together to execute the structured test cases and to monitor the results. After a State completes the required structured testing, its code can become part of the modernized CDLIS environment. All States are projected to have completed structured testing and to be operational in the modernized CDLIS production environment by December 2010.

7. Network Upgrade To Provide Encryption (May 2006–April 2009)

The original CDLIS was developed when computer technology was much less sophisticated and the methods and techniques of those seeking to illegally access or damage data systems were less advanced. A modernized CDLIS must include additional precautions to safeguard its operation and to ensure that the data it manages is not compromised. This task covers the activity needed to provide encryption of the data traveling across the network as it is communicated from State to State in the normal operation of CDLIS.

8. Grant Management (2007–2010)

Modernizing CDLIS at the State level requires time, resources, and budgetary support. States can submit a plan to FMCSA to identify the scope of the activity at the State level required to modernize CDLIS and to quantify the amount of assistance required. Following approval, FMCSA will manage the invoicing and reimbursement activity associated with the States accomplishing their plans for modernizing CDLIS.

9. Consultation With Safety Representatives

SAFETEA-LU specifies that in developing the plan, FMCSA will consult with representatives of the motor carrier industry, State licensing agencies, and State safety enforcement agencies. Consistent with this requirement, FMCSA has worked closely with AAMVA to develop this plan and will request its assistance in managing the project. Additionally, FMCSA has contacted a variety of interested safety representatives, including the Commercial Vehicle Safety Alliance, International Registration Plan, Inc., International Association of Chiefs of Police, New York State Department of Motor Vehicles, International Brotherhood of Teamsters, American Trucking Associations, Owner-Operator Independent Drivers Association, National Tank Truck Carriers, Inc., American Bus Association, United Motorcoach Association, National

Conference of State Legislatures, and the National Governors Association to request their participation in reviewing the modernization plan. The national organizations expanded the consultative and review process by sharing our plan with their membership. Comments received were supportive of our efforts and plan.

Issued on: April 26, 2006.

Warren E. Hoemann,
Acting Administrator.

[FR Doc. E6-6598 Filed 5-1-06; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The *Federal Register* notice with a 60-day comment period soliciting comments on the following collection of information was published on February 8, 2006. No comments were received.

DATES: Comments must be submitted on or before June 1, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Taylor E. Jones II, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202-366-3423; FAX: 202-366-3128; or e-Mail: taylor.jones@dot.gov. Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Request for Transfer of Ownership, Registry, and Flag, or Charter, Lease, or Mortgage of U.S.–Citizen Owned Documented Vessels.

OMB Control Number: 2133-0006.

Type Of Request: Extension of currently approved collection.

Affected Public: Vessel owners who have applied for foreign transfer of U.S.-flag vessels.

Forms: MA-29, MA-29A, MA-29B (Note: MA-29A is used only in cases of a National emergency).

Abstract: This collection provides information necessary for MARAD to approve the sale, transfer, charter, lease, or mortgage of U.S. documented vessels to non-citizens, or the transfer of such vessels to foreign registry and flag, or the transfer of foreign flag vessels by their owners as required by various contractual requirements. The information will enable MARAD to determine whether the vessel proposed for transfer will initially require retention under the U.S.-flag statutory regulations.

Annual Estimated Burden Hours: 200 hours.

Addresses: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

Comments Are Invited On: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (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 the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

(Authority: 49 CFR 1.66)

Issued in Washington, DC, on April 27, 2006.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6-6626 Filed 5-1-06; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and

approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 13, 2006. No comments were received.

DATES: Comments must be submitted on or before June 1, 2006.

FOR FURTHER INFORMATION CONTACT:

Taylor E. Jones II, Maritime Administration 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202-366-2323; FAX: 202-493-2180 or e-mail: taylor.jones@dot.gov.

Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Voluntary Intermodal Sealift Agreement (VISA).

OMB Control Number: 2133-0532.

Type Of Request: Extension of currently approved collection.

Affected Public: Operators of dry cargo vessels.

Form (s): MA-1020.

Abstract: This information collection is in accordance with Section 708, Defense Production Act, 1950, as amended, under which participants agree to provide commercial sealift capacity and intermodal shipping services and systems necessary to meet national defense requirements. Officials at the Maritime Administration and the Department of Defense use this information to assess the applicants' eligibility for participation in the VISA program.

Annual Estimated Burden Hours: 200 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

Comments are Invited On: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (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 the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

(Authority: 49 CFR 1.66)

Issued in Washington, DC on April 27, 2006.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6-6627 Filed 5-1-06; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34866]

Union Pacific Railroad Company—Temporary Trackage Rights Exemption—the Kansas City Southern Railway Company

Pursuant to a written trackage rights agreement dated April 12, 2006, the Kansas City Southern Railway Company (KCS) has agreed to grant temporary overhead trackage rights to Union Pacific Railroad Company (UP) between milepost 482.0 on KCS's Mexico Subdivision at Kansas City, MO, and milepost 252.1 on KCS's East St. Louis Terminal Subdivision at Godfrey, IL, a distance of approximately 285 miles.

The transaction was scheduled to be consummated on April 19, 2006, and the temporary trackage rights are intended to expire on or about July 31, 2006. The temporary trackage rights will facilitate maintenance work on UP lines.

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34866, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Gabriel S. Meyer, Assistant General Attorney, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: April 24, 2006.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. E6-6534 Filed 5-1-06; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 25, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 1, 2006 to be assured of consideration.

Federal Consulting Group

OMB Number: 1505-0191.

Type of Review: Extension.

Title: American Customer Satisfaction Index.

Description: The objectives of surveying citizen users of Federal Agencies as part of the American Customer Satisfaction Index are (1) to make the agencies part of a national measure of customer satisfaction; (2) to benchmark against other agencies and companies; and (3) to provide information for improving customer satisfaction.

Respondents: Individuals and households; Business or other-for-profit; Not-for-profit institutions; Farms, Federal Government and State, Local or Tribal Govt.

Estimated Number of Respondents: 117,000.

Estimated Total Reporting Burden: 23,400 hours.

Clearance Officer: Ron Oberbillig, (202) 504-3656, Federal Consulting Group, 1799 9th Street, NW., Washington, DC 20239.

OMB Reviewer: Alexander T. Hunt, (202) 395-7316, Office of Management

and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,
Treasury PRA Clearance Officer.

[FR Doc. E6-6552 Filed 5-1-06; 8:45 am]

BILLING CODE 4810-25-P

DEPARTMENT OF THE TREASURY

Open Meeting of the Financial Literacy and Education Commission

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Financial Literacy and Education Commission, established by the Financial Literacy and Education Improvement Act (Title V of the Fair and Accurate Credit Transactions Act of 2003).

DATES: The eighth meeting of the Financial Literacy and Education Commission will be held on Tuesday, May 16, 2006, beginning at 10:30 a.m.

ADDRESSES: The Financial Literacy and Education Commission meeting will be held in the Cash Room at the Department of the Treasury, located at 1500 Pennsylvania Ave., Washington, DC. To be admitted to the Treasury building, an attendee must RSVP by providing his or her name, organization, phone number, date of birth, Social Security number and country of citizenship to the Department of the Treasury by e-mail at: FLECRsvp@do.treas.gov, or by telephone at: (202) 622-1783 (not a toll-free number) not later than 5 p.m. on Wednesday, May 10, 2006.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Tom Kurek by e-mail at:

thomas.kurek@do.treas.gov or by telephone at (202) 622-5770 (not a toll free number). Additional information regarding the Financial Literacy and Education Commission and the Department of the Treasury's Office of Financial Education may be obtained through the Office of Financial Education's Web site at: <http://www.treas.gov/financialeducation>.

SUPPLEMENTARY INFORMATION: The Financial Literacy and Education Improvement Act, which is Title V of the Fair and Accurate Credit Transactions Act of 2003 (the "FACT Act") (Pub. L. 108-159), established the Financial Literacy and Education Commission (the "Commission") to improve financial literacy and education of persons in the United States. The Commission is composed of

the Secretary of the Treasury and the head of the Office of the Comptroller of the Currency; the Office of Thrift Supervision; the Federal Reserve; the Federal Deposit Insurance Corporation; the National Credit Union Administration; the Securities and Exchange Commission; the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs; the Federal Trade Commission; the General Services Administration; the Small Business Administration; the Social Security Administration; the Commodity Futures Trading Commission; and the Office of Personnel Management. The Commission is required to hold meetings that are open to the public every four months, with its first meeting occurring within 60 days of the enactment of the FACT Act. The FACT Act was enacted on December 4, 2003.

The eighth meeting of the Commission, which will be open to the public, will be held in the Cash Room at the Department of the Treasury, located at 1500 Pennsylvania Ave., Washington, DC. The room will accommodate 80 members of the public. Seating is available on a first-come basis. Participation in the discussion at the meeting will be limited to Commission members, their staffs, and special guest presenters.

Dated: April 18, 2006.

Dan Iannicola, Jr.,

Deputy Assistant Secretary for Financial Education.

[FR Doc. E6-6553 Filed 5-1-06; 8:45 am]

BILLING CODE 4810-37-P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

Proposed Information Collections; Comment Request

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the proposed or continuing information collections listed below in this notice.

DATES: We must receive your written comments on or before July 3, 2006.

ADDRESSES: You may send comments to Mary A. Wood, Alcohol and Tobacco

Tax and Trade Bureau, at any of these addresses:

- P.O. Box 14412, Washington, DC 20044-4412;
- 202-927-8525 (facsimile); or
- formcomments@ttb.gov (e-mail).

Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, and OMB number (if any) in your comment. If you submit your comment via facsimile, send no more than five 8.5 x 11 inch pages in order to ensure electronic access to our equipment.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, copies of the information collection and its instructions, or copies of any comments received, contact Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412; or telephone 202-927-8210.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau, as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed and continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether this information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden 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 the requested information.

Information Collections Open for Comment

Currently, we are seeking comments on the following information collections:

Title: Authorization to Furnish Financial Information and Certificate of Compliance.

OMB Number: 1513-0004.

TTB Form Number: 5030.6.

Abstract: The Right to Financial Privacy Act of 1978 limits access to records held by financial institutions and provides for certain procedures to gain access to the information. TTB F 5030.6 serves as both a customer authorization for TTB to receive information and as the required certification to the financial institution.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 2,000.

Estimated Total Annual Burden Hours: 500.

Title: Application to Establish and Operate Wine Premises and Wine Bond.

OMB Number: 1513-0009.

TTB Form Numbers: 5120.25 and 5120.36.

Abstract: TTB F 5120.25 is the form used to establish the qualifications of an applicant applying to establish and operate wine premises. The applicant certifies the intention to produce and/or store a specified amount of wine and take certain precautions to protect it from unauthorized use. TTB F 5120.36, Wine Bond, is the form used by the proprietor and a surety company as a contract to ensure the payment of the wine excise tax.

Current Actions: There are changes to this information collection, and it is being submitted to revise a currently approved collection. Specifically, TTB is changing TTB F 5120.36, Wine Bond. We are adding several new fields to make this form suitable for collateral and surety bonds. Essentially, you will be providing the same information that we required before for each type of bond, but in addition, we have added a field for an Employer Identification Number (EIN), a Bond Category, a Bond Number, Collateral Type, and Treasury and cash information.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,720.

Estimated Total Annual Burden Hours: 810.

Title: Bonded Wineries—Formula and Process for Wine, Letterhead Applications and Notices Relating to Formula Wine.

OMB Number: 1513-0010.

TTB Form Number: 5120.29.

Abstract: TTB F 5120.29 is used to determine the classification of wines for labeling and consumer protection. The form describes the person filing, type of product to be made, and restrictions to the labeling and manufacturing of wine. The form is also used to audit a product.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 600.

Estimated Total Annual Burden Hours: 1,200.

Title: Power of Attorney.

OMB Number: 1513-0014.

TTB Form Number: 5000.8.

Abstract: TTB F 5000.8 delegates the authority to a specific individual to sign documents on behalf of an applicant or a principal. 26 U.S.C. 6061 authorizes that individuals signing returns, statements, or other documents required to be filed by industry members under the provisions of the Internal Revenue Code (IRC) or the Federal Alcohol Administration (FAA) Act are to have that authority on file with TTB.

Current Actions: There are changes to this information collection, and it is being submitted to revise a currently approved collection. Specifically, TTB is revising this information collection by deleting item 15C, Declaration, and adding a request for a phone number in items 3 and 6.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Total Annual Burden Hours: 3,000.

Title: Application for an Industrial Alcohol User Permit and Industrial Alcohol Bond.

OMB Number: 1513-0028.

TTB Form Numbers: 5150.22 and 5150.25.

Abstract: TTB F 5150.22 is used to determine the eligibility of the applicant to engage in certain operations and the extent of the operations for the production and distribution of specially denatured spirits (alcohol/rum). This

form identifies the location of the premises and establishes whether the premises will be in conformity with the Federal laws and regulations. TTB F 5150.25 provides notification that sufficient bond coverage has been obtained prior to the issuance of a permit.

Current Actions: There are changes to this information collection, and it is being submitted to revise a currently approved collection. We are deleting TTB F 5150.25, Industrial Alcohol Bond, from this information collection, which will reduce the burden hours. We no longer require an applicant to file an Industrial Alcohol Bond in order to obtain an Industrial Alcohol User Permit. Also, we are making minor changes to TTB F 5150.22, Application for an Industrial Alcohol User Permit, such as updating the contact information and correcting the burden hours in the Paperwork Reduction Act Notice statement on the form.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 738.

Estimated Total Annual Burden Hours: 1,476.

Title: Distilled Spirits Records and Monthly Report of Production Operations.

OMB Number: 1513-0047.

TTB Form Number: 5110.40.

TTB Record Number: 5110/01.

Abstract: The information collected is used to account for proprietor's tax liability, adequacy of bond coverage and protection of the revenue. The information also provides data to analyze trends in the industry, and helps to plan efficient allocation of field resources, audit plant operations and compile statistics for government economic analysis.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 150.

Estimated Total Annual Burden Hours: 3,600.

Title: Miscellaneous Requests and Notices for Distilled Spirits Plants.

OMB Number: 1513-0048.

TTB Form Number: 5110.41.

Abstract: The information provided by the applicants assists TTB in determining eligibility and provides for registration. These eligibility

requirements are for persons who wish to establish distilled spirits plant operations. However, both statutes and regulations allow variances from regulations, and this information gives data to permit a variance.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 328.

Estimated Total Annual Burden Hours: 1,620.

Title: Letterhead Applications and Notices Relating to Wine.

OMB Number: 1513-0057.

TTB Record Number: 5120/2.

Abstract: Letterhead applications and notices relating to wine are required to ensure that the intended activity will not jeopardize the revenue or defraud consumers.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,650.

Estimated Total Annual Burden Hours: 825.

Title: Letterhead Applications and Notices Relating to Tax-Free Alcohol.

OMB Number: 1513-0060.

TTB Record Number: 5150/4.

Abstract: Tax-free alcohol is used for non-beverage purposes by educational organizations, hospitals, laboratories, etc., in scientific research and for medicinal purposes. Permits/Applications control the authorized uses and flow of tax-free alcohol. TTB Letterhead Applications and Notices are designed to protect tax revenue and public safety.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Not-for-profit institutions, Federal, State, Local or Tribal governments.

Estimated Number of Respondents: 4,444.

Estimated Total Annual Burden Hours: 2,222.

Title: Stills—Notices, Registration, and Records.

OMB Number: 1513-0063.

TTB Record Number: 5150/8.

Abstract: This information collection is used to account for and regulate the

distillation of distilled spirits to protect the revenue and to provide for identification of distillers.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 10.

Estimated Total Annual Burden Hours: 21.

Title: Stills—Retail Liquor Dealers Records of Receipts of Alcoholic Beverages and Commercial Invoices.

OMB Number: 1513-0066.

TTB Record Number: 5170/3.

Abstract: The primary objective of this recordkeeping requirement is revenue protection, by making accountability data available for audit purposes. Another objective is consumer protection, by affording the subject record traceability of alcoholic beverages to the retail liquor dealer level of distribution in the event of defective products. The record retention requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit and State, local or tribal government.

Estimated Number of Respondents: 455,000.

Estimated Total Annual Burden Hours: 455,000.

Title: Wholesale Dealers Applications, Letterheads, and Notices Relating to Operations. (Variations in Format or Preparation of Records).

OMB Number: 1513-0067.

TTB Record Number: 5170/6.

Abstract: This recordkeeping requirement pertains only to those wholesale liquor and beer dealers submitting applications for a variance from the regulations dealing with preparation, format, type, or place of retention of records of receipt or disposition for alcoholic beverages.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,029.

Estimated Total Annual Burden Hours: 515.

Title: Airlines Withdrawing Stock from Customs Custody.

OMB Number: 1513-0074.

TTB Record Number: 5620/2.

Abstract: Airlines may withdraw tax exempt distilled spirits, wine and beer from Customs custody for foreign flights. The required record shows the amount of spirits and wine withdrawn, flight identification, and Customs certification. The record enables TTB to verify that tax is not due, allows spirits and wines to be traced, maintains accountability, and protects tax revenue. This collection of information is contained in 27 CFR 28.280 and 28.281.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 25.

Estimated Total Annual Burden Hours: 2,500.

Title: Alcohol and Tobacco Tax and Trade Tax Returns, Claims and Related Documents.

OMB Number: 1513-0088.

TTB Record Number: 5000/24.

Abstract: TTB is responsible for the collection of the excise taxes on firearms, ammunition, distilled spirits, wine, beer, cigars, cigarettes, chewing tobacco, snuff, cigarette papers, tubes and pipe tobacco. Alcohol, tobacco, firearms, and ammunition excise taxes, plus alcohol, tobacco and firearms special occupational taxes are required to be collected on the basis of a return. 26 U.S.C. 5555 authorizes the Secretary of Treasury to prescribe the regulations requiring every person liable for tax to prepare any records, statements, or returns as necessary to protect the revenue.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit, Not-for-profit institutions and Individuals or households.

Estimated Number of Respondents: 503,921.

Estimated Total Annual Burden Hours: 503,921.

Title: Liquors and Articles from Puerto Rico or the Virgin Islands.

OMB Number: 1513-0089.

TTB Record Number: 5530/3.

Abstract: This information collection applies to persons bringing non-beverage products into the United States from Puerto Rico and the Virgin Islands.

These recordkeeping requirements are for the verification of claims for drawback of distilled spirits excise tax paid on non-beverage products.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 20.

Estimated Total Annual Burden Hours: 120.

Title: Notices Relating to Payment of Firearms and Ammunition Excise Tax.

OMB Number: 1513-0097.

TTB Form Number: None.

TTB Record Number: None.

Abstract: Excise taxes are collected on the sale or use of firearms and ammunition by firearms or ammunition manufacturers, importers, or producers. Taxpayers who elect to pay excise taxes by electronic fund transfer must furnish a written notice upon election and discontinuance. This notice protects the tax revenue.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 10.

Estimated Total Annual Burden Hours: 1.

Title: Applications, Notices, and Permits Relating to Importation and Exportation of Distilled Spirits, Wine and Beer, Including Puerto Rico and Virgin Islands.

OMB Number: 1513-0100.

TTB Form Number: None.

TTB Record Number: None.

Abstract: Beverage alcohol, industrial alcohol, beer, and wine are taxed when imported. The taxes on these commodities coming from the Virgin Islands and Puerto Rico are largely returned to the two insular governments. Exports are mainly tax-free. These sections ensure that proper taxes are collected and returned according to law.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 20.

Estimated Total Annual Burden Hours: 180.

Title: Information Collected in Support of Small Producer's Wine Tax Credit.

OMB Number: 1513-0104.

TTB Record Number: 5120/11.

Abstract: TTB is responsible for the collection of the excise tax on wines. Certain small wine producers are eligible for a credit which may be taken to reduce the tax they pay on wines removed from their own premises. The information is used by taxpayers in preparing their returns and by TTB to verify tax computation.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 280.

Estimated Total Annual Burden Hours: 2,500.

Dated: April 25, 2006.

Francis W. Foote,

Director, Regulations and Rulings Division.

[FR Doc. E6-6542 Filed 5-1-06; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF VETERANS AFFAIRS

Research Advisory Committee on Gulf War Veterans' Illnesses; Amended—Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92-463 (Federal Advisory Committee Act) that the Research Advisory Committee on Gulf War Veterans' Illnesses will meet on May 15-16, 2006. On May 15 the meeting will be held in the 7th floor conference room of the American Legion at 1608 K Street, NW., Washington, DC. On May 16 the meeting will be held in room 230 at the Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC. The sessions will convene at 8 a.m. each day and adjourn at 6 p.m. on May 15 and at 3 p.m. on May 16. Sessions will be open to the public.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on proposed research studies, research plans and research strategies relating to the health consequences of military service in the Southwest Asia theater of operations during the Gulf War.

The Committee will review VA program activities related to Gulf War veterans' illnesses and updates on

scientific research on Gulf War illnesses published since the last Committee meeting. Additionally, there will be presentations and discussion of background information on the Gulf War and Gulf War illnesses, application of proteomic and genomic research to the study of Gulf War illnesses, physiological mechanisms potentially

underlying chronic symptoms affecting Gulf War veterans, and discussion of committee business and activities.

Members of the public may submit written statements for the Committee's review to Dr. William J. Goldberg, Designated Federal Officer, Department of Veterans Affairs (121E), 810 Vermont Avenue, NW., Washington, DC 20420.

Any member of the public seeking additional information should contact Dr. Goldberg at (202) 254-0294.

Dated: April 26, 2006.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06-4124 Filed 5-1-06; 8:45 am]

BILLING CODE 8320-01-M

Corrections

Federal Register

Vol. 71, No. 84

Tuesday, May 2, 2006

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

Wednesday, April 19, 2006, make the following corrections:

§ 13.11 [Corrected]

1. On page 20213, in § 13.11, the table being reprinted in its entirety to read as follows:

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13 and 23

RIN 1018-AD87

Revision of Regulations for the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

Correction

In proposed rule document 06-3444 beginning on page 20168 in the issue of

Type of permit	Citation	Fee	Amendment fee
Endangered Species Act/CITES/Lacey Act			
CITES Introduction from the Sea	50 CFR 23	100	50
CITES Participation in the Plant Rescue Center Program	50 CFR 23	(1)	(1)
CITES Registration of Appendix-I Commercial Breeding Operations	50 CFR 23	100	
CITES Request for Approval of an Export program for a State or Tribe (American Ginseng, Certain Furbearers, and American Alligator)	50 CFR 23	(1)	(1)

§ 23.2 [Corrected]

2. On page 20217, in § 23.2, the table is being reprinted in its entirety to read as follows:

Question on proposed activity	Answer and action
(a) Is the wildlife or plant species (including parts, products, derivatives, whether wild-collected, or born or propagated in a controlled environment) Listed in Appendix I, II, or III of CITES (see § 23.91)?	(1) YES. Continue to paragraph (b) of this section. (2) NO. The regulations in this part do not apply.
(b) Is the wildlife or plant specimen exempted from CITES (see § 23.92)?	(1) YES. The regulations in this part do not apply. (2) NO. Continue to paragraph (c) of this section.

Question on proposed activity	Answer and action
(c) Do you want to import, export, re-export, engage in international trade, or introduce from the sea?	(1) YES. The regulations in this part apply. (2) NO. Continue to paragraph (d) of this section.
(d) Was the specimen that you possess or want to enter into intrastate or interstate commerce unlawfully acquired, illegally traded, or otherwise subject to conditions set out on a CITES document that authorized import?	(1) YES. The regulations in this part apply. See § 23.13(c) and (d) and sections 9(c)(1) and 11(a) and (b) of the ESA (16 U.S.C. 1538(c)(1) and 1540(a) and (b)). (2) NO. The regulations in this part do not apply.

§ 23.6 [Corrected]

3. On pages 20219 and 20220, in § 23.6, the table is being reprinted in its entirety to read as follows:

Roles	U.S. Scientific Authority	U.S. Management Authority
(a) Provide scientific advice and recommendations, including advice on biological findings for applications for certain CITES documents, registrations, and export program approvals. Evaluate the conservation status of species to determine if a species listing or change in a listing is warranted. Interpret listings and review nomenclatural issues.	x	
(b) Review applications for CITES documents and issue or deny them based on findings required by CITES.		x
(c) Communicate with the Secretariat and other countries on scientific, administrative, and enforcement issues.	x	x
(d) Ensure that export of Appendix-II specimens is at a level that maintains a species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which it might become eligible for inclusion in Appendix I.	x	
(e) Monitor trade in all CITES species and produce annual reports on CITES trade.		x
(f) Collect the cancelled foreign export permit or re-export certificate and any corresponding import permit presented for import of any CITES specimen. Collect a copy of the validated U.S. export permit or re-export certificate presented for export or re-export of any CITES specimen.		x
(g) Produce biennial reports on legislative, regulatory, and administrative measures taken by the United States to enforce the provisions of CITES.		x
(h) Coordinate with State and tribal governments and other Federal agencies on CITES issues, such as the status of native species, development of policies, negotiating positions, and law enforcement activities.	x	x
(i) Communicate with the scientific community, the public, and media about CITES issues. Conduct public meetings and publish notices to gather input from the public on the administration of CITES and the conservation and trade status of domestic and foreign species traded internationally.	x	x
(j) Represent the United States at the meetings of the CoP, on committees (see subpart G of this part), and on CITES working groups. Consult with other countries on CITES issues and the conservation status of species. Prepare discussion papers and proposals for new or amended resolutions and species listings for consideration at the CoP.	x	x
(k) Provide assistance to APHIS and CBP for the enforcement of CITES. Cooperate with enforcement officials to facilitate the exchange of information between enforcement bodies and for training purposes.	x	x
(l) Provide financial and technical assistance to other governmental agencies and CITES officials of other countries.	x	x

§ 23.7 [Corrected]

4. On pages 20220 and 20221, in § 23.7, the second table is being

reprinted in its entirety to read as follows:

Type of information	Office to contact
<p>(a) <i>CITES administrative and management issues:</i></p> <ol style="list-style-type: none"> (1) CITES documents, including application forms and procedures; list of registered scientific institutions and bred-in-captivity operations; and reservations (2) Information on the CoP (3) List of CITES species (4) Names and addresses of other countries' Management and Scientific Authority offices (5) Notifications, resolutions, and decisions (6) Standing Committee documents and issues (7) State and tribal export programs 	<p>U.S. Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, Toll Free: (800) 358-2104/permit questions, Tel: (703) 358-2095/other questions, Fax: (703) 358-2281/permits, Fax: (703) 358-2298/other issues, E-mail: managementauthority@fws.gov, Web site: http://www.fws.gov/international and http://www.fws.gov/permits.</p>
<p>(b) <i>Scientific issues:</i></p> <ol style="list-style-type: none"> (1) Animals and Plants Committees documents and issues (2) Findings of non-detriment and suitability of facilities, and other scientific findings (3) Listing of species in the Appendices and relevant resolutions (4) Names and addresses of other countries' Scientific Authority offices and scientists involved with CITES-related issues (5) Nomenclatural issues 	<p>U.S. Scientific Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 750, Arlington, Virginia 22203, Tel: (703) 358-1708, Fax: (703) 358-2276, E-mail: scientificauthority@fws.gov, Web site: http://www.fws.gov/international.</p>
<p>(c) <i>Wildlife clearance procedures:</i></p> <ol style="list-style-type: none"> (1) CITES replacement tags (2) Information about wildlife port office locations (3) Information bulletins (4) Inspection and clearance of wildlife shipments involving import, introduction from the sea, export, and re-export, and filing a Declaration of Importation or Exportation of Fish or Wildlife (Form 3-177) (5) Validation, certification, or cancellation of CITES wildlife documents 	<p>Law Enforcement, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop LE-3000, Arlington, Virginia 22203, Tel: (703) 358-1949, Fax: (703) 358-2271, Web site: http://www.fws.gov/le.</p>
<p>(d) <i>APHIS plant clearance procedures:</i></p> <ol style="list-style-type: none"> (1) Information about plant port office locations (2) Inspection and clearance of plant shipments involving: <ol style="list-style-type: none"> (i) Import and introduction from the sea of living plants (ii) Export and re-export of living and nonliving plants (3) Validation or cancellation of CITES plant documents for the type of shipments listed in paragraph (d) of this section 	<p>U.S. Department of Agriculture APHIS/PPQ, 4700 River Road, Riverdale, Maryland 20737-1236, Toll Free: (877) 770-5990/permit questions, Tel: (301) 734-5312/other CITES issues, Fax: (301) 734-5786/permit questions, Fax: (301) 734-4300/other CITES issues, Web site: http://www.aphis.usda.gov/ppq.</p>
<p>(e) <i>CBP plant clearance procedures:</i></p> <ol style="list-style-type: none"> (1) Inspection and clearance of plant shipments involving: <ol style="list-style-type: none"> (i) Import and introduction from the sea of nonliving plants (ii) Import of living plants from Canada at designated border ports (7 CFR 319.37-14(b) and 50 CFR 24.12(d)) (2) Cancellation of CITES plant documents for the type of shipments listed in paragraph (e)(1) of this section 	<p>Department of Homeland Security, U.S. Customs and Border Protection, Office of Field Operations, Agricultural Inspection Policy and Planning, 1300 Pennsylvania Avenue, NW., Room 5.4 C, Washington, DC 20229, Tel: (202) 344-3298, Fax: (202) 344-1442.</p>
<p>(f) <i>General information on CITES:</i></p> <ol style="list-style-type: none"> (1) CITES export quota information (2) <i>CITES Guidelines for Transport</i> (3) Information about the Secretariat (4) Names and addresses of other countries' Management and Scientific Authority offices (5) Official documents, including resolutions, decisions, notification, CoP documents, and committee documents (6) Official list of CITES species and species database (7) Text of the Convention 	<p>CITES Secretariat, Web site: http://www.cites.org.</p>

§ 23.15 [Corrected]

5. On pages 20221 and 20222, in § 23.15, the second table is being

reprinted in its entirety to read as follows:

Major group	Species (Appendix II only)	Type of specimen	Quantity ¹
Fishes	(i) Acipenseriformes (sturgeon, including paddlefish)	Sturgeon caviar (see § 23.71)	250 gm
	(ii) <i>Hippocampus</i> spp. (seahorses)	Dead specimens, parts, products (including manufactured items), and derivatives	4
Reptiles	(iii) Crocodylia (alligators, caimans, crocodiles, gaviat)	Dead specimens, parts, products (including manufactured items), and derivatives	4
Molluscs	(iv) <i>Strombus gigas</i> (queen conch)	Shells	3
	(v) Tridacnidae (giant clams)	Shells, each of which may be one intact shell or two matching halves	3 shells, total not exceeding 3 kg
Plants	(vi) Cactaceae (cacti)	Rainsticks	3

¹ To import, export, or re-export more than the quantity listed in the table, you must have a valid CITES document for the entire quantity.

§ 23.20 [Corrected]

6. On page 20225, in § 23.20, the table is being reprinted in its entirety to read as follows:

Type of specimen or activity	Appendix	CITES exemption document	Section
(1) Artificially propagated plant (see paragraph (d)(4) of this section for an Appendix-I plant propagated for commercial purposes)	I, II, or III	CITES document with source code "A" ¹	23.40
(2) Artificially propagated plant from a country that has provided copies of the certificates, stamps, and seals to the Secretariat	II or III	Phytosanitary certificate with CITES statement ¹	23.23(f)
(3) Bred-in-captivity wildlife (see paragraph (d)(5) of this section for Appendix-I wildlife bred for commercial purposes)	I, II, or III	CITES document with source code "C" ¹	23.41
(4) Commercially propagated Appendix-I plant	I	CITES document with source code "D" ¹	23.47
(5) Commercially bred Appendix-I wildlife from a breeding operation registered with the CITES Secretariat	I	CITES document with source code "D" ¹	23.46
(6) Export of certain marine specimens protected under a pre-existing treaty, convention, or international agreement for that species	II	CITES document indicating that the specimen was taken in accordance with provisions of the applicable treaty, convention, or international agreement	23.36(e) 23.39(e)
(7) Hybrid of plants	I, II, or III	CITES document	23.42
(8) Hybrid of wildlife	I, II, or III	CITES document or certification letter from a Management Authority ¹	23.43
(9) In-transit shipment (see paragraph (d)(13) of this section for sample collections covered by an ATA carnet)	I, II, or III	CITES document designating importer and country of final destination	23.22
(10) Introduction from the sea under a pre-existing treaty, convention, or international agreement for that species	II	Document required by applicable treaty, convention, or international agreement, if appropriate	23.39(d)
(11) Noncommercial loan, donation, or exchange of specimens between scientific institutions registered with the CITES Secretariat	I, II, or III	A label indicating CITES and the registration codes of both institutions and, in the United States, a CITES certificate of scientific exchange that registers the institution ³	23.48
(12) Personally owned live wildlife for multiple cross-border movement	I, II, or III	CITES certificate of ownership ²	23.44

Type of specimen or activity	Appendix	CITES exemption document	Section
(13) Pre-Convention specimen	I, II, or III	CITES document indicating pre-Convention status ¹	23.45
(14) Sample collection covered by an ATA carnet	I ⁴ , II, or III	CITES document indicating sample collection ²	23.50
(15) Traveling exhibition	I, II, or III	CITES document indicating pre-Convention, bred-in-captivity, or artificially propagated status ²	23.49

¹ Issued by the Management Authority in the exporting or re-exporting country.

² Issued by the Management Authority in the owner's country of usual residence.

³ Registration codes assigned by the Management Authorities in both exporting and importing countries.

⁴ Appendix-I species bred-in-captivity or artificially propagated for commercial purposes (see §§ 23.46 and 23.47).

7. On page 20226, in the same section, the first table is being reprinted in its entirety to read as follows:

Appendix	Type of CITES document(s) required
I	Import permit (§ 23.35) and export permit (§ 23.36) or re-export certificate (§ 23.37).
II	Export permit (§ 23.36) or re-export certificate (§ 23.37).
III	Export permit if the specimen originated in a country that listed the species; certificate of origin (§ 23.38) if the specimen originated in a country other than the listing country, unless the listing annotation indicates otherwise; or re-export certificate for all re-exports (§ 23.37).

§ 23.21 [Corrected]

8. On the same page, in § 23.21, the second table is being reprinted in its entirety to read as follows:

If	Then
(1) The shipment is between a Party and a reserving Party, or the shipment is from a non-Party to a reserving party and is in transit through a Party	The shipment must be accompanied by a valid CITES document(s) (see § 23.26) that indicates the CITES Appendix in which the species is listed.
(2) The shipment is from a reserving Party to another reserving Party ¹ or non-Party and is in transit through a Party	The shipment must be accompanied by a valid CITES document (see § 23.26) that indicates the CITES Appendix in which the species is listed. ²
(3) The shipment is between a reserving Party and another reserving Party ¹ or non-Party and is not in transit through a Party	No CITES document is required. ²

¹ Both reserving Parties must have a reservation for the same species, and if the species is listed in Appendix III, a reservation for the same parts, products, and derivatives.

² CITES recommends that reserving Parties treat Appendix-I species as if listed in Appendix II and issue CITES documents based on Appendix-II permit criteria (see § 23.36). However, the CITES document must show the specimen as listed in Appendix I. If the United States entered a reservation, such a CITES document would be required.

§ 23.23 [Corrected]

9. On pages 20227 and 20228, in § 23.23, the table is being reprinted in its entirety to read as follows:

Required information	Description
(1) Appendix	The CITES Appendix in which the species, subspecies, or population is listed (see § 23.21 when a Party has taken a reservation on a listing).
(2) Applicant's signature	The applicant's signature if the CITES document includes a place for it.
(3) Bill of lading, air waybill, or flight number	As applicable for export or re-export: (i) by ocean or air cargo, the bill of lading or waybill number, or (ii) in accompanying baggage, the flight number, as recorded on the CITES document by the inspecting official at the port, if known at the time of validation or certification.

Required information	Description
(4) Dates	Date of issue and date of expiration ("valid until" date on the standardized CITES form), which is midnight of the date on the CITES document. See §23.54 for the length of validity for different types of CITES documents.
(5) Description of the specimen	A complete description of the specimen, including whether live or the type of goods. The sex and age of a live specimen should be recorded, if possible. Such information must be in English, Spanish, or French on a CITES document from a Party. If a code is used to indicate the type of specimen, it must agree with the <i>Guidelines for preparation and submission of CITES annual reports</i> available from the CITES website or us.
(6) Document number	A unique control number. We use a unique 12-character number. The first two characters are the last two digits of the year of issuance, the next two are the two-letter ISO country code, followed by a six-digit serial number, and two digits or letters used for national informational purposes.
(7) Humane transport of live wildlife	If the CITES document authorizes the export or re-export of live wildlife, a statement that the document is valid only if the transport conditions comply with the <i>CITES Guidelines for Transport</i> (available from the CITES website), or, in the case of air transport of wildlife, with the <i>International Air Transport Association Live Animals Regulations</i> . The shipment must comply with the requirements of the Live Animals Regulations (LAR), 32 nd edition, October 1, 2005, by the International Air Transport Association (IATA); Reference Number: 9105-32, ISBN 92-9195-560-4. ¹
(8) Identification of the specimen	Any unique identification number or mark (such as a tag, band, ring, microchip, label, or serial number), including any mark required under these regulations or a CITES listing annotation. For a microchip, the microchip code, trademark of the transponder manufacturer and, where possible, the location of the microchip in the specimen. If a microchip is used, we may, if necessary, ask the importer, exporter, or re-exporter to have equipment on hand to read the microchip at the time of import, export, or re-export.
(9) Management Authority	The complete name and address of the issuing Management Authority as included in the CITES directory, which is available from the CITES website or us.
(10) Name and address	The complete name and address, including country, of the exporter and importer.
(11) Purpose of transaction	The purpose of the transaction, if possible, using one of the codes given in paragraph (d) of this section. The code is determined by the issuing Management Authority through information submitted with an application. This is not required for a certificate of origin.
(12) Quantity	<p>The quantity of specimens authorized in the shipment and, if appropriate, the unit of measurement using the metric system:</p> <ul style="list-style-type: none"> (i) The unit of measurement should be appropriate to the type of specimen and agree with the <i>Guidelines for the preparation and submission of CITES annual reports</i> available from the CITES website or us. General descriptions such as "one case" or "one batch" are not acceptable. (ii) Weight should be in kilograms. If weight is used, net weight (weight of the specimen alone) must be stated, not gross weight that includes the weight of the container or packaging. (iii) Volume should be in cubic meters for logs and sawn wood and either square meters or cubic meters for veneer and plywood. (iv) For re-export, if the type of good has not changed since being imported, the same unit of measurement as on the export permit must be used, except to change to units that are to be used in the CITES annual report.
(13) Scientific name	<p>The scientific name of the species, including the subspecies when needed to determine the level of protection of the specimen under CITES, using standard nomenclature as it appears in the CITES Appendices or the references adopted by the CoP. A list of current references is available from the CITES website or us. A CITES document may contain higher-taxon names in lieu of the species name only under one of the following circumstances:</p> <ul style="list-style-type: none"> (i) The CoP has agreed that the use of a higher-taxon name is acceptable for use on CITES documents. <ul style="list-style-type: none"> (A) If the genus cannot be readily determined for coral rock, the scientific name to be used is the order Scleractinia. (B) Live and dead coral must be identified to the level of species except where the CoP has agreed that identification to genus is acceptable. A current list of coral taxa identifiable to genus is available from the CITES website or us. (C) Re-export of worked skins or pieces of <i>Tupinambis</i> species that were imported before August 1, 2000, may indicate <i>Tupinambis</i> spp. (ii) The issuing Party can show the use of a higher-taxon name is well justified and has communicated the justification to the Secretariat. (iii) The item is a pre-Convention manufactured product containing a specimen that cannot be identified to the species level.
(14) Seal or stamp	The embossed seal or ink stamp of the issuing Management Authority.
(15) Security stamp	If a Party uses a security stamp, the stamp must be canceled by an authorized signature and a stamp or seal, preferably embossed. The number of the stamp must also be recorded on the CITES document.

Required information	Description
(16) Signature	An original handwritten signature of a person authorized to sign CITES documents for the issuing Management Authority. The signature must be on file with the Secretariat.
(17) Signature name	The name of the person who signed the CITES document.
(18) Source	The source of the specimen. For re-export, unless there is information to indicate otherwise, the source code on the CITES document used for import of the specimen must be used. See § 23.24 for a list of codes.
(19) Treaty name	Either the full name or acronym of the Treaty, or the CITES logo.
(20) Type of CITES document	The type of CITES document (import, export, re-export, or other): (i) If marked "other," the CITES document must indicate the type of document, such as artificially propagated, bred-in-captivity, certificate of origin, certificate of ownership, introduction from the sea, pre-Convention, sample collection covered by an ATA carnet, scientific exchange, or traveling exhibition. (ii) If multiple types are authorized on one CITES document, the type that applies to each specimen must be clearly indicated.
(21) Validation or certification	The actual quantity of specimens exported or re-exported: (i) Using the same units of measurement as those on the CITES document. (ii) Validated or certified by the stamp or seal and signature of the inspecting authority at the time of export or re-export.

¹The incorporation by reference of the IATA LAR was approved by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from IATA, 800 Place Victoria, P.O. Box 113, Montreal, Quebec, Canada H4Z 1M1, by calling 1-800-716-6326, or ordering through the Internet at <http://www.iata.org>. Copies may be inspected at the U.S. Management Authority or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

10. On page 20228, in the same section, the second table is being reprinted in its entirety to read as follows:

Code	Purpose of transaction
B	Breeding in captivity or artificial propagation.
E	Education.

Code	Purpose of transaction
G	Botanical garden.
H	Hunting trophy.
L	Law enforcement/judicial/forensic.
M	Medical research (including biomedical research).
N	Reintroduction or introduction into the wild.
P	Personal.
Q	Circus and traveling exhibition.

Code	Purpose of transaction
S	Scientific.
T	Commercial.
Z	Zoo.

11. On page 20229, in the same section, the second table is being reprinted in its entirety to read as follows:

Type of document	Additional required information
(1) Annex (such as an attached inventory, conditions, or continuation pages of a CITES document)	The page number, document number, and date of issue on each page of an annex that is attached as an integral part of a CITES document. The signature and ink stamp or seal, preferably embossed, of the Management Authority issuing the CITES document must also be included on each page of the annex. The CITES document must indicate an attached annex and the total number of pages.
(2) Certificate of origin (see § 23.38)	A statement that the specimen originated in the country that issued the certificate.
(3) Copy when used in place of the original CITES document	(i) Information required in paragraph (e)(7) of this section when the document authorizes export or re-export. (ii) A statement by the Management Authority on the face of the document authorizing the use of a copy when the document authorizes import.
(4) Export permit for a registered commercial breeding operation or nursery—Appendix-I specimens (see § 23.46)	The registration number of the operation or nursery assigned by the Secretariat, and if the exporter is not the registered operation or nursery, the name of the registered operation or nursery.
(5) Export permit with a quota	Number of specimens, such as 500/1,000, that were: (i) Exported thus far in the current calendar year, including those covered by the current permit (such as 500), and (ii) Included in the current annual quota (such as 1,000).
(6) Import permit (Appendix-I specimen) (see § 23.35)	A certification that the specimen will not be used for primarily commercial purposes and, for a live specimen, that the recipient has suitable facilities and expertise to house and care for it.

Type of document	Additional required information
(7) Replacement CITES document (see § 23.52)	When a CITES document replaces an already issued CITES document that was lost, damaged, stolen, or accidentally destroyed: (i) If a newly issued CITES document, indication it is a "replacement," the number and date of issuance of the CITES document that was replaced, and reason for replacement. (ii) If a copy of the original CITES document, indication it is a "replacement" and a "true copy of the original," a new original signature of the issuing Management Authority, the date signed, and reason for replacement.
(8) Partially completed documents (see § 23.51)	(i) A list of the blocks that must be completed by the permit holder. (ii) If the list includes scientific names, an inventory of approved species must be included on the face of the CITES document or in an attached annex. (iii) A signature of the permit holder, which acts as a certification that the information entered is true and accurate.
(9) Pre-Convention document (see § 23.45)	(i) An indication on the face of the CITES document that the specimen is pre-Convention. (ii) A date that shows the specimen was acquired before the date the Convention first applied to it.
(10) Re-export certificate (see § 23.37)	(i) The country of origin, the export permit number, and the date of issue. (ii) If previously re-exported, the country of last re-export, the re-export certificate number, and the date of issue. (iii) If all or part of this information is not known, a justification must be given.
(11) Retrospective CITES document (see § 23.53)	A clear statement that the CITES document is issued retrospectively and the reason for issuance.
(12) Sample collection covered by an ATA carnet (see § 23.50)	(i) A statement that the document covers a sample collection and is invalid unless accompanied by a valid ATA carnet. (ii) The number of the accompanying ATA carnet either recorded by the Management Authority, customs, or other responsible CITES inspecting official.

§ 23.24 [Corrected]

12. On page 20230, in § 23.24, the first table is being reprinted in its entirety to read as follows:

Source of specimen	Code
(a) <i>Artificially propagated plant</i> (see § 23.40): (1) An Appendix-II or -III artificially propagated specimen. (2) An Appendix-I plant specimen artificially propagated for noncommercial purposes or certain Appendix-I hybrids (see § 23.42) propagated for commercial purposes.	A
(b) <i>Bred-in-captivity wildlife</i> (see § 23.41): (1) An Appendix-II or -III specimen bred-in-captivity. (See paragraph (d)(1) of this section for wildlife that does not qualify as bred-in-captivity.) (2) An Appendix-I specimen bred for noncommercial purposes. (See paragraph (c)(1) of this section for an Appendix-I specimen bred for commercial purposes.)	C
(c) <i>Bred-in-captivity or artificially propagated for commercial purposes</i> (see §§ 23.46 and 23.47): (1) An Appendix-I wildlife specimen bred-in-captivity for commercial purposes at an operation registered with the Secretariat. (2) An Appendix-I plant specimen artificially propagated for commercial purposes at a nursery that is registered with the Secretariat or a commercial propagating operation that meets the requirements of § 23.47.	D
(d) <i>Captive-bred wildlife</i> (§ 23.36): (1) An Appendix-II or -III species that is captive-bred. (2) An Appendix-I species that is one of the following: (i) Captive-bred. (ii) Bred for commercial purposes, but the commercial breeding operation was not registered with the Secretariat. (iii) Bred for noncommercial purposes, but the facility does not meet the definition in § 23.5 because it was not involved in a cooperative conservation program.	F
(e) <i>Confiscated or seized specimen</i> (see § 23.78).	I
(f) <i>Pre-Convention specimen</i> (see § 23.45) (code to be used in conjunction with another code).	O
(g) <i>Ranched wildlife</i> (wildlife that originated from a ranching operation).	R
(h) <i>Source unknown</i> (must be justified on the face of the CITES document).	U
(i) <i>Specimen taken from the wild</i> :	W

Source of specimen	Code
(1) For wildlife, this includes a specimen born in captivity from an egg collected from the wild or from wildlife that mated or exchanged genetic material in the wild.	
(2) For a plant, it includes a specimen propagated from a propagule collected from a wild plant, except as provided in § 23.64.	

§ 23.25 [Corrected]

13. On the same page, in § 23.25, the second table is being reprinted in its entirety to read as follows:

Activity by a non-party	Certification
(1) Export	(i) The Scientific Authority has advised that the export will not be detrimental to the survival of the species. (ii) The Management Authority is satisfied that the specimen was legally acquired.
(2) Import	The import will be for purposes that are not detrimental to the survival of the species.

§ 23.26 [Corrected]

14. On page 20231, in § 23.26, the table is being reprinted in its entirety to read as follows:

Key phrase	Conditions for an acceptable CITES document
(1) Altered or modified CITES document	The CITES document has not been altered (including by rubbing or scratching out), added to, or modified in any way unless the change is validated on the document by the stamp and signature of the issuing Management Authority, or if the document was issued as a partially completed document, the Management Authority lists on the face of the document which blocks must be completed by the permit holder.
(2) CITES document	U.S. and foreign CITES documents must meet the general provisions and criteria in subparts C and E.
(3) Conditions	All conditions on the CITES document are met.
(4) Extension of validity	The validity of a CITES document may not be extended except as provided in § 23.73 for certain timber species.
(5) Fraudulent CITES document or CITES document containing false information	The CITES document is authentic and does not contain erroneous or misleading information.
(6) Humane transport	Live wildlife or plants were transported in compliance with the <i>CITES Guidelines for Transport</i> or, in the case of air transport of wildlife, the <i>International Air Transport Association Live Animals Regulations</i> .
(7) Management Authority and Scientific Authority	The CITES document was issued by a Party or non-Party that has designated a Management Authority and Scientific Authority and has provided information on these authorities to the Secretariat.
(8) Name of importer and exporter	A CITES document is specific to the name on the face of the document and may not be transferred or assigned to another person.
(9) Phytosanitary certificate	A phytosanitary certificate can be used to export artificially propagated plants only if the issuing Party has provided copies of the certificates, stamps, and seals to the Secretariat.
(10) Registered commercial breeding operation for Appendix-I wildlife	(i) The operation is in the Secretariat's register. (ii) Each specimen is specifically marked, and the mark is described on the CITES document.
(11) Registered commercial nursery for Appendix-I plants	The operation is included in the Secretariat's register.
(12) Retrospective CITES documents	A CITES document was not issued retrospectively except as provided in § 23.53.
(13) Shipment contents	The contents of the shipment match the description of specimens provided on the CITES document, including the units and species. A shipment cannot contain more or different specimens or species than certified or validated on the CITES document at the time of export or re-export (the quantity of each specimen validated or certified may be less, but not more, than the quantity stated at the time of issuance).
(14) Quota	For species with a quota on file with the Secretariat, the quantity exported from a country does not exceed the quota.

Key phrase	Conditions for an acceptable CITES document
(15) Wild-collected wildlife specimen	A wild-collected wildlife specimen (indicated on the CITES document with a source code of "W") is not coming from a country that is outside the range of the species, unless we have information indicating that the species has been established in the wild in that country through accidental introduction or other means.

§ 23.27 [Corrected]

15. On page 20232, in § 23.27, the table is being reprinted in its entirety to read as follows:

Type of CITES document	Present original for export or re-export validation or certification	Surrender copy upon export or re-export	Surrender original upon import or introduction from the sea
Bred-in-captivity certificate	Required	Required	Required
Certificate for artificially propagated plants	Required	Required	Required
Certificate of origin	Required	Required	Required
Certificate of ownership	Required	Required	Not required; submit copy
Export permit	Required	Required	Required
Hybrid, excluded wildlife hybrid letter	Required ¹	Required	Not required; submit copy
Import permit	Not required	Required	Required
Introduction-from-the-sea certificate	Not applicable	Not applicable	Required
Multiple-use document	Required ²	Required	Not required; submit copy
Pre-Convention document	Required	Required	Required
Re-export certificate	Required	Required	Required
Registered Appendix-I commercial breeding operation, export permit	Required	Required	Required
Registered Appendix-I nursery, export permit	Required	Required	Required
Registered scientific institution CITES label	Not required ³	Not required	Not required
Replacement document where a shipment has been made and is in a foreign country	Not required	Not required	Required
Replacement document where a shipment has not left the United States	Required	Required	Required
Retrospective document	Not required	Not required	Required
Sample collection covered by an ATA carnet, CITES document	Required	Required	Not required; submit copy
Traveling exhibition certificate	Required	Required	Not required; submit copy

¹ Certification letter may not require validation.

² Original must be available for inspection, but permit conditions will indicate whether an original or copy is to be validated.

³ Original label must be affixed to the package, which must be presented for inspection at the time of export, re-export, or import.

§ 23.34 [Corrected]

16. On pages 20233 and 20234, in § 23.34, the table is being reprinted in its entirety to read as follows:

Source of specimen	Types of records
(1) Captive-bred or cultivated ¹	(i) Records that identify the breeder or propagator of the specimens that have been identified by birth, hatch, or propagation date and for wildlife by sex, size, band number, or other mark, or for plants by size or other identifying feature: (A) Signed and dated statement by the breeder or propagator that the specimen was bred or propagated under controlled conditions. (B) Name and address of the breeder or propagator as shown by documents such as an International Species Inventory System (ISIS) record, veterinary certificate, or plant nursery license. (ii) Records that document the breeding or propagating of specimens at the facility: (A) Number of wildlife (by sex and age- or size-class) or plants at the facility. (B) How long the facility has been breeding or propagating the species. (C) Annual production and mortalities. (D) Number of specimens sold or transferred annually. (E) Number of specimens added from other sources annually. (F) Transaction records with the date, species, quantity of specimens, and name and address of seller. (G) Marking system, if applicable. (H) Photographs or video of facility, including for wildlife any activities during nesting and production and rearing of young, and for plants, different stages of growth.
(2) Confiscated or seized	Copy of remission decision, legal settlement, or disposal action after forfeiture or abandonment that demonstrates the applicant's legal possession.
(3) Exempt plant material	Records that document how you obtained the exempt plant material, including the name and address of the person from whom you received the plant material.
(4) Imported previously	(i) A copy of the cancelled CITES document that accompanied the shipment into the United States. (ii) For wildlife, copies of a cleared Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) for each shipment.
(5) Pre-Convention	Records that show the specimen was acquired before the date the provisions of the Convention first applied to it, such as: (i) Receipt or invoice. (ii) Catalog, inventory list, photograph, or art book. (iii) Statement from a qualified appraiser attesting to the age of a manufactured product. (iv) CBP (formerly U.S. Customs Service) import documents. (v) Phytosanitary certificate. (vi) Veterinary document or breeding or propagation logs.
(6) Sequential ownership or purchase	(i) Records that specifically identify the specimen, give the name and address of the owner, and show the specimen's origin (pre-Convention, previously imported, wild-collected, or born or propagated in a controlled environment in the United States). (ii) Records that document the history of all transfers in ownership (generally not required for pre-Convention specimens).
(7) Unknown origin, for non-commercial purposes	A complete description of the circumstances under which the specimen was acquired (where, when, and from whom the specimen was acquired), including efforts made to obtain information on the origin of the specimen.
(8) Wild-collected	Records, such as permits, licenses, and tags, that demonstrate the specimen or the parental stock was legally removed from the wild under relevant foreign, Federal, tribal, State, or local wildlife or plant conservation laws or regulations: (i) If taken on private or tribal land, permission of the landowner if required under applicable law. (ii) If taken in a national, State, or local park, refuge, or other protected area, permission from the applicable agency, if required.

¹ If the wildlife was born in captivity from an egg collected from the wild or from parents that mated or exchanged genetic material in the wild, or the plant was propagated from a propagule collected from a wild plant, see paragraph (b)(8) of this section.

§ 23.35 [Corrected]

17. On page 20234, in § 23.35, the second table is being reprinted in its entirety to read as follows:

Type of application for an import permit for an Appendix-I specimen	Form No.
(1) CITES: Southern African Leopard, African Elephant, and Namibian Southern White Rhinoceros Sport-hunted Trophies Appendix-I Plants Appendix-I Wildlife Appendix-I Biological Samples	3-200-19 3-200-35 3-200-37 3-200-29
(2) Endangered Species Act and CITES: ESA Plants ESA Sport-hunted Trophies ESA Wildlife	3-200-36 3-200-20 3-200-37
(3) Marine Mammal Protection Act and CITES: Marine Mammals	3-200-43
(4) Wild Bird Conservation Act and CITES: Personal Pet Bird Under an Approved Cooperative Breeding Program Scientific Research or Zoological Breeding/Display	3-200-46 3-200-48 3-200-47

18. On the same page, in the same section, the third table is being reprinted in its entirety to read as follows:

Criteria for an import permit for an Appendix-I specimen	Section
(1) The proposed import would be for purposes that are not detrimental to the survival of the species.	23.61
(2) The specimen will not be used for primarily commercial purposes.	23.62
(3) The recipients are suitably equipped to house and care for any live wildlife or plant to be imported.	23.65
(4) The scientific name of the species is the standard nomenclature in the CITES Appendices or the references adopted by the CoP.	23.23

§ 23.36 [Corrected]

19. On page 20235, in § 23.36, the first table is being reprinted in its entirety to read as follows:

Type of application for an export permit	Form No.
(1) CITES: American Ginseng Appendix-I Plants Artificially Propagated for Commercial Purposes Biological Specimens Captive-born Raptors Captive-born Wildlife (except raptors) Export of Skins/Products of Bobcat, Canada Lynx, River Otter, Brown Bear, Gray Wolf, and American Alligator Taken under an Approved State or Tribal Program Personal Pets, One-time Export Plants Registration of a Native Species Production Facility Single-use Permits under a Master File or an Annual Program File Trophies by Taxidermists Wildlife, Removed from the Wild	3-200-34 3-200-33 3-200-29 3-200-25 3-200-24 3-200-26 3-200-46 3-200-32 3-200-75 3-200-74 3-200-28 3-200-27
(2) Endangered Species Act and CITES: ESA Plants ESA Wildlife	3-200-36 3-200-37
(3) Marine Mammal Protection Act and CITES: Biological Samples Live Captive-held Marine Mammals Take from the Wild for Export	3-200-29 3-200-53 3-200-43

20. On the same page, in the same section, the second table is being reprinted in its entirety to read as follows:

Criteria for an export permit	Appendix of the specimen			Section
	I	II	III	
(1) The wildlife or plant was legally acquired.	Yes	Yes	Yes	23.60
(2) The proposed export would not be detrimental to the survival of the species.	Yes	Yes	n/a	23.61
(3) An import permit has already been issued or the Management Authority of the importing country has confirmed that it will be issued.	Yes	n/a	n/a	23.35
(4) The scientific name of the species is the standard nomenclature in the CITES Appendices or the references adopted by the CoP.	Yes	Yes	Yes	23.23
(5) Live wildlife or plants will be prepared and shipped so as to minimize risk of injury, damage to health, or cruel treatment of the specimen.	Yes	Yes	Yes	23.23
(6) The specimen originated in a country that listed the species.	n/a	n/a	Yes	23.20
(7) For wildlife with the source code "W" or "F," the export is for noncommercial purposes. (See §23.46 for the export of specimens that originated at an Appendix-I commercial breeding operation that is registered with the Secretariat.)	Yes	n/a	n/a	

§ 23.37 [Corrected]

21. On page 20236, in § 23.37, the first table is being reprinted in its entirety to read as follows:

Type of application for a re-export certificate	Form No.
(1) CITES: Biological Specimens Plants Single-use Permits under a Master File or an Annual Program File Trophies by Taxidermists Wildlife	3-200-29 3-200-32 3-200-74 3-200-28 3-200-73
(2) Endangered Species Act and CITES: ESA Plants ESA Wildlife	3-200-36 3-200-37
(3) Marine Mammal Protection Act and CITES: Biological Samples Live Captive-held Marine Mammals	3-200-29 3-200-53

22. On the same page, in the same section, the second table is being reprinted in its entirety to read as follows:

Criteria for a re-export certificate	Appendix of the specimen			Section
	I	II	III	
(1) The wildlife or plant was legally acquired.	Yes	Yes	Yes	23.60
(2) The scientific name of the species is the standard nomenclature in the CITES Appendices or the references adopted by the CoP.	Yes	Yes	Yes	23.23
(3) For a live specimen, an import permit has already been issued or the Management Authority of the importing country has confirmed that it will be issued. This criterion does not apply to a specimen with the source code "D."	Yes	n/a	n/a	23.35

Criteria for a re-export certificate	Appendix of the specimen			Section
	I	II	III	
(4) Live wildlife or plants will be prepared and shipped so as to minimize risk of injury, damage to health, or cruel treatment of the specimen.	Yes	Yes	Yes	23.23
(5) For re-export of a confiscated specimen, the proposed re-export would not be detrimental to the survival of the species.	Yes	Yes	n/a	23.61
(6) For wildlife with the source code "W" or "F," the re-export is for noncommercial purposes.	Yes	n/a	n/a

§ 23.39 [Corrected]

23. On page 20237, in § 23.39, the table is being reprinted in its entirety to read as follows:

Criteria for an introduction-from-the-sea certificate	Appendix of the specimen		Section
	I	II	
(1) The specimen was taken in the marine environment not under the jurisdiction of any country.	Yes	Yes	
(2) The proposed introduction from the sea would not be detrimental to the survival of the species.	Yes	Yes	23.61
(3) The specimen will not be used for primarily commercial purposes.	Yes	n/a	23.62
(4) The recipients are suitably equipped to house and care for live wildlife or plants.	Yes	n/a	23.65
(5) The scientific name of the species is the standard nomenclature in the CITES Appendices or the references adopted by the CoP.	Yes	Yes	23.23
(6) Live wildlife or plants will be prepared and shipped so as to minimize risk of injury, damage to health, or cruel treatment of the specimen.	Yes	Yes	23.23

§ 23.40 [Corrected]

24. On page 20238, in § 23.40, the first table is being reprinted in its entirety to read as follows:

Criteria for a certificate for artificially propagated plants	Appendix of the specimen			Section
	I	II	III	
(1) The plant was artificially propagated.	Yes	Yes	Yes	23.64
(2) The plant specimen is one of the following: (i) Was propagated for noncommercial purposes. (ii) Is part of a traveling exhibition. (iii) Is a hybrid of one or more Appendix-I species or taxa that is not annotated to include hybrids in the listing and was propagated for commercial or noncommercial purposes.	Yes	n/a	n/a	
(3) The scientific name of the species is the standard nomenclature in the CITES Appendices or the references adopted by the CoP.	Yes	Yes	Yes	23.23
(4) The live plant will be prepared and shipped so as to minimize risk of injury, damage to health, or cruel treatment of the specimen.	Yes	Yes	Yes	23.23

§ 23.41 [Corrected]

25. On the same page, in § 23.41, the second table is being reprinted in its entirety to read as follows:

Criteria for a bred-in-captivity certificate	Appendix of the specimen			Section
	I	II	III	
(1) The wildlife was bred-in-captivity.	Yes	Yes	Yes	23.63
(2) The wildlife specimen was bred for noncommercial purposes or is part of a traveling exhibition.	Yes	n/a	n/a	23.5
(3) The scientific name of the species is the standard nomenclature in the CITES Appendices or the references adopted by the CoP.	Yes	Yes	Yes	23.23
(4) Live wildlife will be prepared and shipped so as to minimize risk of injury, damage to health, or cruel treatment of the specimen.	Yes	Yes	Yes	23.23

§ 23.42 [Corrected]

26. On pages 20238 and 20239, in § 23.42, the table beginning at the

bottom of page 20238 is being reprinted in its entirety to read as follows:

Question on a plant hybrid	Answer and status of specimen
(a) Is the specimen an artificially propagated hybrid of one or more Appendix-I species or taxa?	(1) YES. Continue to paragraph (b) of this section. (2) NO. Continue to paragraph (c) of this section.
(b) Is one or more of the Appendix-I species or taxa in paragraph (a) of this section annotated to include hybrids?	(1) YES. The hybrid is listed in Appendix I. (2) NO. The hybrid is listed in Appendix I, but may be granted a certificate for artificially propagated plants even if propagated for commercial purposes.
(c) Is the specimen a hybrid that includes two or more CITES species or taxa in its lineage?	(1) YES. Consider the specimen to be listed in the more restrictive Appendix, with Appendix I being the most restrictive and Appendix III the least. (2) NO. Continue to paragraph (d) of this section.
(d) Is the specimen a hybrid that includes one CITES species or taxon in its lineage?	(1) YES. Consider the specimen to be listed in the Appendix in which the species or taxon is listed in the CITES Appendices. (2) NO. The hybrid is not regulated by CITES.

§ 23.43 [Corrected]

27. On page 20239, in § 23.43, the second table is being reprinted in its entirety to read as follows:

If at least one specimen in the recent lineage is listed in:	Then the specimen is listed in:
(1) Appendix I	Appendix I
(2) Appendix II, and an Appendix-I species is not included in the recent lineage	Appendix II
(3) Appendix III, and an Appendix-I or -II species is not included in the recent lineage	Appendix III

§ 23.46 [Corrected]

28. On page 20241, in § 23.46, the first table is being reprinted in its entirety to read as follows:

Criteria for registering an Appendix-I breeding operation	Section
(1) The operation breeds wildlife for commercial purposes.	23.5
(2) The parental stock was legally acquired.	23.60

Criteria for registering an Appendix-I breeding operation	Section
(3) The wildlife meets bred-in-captivity criteria.	23.63
(4) Where the establishment of a breeding operation involves the removal of animals from the wild (allowable only under exceptional circumstances), the operation must demonstrate to the satisfaction of the Management Authority on advice of the Scientific Authority and of the Secretariat that the removal is or was not detrimental to the conservation of the species.	
(5) The potential escape of specimens or pathogens from the facility may not pose a risk to the ecosystem and native species.	
(6) The scientific name of the species is the standard nomenclature in the CITES Appendices or the references adopted by the CoP.	23.23
(7) The breeding operation will make a continuing, meaningful contribution to the conservation of the species, as warranted by the conservation needs of the species.	
(8) The operation will be carried out at all stages in a humane (non-cruel) manner.	

29. On the same page, in the same section, the second table is being reprinted in its entirety to read as follows:

Criteria for an export permit	Section
(1) The specimen was bred at an Appendix-I breeding operation that is registered with the CITES Secretariat.	23.46
(2) The proposed export would not be detrimental to the survival of the species.	23.61
(3) Live wildlife will be prepared and shipped so as to minimize risk of injury, damage to health, or cruel treatment of the specimen.	23.23

§ 23.47 [Corrected]

30. On page 20242, in § 23.47, the table is being reprinted in its entirety to read as follows:

Criteria for an export permit	Section
(1) The specimen was propagated for commercial purposes.	23.5
(2) The parental stock was legally acquired.	23.60
(3) The proposed export would not be detrimental to the survival of the species.	23.61
(4) The plant was artificially propagated.	23.64
(5) The scientific name of the species is the standard nomenclature in the CITES Appendices or the references adopted by the CoP.	23.23
(6) The live plant will be prepared and shipped so as to minimize risk of injury, damage to health, or cruel treatment of the specimen.	23.23

§ 23.52 [Corrected]

31. On page 20245, in § 23.52, the table is being reprinted in its entirety to read as follows:

If	Then
(i) The shipment has already occurred	Provide copies of: (A) Any correspondence you have had with the shipper or importing country's Management Authority concerning the shipment. (B) For wildlife, the validated CITES document and cleared Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177). (C) For plants, the validated CITES document.

If	Then
(ii) The original CITES document no longer exists	Submit a signed, dated, and notarized statement that: (A) Provides the CITES document number and describes the circumstances that resulted in the loss or destruction of the original CITES document. (B) States whether the shipment has already occurred. (C) Requests a replacement U.S. CITES document.
(iii) An original CITES document exists but has been damaged	Submit the original damaged CITES document and a signed, dated, and notarized statement that: (A) Describes the circumstances that resulted in the CITES document being damaged. (B) States whether the shipment has already occurred. (C) Requests a replacement U.S. CITES document.

§ 23.55 [Corrected]

32. On pages 20246 and 20247, in § 23.55, the table is being reprinted in its entirety to read as follows:

If the species is listed in	Allowed use after import
(a) Appendix I except for specimens imported with a CITES exemption document listed in paragraph (d) of this section. (b) Appendix II with an annotation for noncommercial use where other specimens of that species are treated as listed in Appendix I. (c) Appendix II and threatened under the ESA, except as provided in a special rule in §§ 17.40 through 17.48 or under a permit granted under §§ 17.32 or 17.52.	The specimen may be used, including a transfer, donation, or exchange, only for noncommercial purposes.
(d) Appendix I, specimens imported with a CITES exemption document as follows: (1) U.S.-issued certificate for personally owned wildlife. (2) Pre-Convention certificate. (3) Export permit or re-export certificate for wildlife from a registered commercial breeding operation. (4) Export permit or re-export certificate for a plant from a registered nursery or under a permit with a source code of "D." (5) U.S.-issued traveling-exhibition certificate. (e) Appendix II, other than those in paragraphs (b) and (c) of this section. (f) Appendix III.	The specimen may be used for any purpose, except if the regulations in this part or other parts of this subchapter allowed the import only for noncommercial purposes, then the import and subsequent use must be only for noncommercial purposes.

[FR Doc. C6-3444 Filed 5-1-06; 8:45 am]

BILLING CODE 1505-01-D



Federal Register

Tuesday,
May 2, 2006

Part II

Department of Housing and Urban Development

Public Housing Assessment System;
Revision to the Financial Condition
Scoring Process; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5066-N-01]

Public Housing Assessment System; Revision to the Financial Condition Scoring Process

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice provides information to public housing agencies (PHAs) and members of the public about HUD's process for issuing scores under the Financial Condition Indicator of the Public Housing Assessment System (PHAS). This notice includes revised threshold values and associated points/scores for the expense management component of the Financial Condition Indicator based on available data for PHAs with fiscal years ending March 31, 2004, June 30, 2004, September 30, 2004, and December 31, 2004. The data analyzed is based on generally accepted accounting principles (GAAP) information submitted by PHAs as part of the financial data schedule submission.

DATES: *Comment Due Date:* June 1, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Department of Housing and Urban Development, Office of General Counsel, Regulations Division, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Interested persons also may submit comments electronically through The Federal eRulemaking Portal at <http://www.regulations.gov>. Commenters should follow the instructions provided on that site to submit comments electronically.

Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted to HUD will be available, without change, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Copies of comments submitted electronically are available for

inspection and downloading at <http://www.regulations.gov>.

FOR FURTHER INFORMATION: Contact the Office of Public and Indian Housing, Real Estate Assessment Center (REAC), Attention: Wanda Funk, Department of Housing and Urban Development, Real Estate Assessment Center, 550 12th Street, SW., Suite 100, Washington, DC 20410; telephone the PIH-REAC Technical Assistance Center at (888) 245-4860 (this is a toll free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339. Additional information is available from the PIH-REAC Internet site at <http://www.hud.gov/reac/>.

SUPPLEMENTARY INFORMATION:

I. Background

HUD published the first Public Housing Assessment System; Financial Condition Scoring Process notice in the *Federal Register* on May 13, 1999 (64 FR 26222). HUD republished the notice to coincide with the June 22, 1999, publication of the PHAS proposed rule. Subsequently, HUD revised the notice twice to reflect additional changes to the financial scoring process. The third notice was published on June 28, 2000 (65 FR 40008), and the fourth notice was published on December 21, 2000 (65 FR 80685). This notice is an update of the financial condition scoring process notice published on December 21, 2000. In the December 21, 2000, notice HUD stated that any changes to the scoring process and any modifications to the thresholds would be communicated through a subsequent *Federal Register* notice. Accordingly, this notice updates the December 21, 2000, notice and provides information on the revisions made to the financial condition scoring process. HUD is revising the thresholds based on a full year's worth of unaudited and available audited financial information.

This change has been made in accordance with the threshold revaluation schedule set forth in the December 21, 2000, notice. The December 21, 2000, notice stated that the thresholds established in that notice would remain in effect for all unaudited and audited PHA financial submissions for PHAs for a three year period, unless REAC found a need for revisions. In October 2001, July 2003, November 2004, and May 2005, REAC conducted an analysis of the thresholds established

in the December 21, 2000, notice and determined not to revise the established thresholds. In August 2005 another analysis was conducted of the threshold established in the December 21, 2000, notice and it was determined that a revision to the expense management component was warranted.

II. Appendix 2, Expense Management, Revision

The analysis of the thresholds conducted in August 2005 is based on the financial information submitted by PHAs with fiscal years ending March 31, 2004, June 30, 2004, September 30, 2004, and December 31, 2004. As a result of this analysis, it was determined that a revision to the expense management thresholds was warranted, but not to the remaining component thresholds for current ratio, months expendable fund balance, tenants receivable outstanding, occupancy loss and net income and loss. The thresholds for the five financial condition components that will not be changed are included in Appendix 2, Thresholds for Entity-Wide GAAP Scoring, of the December 21, 2000, Public Housing Assessment System; Financial Condition Scoring Process. The table, below, includes the new thresholds for expense management.

The revised expense management thresholds included in this notice, and the remaining five component thresholds included in the December 21, 2000, financial condition notice, which are based on a full year of unaudited and audited financial data based on GAAP, will remain in effect for all unaudited and audited PHA financial submissions for PHAs with fiscal year end on or after September 30, 2006, for a three year period, unless the REAC finds a need for revisions. Any revisions to the thresholds will be communicated through a notice.

The expense management table can be interpreted in the following manner:

- Identify a size category for expense management;
- The rows under that size category identify ranges of possible values for expense management; and
- The column to the right labeled "Points/Score" identifies the points/scores that is awarded to each expense management value for that size category.

The thresholds presented here have been rounded for presentation purposes, whereas those used to calculate scores at the REAC are not rounded.

EXPENSE MANAGEMENT (EM)

Region	Very small and small	Low medium and high medium	Large and extra large	Points/score
0	EM<\$112.39	EM<\$108.52	EM<\$128.15	1.5
0	EM≥\$112.39	EM≥\$108.52	EM≥\$128.15	0
1	EM<\$114.12	EM<\$107.69	EM<\$112.87	1.5
1	EM≥\$114.12	EM≥\$107.69	EM≥\$112.87	0
2	EM<\$94.59	EM<\$118.23	EM<\$117.07	1.5
2	EM≥\$94.59	EM≥\$118.23	EM≥\$117.07	0
3	EM<\$89.22	EM<\$86.68	EM<\$101.71	1.5
3	EM≥\$89.22	EM≥\$86.68	EM≥\$101.71	0
4	EM<\$91.51	EM<\$97.55	EM<\$103.73	1.5
4	EM≥\$91.51	EM≥\$97.55	EM≥\$103.73	0
5	EM<\$86.66	EM<\$95.36	EM<\$110.68	1.5
5	EM≥\$86.66	EM≥\$95.36	EM≥\$110.68	0
6	EM<\$79.96	EM<\$82.36	EM<\$122.17	1.5
6	EM≥\$79.96	EM≥\$82.36	EM≥\$122.17	0
7	EM<\$99.87	EM<\$71.81	EM<\$86.02	1.5
7	EM≥\$99.87	EM≥\$71.81	EM≥\$86.02	0
8	EM<\$111.02	EM<\$133.50	EM<\$97.86	1.5
8	EM≥\$111.02	EM≥\$133.50	EM≥\$97.86	0
9	EM<\$120.96	EM<\$109.90	EM<\$136.55	1.5
9	EM≥\$120.96	EM≥\$109.90	EM≥\$136.55	0

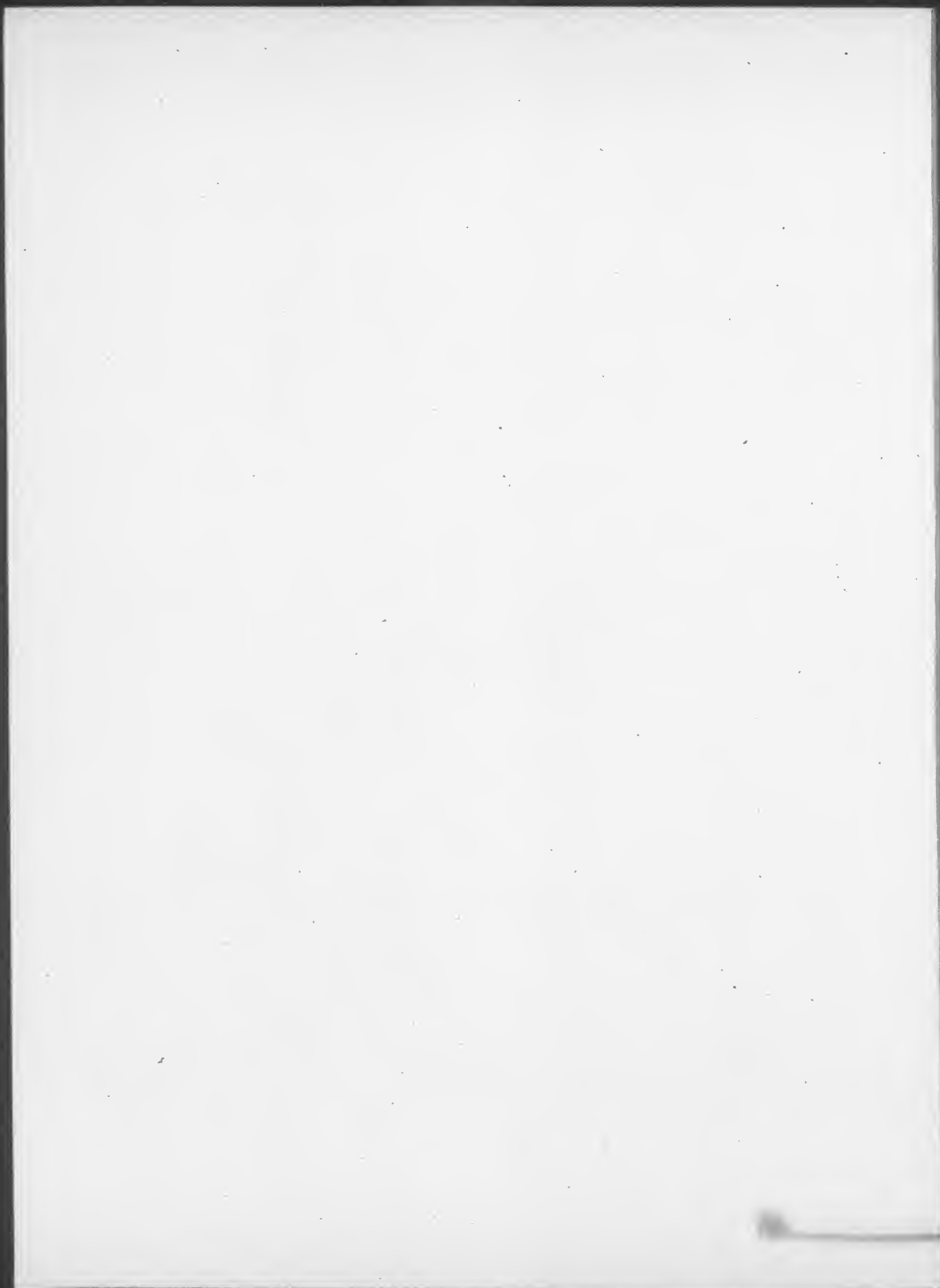
Dated: April 24, 2006.

Orlando J. Cabrera,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 06-4086 Filed 5-1-06; 8:45 am]

BILLING CODE 4210-67-P





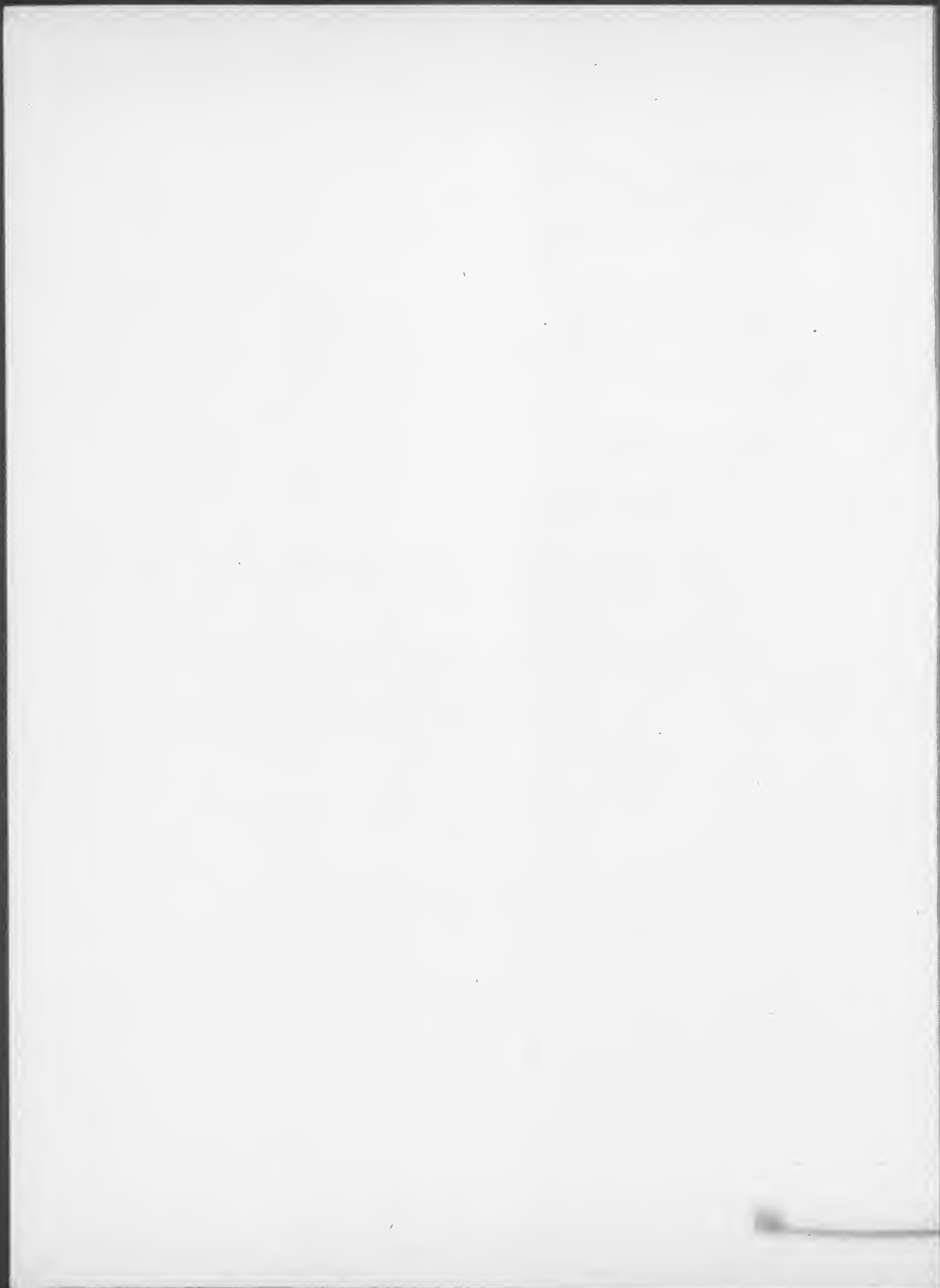
Federal Register

Tuesday,
May 2, 2006

Part III

The President

**Proclamation 8008—Asian/Pacific
American Heritage Month, 2006**



Presidential Documents

Title 3—

Proclamation 8008 of April 28, 2006

The President

Asian/Pacific American Heritage Month, 2006

By the President of the United States of America

A Proclamation

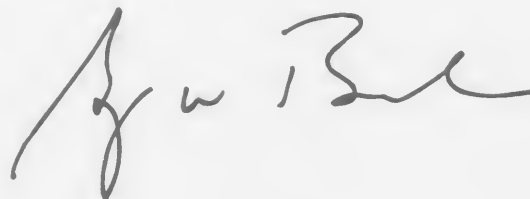
During Asian/Pacific American Heritage Month, we honor and celebrate the millions of Asian/Pacific Americans whose contributions have helped make America a strong, vibrant, and free society.

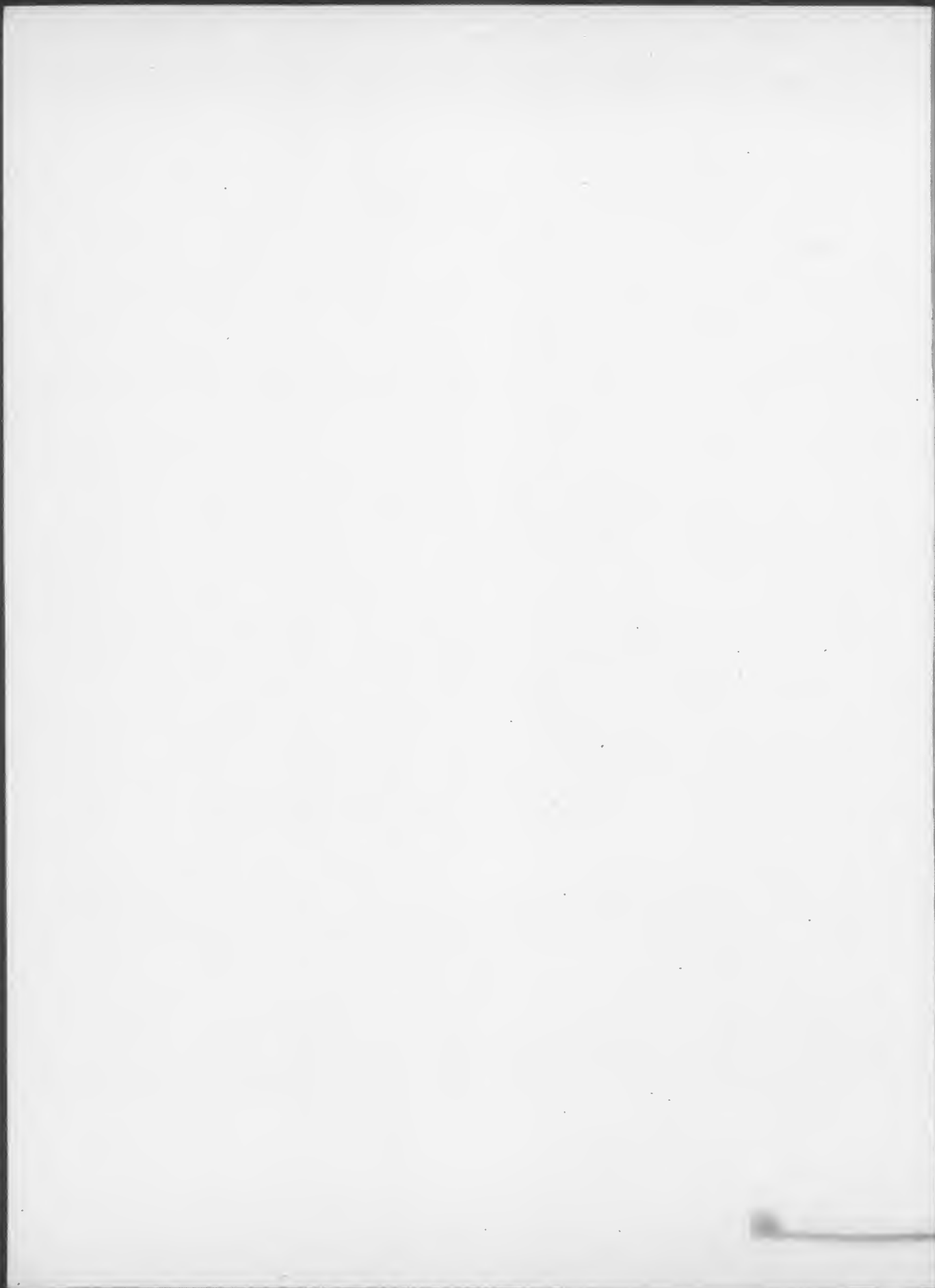
Asian/Pacific Americans represent many nations and ethnicities, each with its own culture, heritage, language, and experience. Across our country, this diverse group of people has excelled in all walks of life. Their talent and hard work have added to the success and prosperity of our Nation and helped make America a leader in the world. They have helped shape America's character and identity through their strong values, love of family, and commitment to community. America is especially grateful to the many Asian/Pacific Americans who have courageously answered the call to defend freedom as members of our Armed Forces. The sacrifices of these brave men and women help preserve the ideals of our country's founding and make the world a safer place.

To honor the achievements and contributions of Asian/Pacific Americans, the Congress, by Public Law 102-450 as amended, has designated the month of May each year as "Asian/Pacific American Heritage Month."

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 2006 as Asian/Pacific American Heritage Month. I call upon the people of the United States to learn more about the history of Asian/Pacific Americans and their role in our national story and to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.





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Federal Register

Vol. 71, No. 84

Tuesday, May 2, 2006

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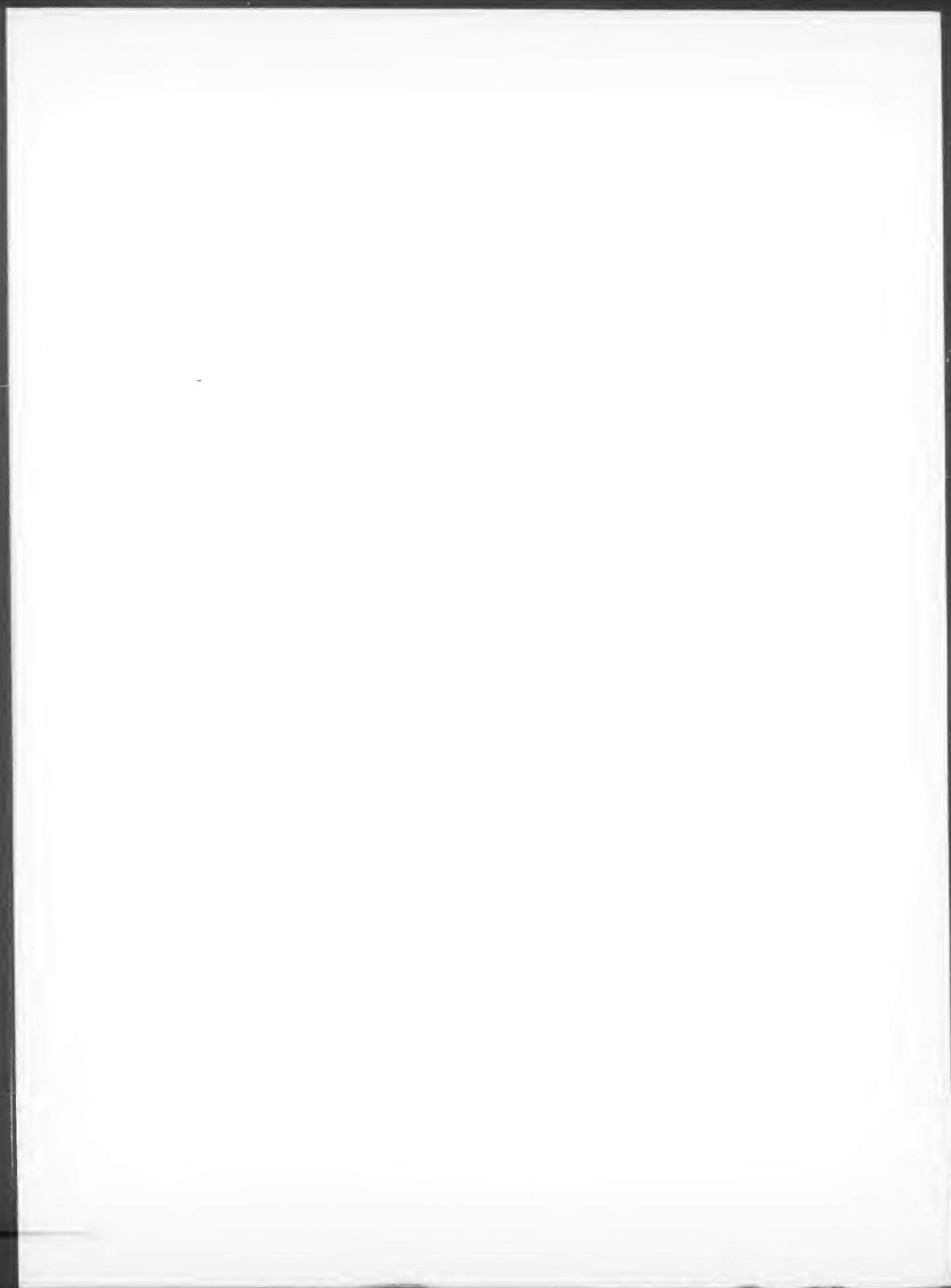
Local Community Recovery Act of 2006 (Apr. 20, 2006; 120 Stat. 333)

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