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

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

WHEN: Tuesday, May 17, 2005
9:00 a.m.–Noon

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

RESERVATIONS: (202) 741-6008

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Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.
To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
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DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

8 CFR Part 214

[CIS No. 2347–05]

[DHS Docket No. DHS–2005–0014]

RIN 1615–AB32

Allocation of Additional H–1B Visas Created by the H–1B Visa Reform Act of 2004

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule implements certain changes made by the Omnibus Appropriations Act for Fiscal Year 2005 to the numerical limits of the H–1B nonimmigrant visa category and the fees for filing of H–1B petitions. This interim rule also notifies the public of the procedures U.S. Citizenship and Immigration Services will use to allocate, in fiscal year 2005 and in future fiscal years starting with fiscal year 2006, the additional 20,000 H–1B numbers made available by the exemption created pursuant to that Act. This interim rule amends and clarifies the process by which U.S. Citizenship and Immigration Services, in the future, will allocate all petitions subject to numerical limitations under the Immigration and Nationality Act. This interim rule also notifies the public of additional fees that must be filed with certain H–1B petitions.

DATES: This rule is effective May 5, 2005: Written comments must be submitted by July 5, 2005.

ADDRESSES: You may submit comments, identified by DHS Docket No. DHS–2005–0014, by one of the following methods:

- EPA Federal Partner EDOCKET Web site: *http://www.epa.gov/feddocket*. Follow instructions for submitting comments on the Web site.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: The Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20529. To ensure proper handling, please reference DHS Docket No. DHS–2005–0014 on your correspondence. This mailing address may also be used for paper, disk, or CD–ROM submissions.
- Hand Delivery/Courier: U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20529. Contact Telephone Number (202) 272–8377.

Instructions: All submissions received must include the agency name and DHS Docket No. DHS–2005–0014. All comments received will be posted without change to *http://www.epa.gov/feddocket*, including any personal information provided. 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.

Docket: For access to the docket to read background documents or comments received, go to *http://www.epa.gov/feddocket*. You may also access the Federal eRulemaking Portal at *http://www.regulations.gov*. Submitted comments may also be inspected at the Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20529. To make an appointment please contact the Regulatory Management Division at (202) 272–8377.

FOR FURTHER INFORMATION CONTACT: Kevin J. Cummings, Adjudications Officer, Business and Trade Services Branch/Program and Regulation Development, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529, telephone (202) 353–8177.

SUPPLEMENTARY INFORMATION: This supplementary information section is organized as follows:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. U.S. Citizenship and Immigration Services (USCIS) also invites comments that relate to the economic or federalism effects that might result from this interim rule. Comments that will provide the most assistance to USCIS in developing these procedures will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See

ADDRESSES above for information on how to submit comments.

II. Background and Statutory Authority

A. H–1B Nonimmigrant Classification

Under Section 101(a)(15)(H) of the Immigration and Nationality Act (INA) and 8 CFR 214.2(h)(4), an H–1B nonimmigrant is an alien employed in a specialty occupation or a fashion model of distinguished merit and ability. A specialty occupation is an occupation that requires theoretical and practical application of a body of specialized knowledge and attainment of a bachelor's degree or higher degree in the specific specialty as a minimum qualification for entry into the United States.

Section 214(g) of the INA provides that the total number of nonimmigrant aliens who may be issued H–1B visas, or otherwise granted H–1B status, may not exceed 65,000 during any fiscal year. Under the INA, the 65,000 cap does not include H–1B nonimmigrant aliens who are employed by, or have received offers of employment at: (1) An institution of higher education, or a related or affiliated nonprofit entity; or (2) a nonprofit research organization or a governmental research organization.

On October 1, 2004, USCIS issued a press release announcing that USCIS had received a sufficient number of H–1B petitions to reach the statutory cap for fiscal year (FY) 2005, and that beginning October 2, 2004, USCIS would not accept for adjudication any H–1B petition for new employment containing a request for a work start date prior to October 1, 2005. A Notice to this effect subsequently was published in the **Federal Register** on November 23, 2004 at 69 FR 68154.

B. H–1B Visa Reform Act of 2004

On December 8, 2004, the President signed the Omnibus Appropriations Act (OAA) for Fiscal Year 2005, Public Law 108–447, 118 Stat. 2809. Among the provisions of OAA is the H–1B Visa Reform Act of 2004. The H–1B Visa Reform Act of 2004 amends section 214(g)(5) of the INA by adding a third exemption, (C), to the H–1B cap:

> (5) "The numerical limitations contained in paragraph (1)(a) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 1101(a)(15)(H)(i)(b) of this title who * * * * * * * * *
>
> (C) has earned a masters' or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) until the number of aliens who are exempted from such numerical limitation during such year exceeds 20,000)."

This amendment became effective 90 days after enactment, March 8, 2005. Although there is no direct legislative history for this provision, it has the purpose of expanding the availability of needed professional workers for employers in the United States.

The H–1B Visa Reform Act of 2004 also imposed two additional fees that must be filed with H–1B petitions. First, section 214(c)(9) of the INA was amended to reinstitute and modify the additional fees previously imposed by the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA), Title IV of Div C., Public Law 105–277, which are used for scholarships for U.S. low income students and for job training for U.S. workers. (The ACWIA fees expired effective October 1, 2003). The H–1B Visa Reform Act of 2004 raised the ACWIA fee to $1,500 or $750, depending on the size of the employer. Therefore, effective December 8, 2004, employers with 26 or more U.S. full-time-equivalent employees, including all affiliated or subsidiary entities, who seek to employ an H–1B nonimmigrant must pay $1,500, in addition to the base filing fee of $185 for a Form I–129, Petition for Temporary Nonimmigrant Worker. For employers with 25 or fewer U.S. full-time-equivalent employees, including all affiliated or subsidiary entities, the fee is $750, in addition to the base filing fee of $185 for a Form I–129.

Second, the H–1B Visa Reform Act of 2004 amended section 214(c) of the INA by adding a new subsection (c)(12) which imposes a $500 fraud prevention and detection fee on certain employers filing H–1B petitions. Effective March 8, 2005, employers seeking an initial grant of H–1B nonimmigrant status or authorization for an existing H–1B (or L–1 alien seeking to become an H–1B nonimmigrant) to change employers must submit the $500 fraud prevention and detection fee. The $500 fee does not need to be submitted by: (1) Employers who seek to extend a current H–1B alien's status where such an extension does not involve a change of employers, (2) employers who are seeking H–1B1, Chile-Singapore Free Trade Act nonimmigrants, or (3) dependents of H–1B principal beneficiaries.

These fees must be filed to USCIS in addition to the base filing fee (currently $185) for the Form I–129, Petition for Temporary Nonimmigrant Worker. Payment for the $185 petition filing fee and the $1,500 (or $750) additional ACWIA fee may be made in the form of a single check or money order for the total amount due or two checks or money orders. Those petitioners who must pay the $500 fraud prevention and detection fee must pay with a check or money order that is separate from the additional ACWIA application fees of $1,500 (or $750) and the $185 petition filing fees. Thus, in certain instances petitioners may have to, or elect to, file three separate checks or money orders—one for the $185 Form I–129 petition fee; one for the $1,500 or $750 additional ACWIA fee; and one for the $500 fraud prevention and detection fee.

The new ACWIA and Fraud Detection and Prevention fees are statutorily-mandated and do not require a separate rulemaking to implement the new fee provisions. However, USCIS, in a future rulemaking, will codify these new fees on H–1B petitions and the associated exemptions in the regulations to provide a place for affected petitioners to find all fee-related information in one place. USCIS specifically will amend 8 CFR 214.2(h)(19), which currently addresses the fees initially required pursuant to ACWIA, to reflect the enhanced ACWIA fees of $1,500 (or $750) and to codify the new fraud prevention and detection fees ($500) affecting all H and L petitioners.

III. Effect of H–1B Visa Reform Act of 2004 on FY 2005 Filings

To implement the H–1B Visa Reform Act of 2004, USCIS had to consider the plain language of the statute which specifically limited the new exemption to aliens who have earned a U.S. master's degree or higher. USCIS has determined that it is a reasonable interpretation of the H–1B Visa Reform Act of 2004 to make available 20,000 new H–1B numbers in FY 2005, limited to H–1B nonimmigrant aliens who possess a U.S. earned master's or higher degree.

USCIS will allocate the 20,000 new H–1B numbers authorized by the H–1B Visa Reform Act of 2004 in this manner for the following reasons. Congress left to the Secretary of Homeland Security broad discretion, through his authority under sections 103 and 214 of the INA, to prescribe regulations and procedures for the admission of nonimmigrant aliens, such as H–1B nonimmigrants. Thus, USCIS has broad discretion and authority to implement the H–1B Visa Reform Act of 2004.

The H–1B Visa Reform Act of 2004 was enacted after the start of FY 2005 and after the receipt of all petitions necessary to reach the existing 65,000 H–1B cap for FY 2005. The amendment to section 214(g) of the INA, authorizing the cap exemption of 20,000 H–1B nonimmigrant aliens with U.S. master's or higher degrees, did not become effective until March 8, 2005. Congress

did not specify any procedures for implementation or dictate the manner in which USCIS should allocate H–1B numbers made available pursuant to the new exemption. Congress specifically did not require USCIS to "reopen" its review of H–1B petitions already received and re-characterize the petitions that would have qualified for the new exemption had it been in effect at the time the petitions were received. Thus, in order to give full effect to the newly created exemption, it is reasonable to do so going forward only, applying the exemption to up to 20,000 petitions seeking work start dates during FY 2005. It also appears that Congress intended for the fees for 20,000 new petitions to be generated during FY 2005 to serve the important purposes of supporting the development of the U.S. labor market and the detection and prevention of immigration fraud.

USCIS has never previously been required to collect data concerning whether beneficiaries of H–1B petitions possess master's or higher degrees earned in the United States. While USCIS did collect information about the highest level of education of the beneficiary, it did not specifically collect information about whether the beneficiary had a U.S. masters or higher degree or whether the degree was earned from a U.S. institution. Thus, as to FY 2005, USCIS cannot accurately count the petitions already filed for FY 2005 on behalf of beneficiaries who have earned masters or higher degrees at U.S. institutions. USCIS has made amendments to its recordkeeping and data collection systems that will allow it, prospectively, to accurately capture the data needed to assess the exact number of H–1B nonimmigrant aliens who have a U.S. master's or higher degree.

In light of the above reasons, for FY 2005, USCIS has determined that the only appropriate way to implement the H–1B Visa Reform Act of 2004 is to apply the 20,000 exemptions prospectively.

IV. General Process for FY 2005 H–1B Filings

USCIS will reopen the FY 2005 H–1B filing period, effective May 12, 2005, and make available 20,000 new H–1B numbers for FY 2005. These additional H–1B numbers will be limited to U.S. employers seeking an H–1B nonimmigrant alien who has earned a master's or higher degree from a U.S. institution of higher education, as the statute provides.

U.S. employers seeking an H–1B nonimmigrant alien for FY 2005 will file H–1B petitions through a special process, submitting the Form I–129 petition at a single USCIS service center—Vermont Service Center—at the address noted in section VII, paragraph A below. USCIS will accept and adjudicate properly filed H–1B petitions on a first-in, first-out basis until USCIS has allocated all 20,000 H–1B exemption numbers authorized, as provided in section VI below.

As noted below in section VII, paragraph B, USCIS will not accept FY 2005 petitions via electronic filing ("e-filing"). USCIS is precluding e-filing for FY 2005 petitions because of the need to quickly and accurately identify those petitions that will be subject to the 20,000 numerical limit. Allowing e-filing would complicate this effort due to the additional DHS administrative burden associated with matching e-filed petitions with separately filed (through paper) signed labor condition applications (LCA) and evidence of required degrees (which in general cannot be submitted electronically).

V. General Process for FY 2006 and Subsequent Fiscal Year H–1B Filings

For FY 2006 and future fiscal years, U.S. employers seeking an H–1B nonimmigrant alien, regardless of whether the alien has a master's or higher degree, will file for an H–1B number through the normal process, submitting the Form I–129 petition at the USCIS Service Center with jurisdiction over the place of intended employment.

For FY 2006 only, U.S. employers who already have filed an FY 2006 H–1B petition which USCIS has approved or which is still pending with USCIS, will be given the option to upgrade such petitions and receive an FY 2005 H–1B, if any are available, in accordance with the procedures noted in section VIII, paragraph B below.

For FY 2006 and future fiscal years, USCIS will accept and adjudicate properly filed H–1B petitions on a first-in, first-out basis and will track those H–1B petitions that qualify for the U.S. master's or higher degree exemption under the H–1B Visa Reform Act of 2004 as cases are received and adjudicated. Petitions that are eligible for the first two exemptions, applicable to petitioners who are employed at institutions of higher learning, or in nonprofit research, will not count against the 65,000 cap or against the numerical limitation on the new exemption. Similarly, H–1B nonimmigrant aliens that are exempt under the H–1B Visa Reform Act of 2004 will not be counted towards the fiscal year numerical limit of 65,000. USCIS will continue to exempt such aliens until USCIS has allocated all 20,000 H–1B exemption numbers authorized, as provided in section VI below. Thereafter, any H–1B petition granted for an H–1B nonimmigrant alien who has earned a U.S. master's or higher degree, unless otherwise exempt, will be counted against the fiscal year numerical limitations.

As noted below in section VIII, paragraph A, USCIS is temporarily suspending electronic filing ("e filing") of FY 2006 petitions until USCIS has received all petitions that would apply to the FY 2005 numerical limits, including any upgraded applications. USCIS is temporarily suspending e-filing for FY 2006 petitions because of the need not only to quickly and accurately identify those petitions that will be subject to the FY 2005 numerical limits, including requests for upgrades from FY 2006 filings, but also to determine which petitions will apply against the FY 2006 U.S. master's or higher degree exemption. USCIS will provide notice, via the USCIS website, indicating when e-filing will be resumed for FY 2006.

In general, USCIS will require use of the Form I–129 (OMB 1615–0009) in the filing of H–1B petitions; however, for FY 2005 and 2006 filings, USCIS has made the additional accommodation for petitioners to utilize alternate versions of the form as noted in Sections VII and VIII below.

VI. Allocation of H–1B Numbers in FY 2005, FY 2006 and Subsequent Fiscal Years

In the past, USCIS has faced two primary challenges in actual cap counting: (1) Anticipating when the cap will be hit and (2) monitoring of the inflow of H–1B petition filings. To address the second challenge, USCIS has implemented new technology and enhanced its systems capability to allow USCIS to monitor H–1B petition receipts on a daily basis.

The first challenge however remains: Picking the number of petitions necessary for the cap to be reached. USCIS cannot wait until the petitions received have been adjudicated to make this decision, because during the time the adjudications are being completed and an exact count obtained, the cap would be exceeded by these petitions already received and unnecessarily processed. Petitioners whose petitions were received and initially processed after the point at which the cap would be found to have been reached would have gained an unrealistic expectation of having a chance at an H–1B number, and either such petitioners would lose significant filing fees without

substantive adjudication or USCIS would expend unnecessary resources on initially processing such petitions and fees and then returning those petitions and refunding the fees. Therefore, estimating and projecting rates of approval of petitions is required. Through experience of several years, USCIS has gained some statistical understanding of various factors that play into the cap, including the number of petitions already approved, denied, and still pending, the period of time that unadjudicated petitions have been pending, and the education level of the petitions that are pending. USCIS can apply different projected rates of approval (including reversal of denials on appeal) to groups of cases based on these factors. None of these factors or rates can be projected precisely, and therefore determining when the cap will be reached unavoidably involves estimation. The specific factors and rates may vary from year to year and will be applied in USCIS' discretion with assistance of the DHS Office of Statistics. The interim final rule acknowledges USCIS' unavoidable use of projection and estimation in cap management.

To ensure the fair and orderly allocation of numbers in a particular classification subject to numerical limits, USCIS will employ a random selection process. USCIS' random selection process will be computer-generated and validated by the Office of Immigration Statistics. When calculating the numerical limitations for a given fiscal year, USCIS will make numbers available to petitions in the order in which the petitions are filed. USCIS will make projections of the number of petitions necessary to achieve the numerical limit of approvals, taking into account historical data related to approvals, denials, revocations, and other relevant factors. USCIS will monitor the number of petitions received (including the number of beneficiaries when necessary) and will notify the public of the date that USCIS has received the necessary number of petitions (the "final receipt date"). The date of publication will not control the final receipt date.

During the random selection process, USCIS will randomly select from among the petitions received on the final receipt date the remaining number of petitions deemed necessary to generate the numerical limit of approvals. Petitions not selected, and petitions received after the final receipt date, will be rejected. If the final receipt date is the same as the first date on which petitions subject to the applicable cap may be filed (*i.e.*, if the cap is reached on the first day filings can be made), USCIS will randomly apply all of the numbers among the petitions filed on the final receipt date and the following day.

DHS seeks comment on the methodology to approve eligible H–1B petitions in circumstances where such petitions were received on the day the annual cap was forecasted to be reached.

VII. Special Filing Procedures for Additional FY 2005 H–1B Numbers

A. Date of Filing

U.S. employers seeking one of the new FY 2005 H–1B numbers made available pursuant to the H–1B Visa Reform Act of 2004 may file H–1B petitions beginning May 12, 2005. Any petition requesting new FY 2005 H–1B employment received before May 12, 2005 will be rejected and returned, along with the associated filing fees, to the petitioner or representative.

B. Filing Location and Method of Filing

Under the authority created by this interim rule, USCIS is hereby advising petitioners seeking an FY 2005 H–1B number that they must submit the H–1B petition to the following address: USCIS Vermont Service Center, 1A Lemnah Drive, St. Albans, VT 05479–7001.

Only H–1B petitions received at this specific address at the Vermont Service Center will be deemed eligible for an FY 2005 number. Filings may not be personally delivered and must be submitted by U.S. mail, express shipping services, or by other courier companies normally servicing the Vermont Service Center. Any petition seeking an FY 2005 H–1B number filed or received at another USCIS Service Center will be rejected and returned, along with the associated filing fees, to the petitioner or representative. USCIS will not accept any FY 2005 petitions by electronic filing ("e-filing").

C. Required Forms

U.S. employers seeking one of the new FY 2005 H–1B numbers made available pursuant to the H–1B Visa Reform Act of 2004 may file the new Form I–129, Petition for Nonimmigrant Worker (edition date 3–17–05, OMB 1615–0009), which incorporates the Form I–129W, H–1B Data Collection and Filing Fee Exemption, as well as the H and H–1B Supplements. Petitioners should note that as of May 30, 2005, all H–1B submissions must be made on the new Form I–129 (edition date 3–17–05, OMB 1615–0009).

U.S. employers may also file the old Form I–129 (edition date 12–10–01, OMB 1115–0168, OMB 1615–0093) and the old Form I–129W (edition date 2–14–02, OMB 1115–0225). U.S. employers filing the old Form I–129 (edition date 12–10–01, OMB 1115–0168, OMB 1615–0093) must complete the data field in Part 5, marked "Current number of employees". Petitioners filing the old Form I–129W (edition date 2–14–02, OMB 1115–0225) must complete Part A, section "Beneficiary's Highest Level of Education", by: (1) Checking the appropriate box indicating Master's, Professional or Doctorate degree; (2) clearly annotating next to the selection the phrase—"U.S. earned'; and (3) providing the name and location of the U.S institution of higher education.

Petitioners seeking FY 2005 H–1B numbers also may file one of a few additional versions of the Form I–129 that were posted on USCIS' Web site during March 2005 before the 3–17–05 version was finalized. Regardless of which version of the Form I–129, U.S. employers choose to file, a certified Labor Condition Application (LCA) from the Department of Labor valid for the period of requested employment must be submitted with the Form I–129.

D. Availability of Premium Processing Program

USCIS recognizes that many H–1B petitioners seeking an FY 2005 H–1B number desire the beneficiary to begin work as soon as possible. USCIS therefore will allow petitioners to file for the additional FY 2005 numbers using the Premium Processing Program.

E. Filing Fees

Petitioners are reminded that the Form I–129 must be filed with the base filing fee of $185, the ACWIA fees of $1,500 (for employers with 26 or more U.S. full-time-equivalent employees) or $750 (for employers with 25 or less U.S. full-time-equivalent employees, including all affiliated or subsidiary entities), the $500 fraud prevention and detection fee (as applicable), as well as the Form I–907 and premium processing fee of $1,000. Payment for the $185 petition filing fee and the $1,500 (or $750) additional ACWIA fee may be made in the form of a single check or money order for the total amount due or two checks or money orders to the Department of Homeland Security, in accordance with the instructions on the revised Form I–129. Those petitioners who must pay the $500 fraud prevention and detection fee must pay with a check or money order that is separate from the additional ACWIA application fees of $1,500 (or $750) and the $185 petition filing fees. Similarly, any premium processing fee of $1,000

must be paid by separate check. Thus, in certain instances petitioners may need to file up to four separate checks or money orders: One for the $185 Form I–129 petition fee; one for the $1,500 or $750 additional ACWIA fee (which may be combined with the $185 fee); one for the $500 fraud prevention and detection fee; and one for the $1,000 premium processing fee (if applicable).

F. Requested Start Dates

USCIS anticipates that it will receive a large volume of petitions from U.S. employers seeking an FY 2005 number for an H–1B nonimmigrant who has earned a U.S. master's degree or higher and that there will likely be more petitions filed than there are numbers available. USCIS anticipates that many U.S. employers will have already filed H–1B petitions seeking an FY 2006 number or will be filing an H–1B petition seeking an FY 2006 number. USCIS also anticipates that petitioners who do not receive an FY 2005 number likely will seek an FY 2006 number or be willing to accept an FY 2006 number if available.

To facilitate processing of FY 2005 numbers, to avoid the filing of multiple petitions on behalf of the same alien for the same employment starting on different possible dates, and to properly segregate FY 2005 petitions, USCIS will assume that petitioners who are filing for a FY 2005 number are willing to receive an FY 2006 number and start date (October 1, 2005) if an FY 2005 number is unavailable and if the petitioner still seeks an alien for employment in FY 2006. Petitioners who seek an FY 2005 number only must, in addition to indicating a start date for employment prior to October 1, 2005, clearly annotate the top of the first page of the Form I–129 with the phrase "FY 2005 only." Such petitions that are found to exceed the numerical limit will be returned to the petitioner, and any associated filing fees will be returned or refunded.

VIII. Special Additional Filing Procedures for FY 2006

A. Method of Filing

Until further notice, USCIS has temporarily suspended electronic filing ("e-filing") of FY 2006 H–1B petitions. U.S. employers seeking an FY 2006 number, however, may file H–1B petitions for an FY 2006 number by U.S. mail, express shipping services, or by other courier companies normally servicing the USCIS Service Center with jurisdiction over the place of intended employment according to the normal procedure. Such petitions may not be personally delivered to the applicable USCIS Service Center.

B. Upgrading FY 2006 Petitions

USCIS is aware that some H–1B petitioners who have already filed H–1B petitions for FY 2006 employment may wish to convert an approved or pending petition into an FY 2005 filing to allow the alien beneficiary to commence employment at an earlier date. USCIS will permit petitioners to "upgrade" a pending or approved FY 2006 H–1B petition if the beneficiary has a U.S. master's degree or higher degree from a U.S. institution and the petition is otherwise approvable. Such a petition will be treated as a request for an FY 2005 number and start date and, in the event that an FY 2005 number is not available, as an alternative request for an FY 2006 number with an October 1, 2005 start date for employment.

In order to upgrade an FY 2006 H–1B petition, the petitioner must submit to USCIS: (1) A letter requesting the upgrade; (2) either (a) a copy of the approval notice for the FY 2006 petition, (b) a copy of the receipt notice for the FY 2006 petition, (c) a copy of the first two pages of the related Form I–129 if a receipt notice has not yet been received, or (d) a new Form I–129; and (3) a certified Labor Condition Application (LCA) from the Department of Labor valid for the period of requested employment (or copy thereof if not already provided with the FY 2006 petition).

Petitioners seeking an upgrade must submit the required documentation to the following address: USCIS Vermont Service Center, 1A Lemnah Drive, St. Albans, VT 05479–7001. There is no fee to upgrade a previously filed or approved FY 2006 petition. Upgrade filings may not be personally delivered and must be submitted by U.S. mail, express shipping services, or by other courier companies normally servicing the Vermont Service Center.

Any request to upgrade a FY 2006 for purposes of a FY 2005 filing will be treated as having been filed on the date of receipt at the Vermont Service Center address and is subject to the same timing rules for full petitions submitted for FY 2005 as set forth in Section VII, paragraph A above. In the event that a FY 2005 number is not available for an upgrade request, the original petition will be deemed as having been filed for an FY 2006 number on the date the petition was initially filed at one of the four service centers.

C. Required Forms

U.S. employers seeking FY 2006 H–1B numbers may file the new Form I–129, Petition for Nonimmigrant Worker (edition date 3–17–05, OMB 1615–0009), which incorporates the Form I–129W, H–1B Data Collection and Filing Fee Exemption, as well as the H and H–1B Supplements. Petitioners should note that as of May 30, 2005, all H–1B submissions must be made on the new Form I–129 (edition date 3–17–05, OMB 1615–0009).

U.S. employers may also file the old Form I–129 (edition date 12–10–01, OMB 1115–0168, OMB 1615–0093) and the old Form I–129W (edition date 2–14–02, OMB 1115–0225). U.S. employers filing the old Form I–129 (edition date 12–10–01, OMB 1115–0168, OMB 1615–0093) must complete the data field in Part 5, marked "Current number of employees". Petitioners filing the old Form I–129W (edition date 2–14–02, OMB 1115–0225) must complete Part A, section "Beneficiary's Highest Level of Education", by: (1) Checking the appropriate box indicating Master's, Professional or Doctorate degree; (2) clearly annotating next to the selection the phrase—"U.S. earned"; and (3) providing the name and location of the U.S institution of higher education.

Petitioners may file also one of a few additional versions of the Form I–129 that were posted on USCIS' Web site during March 2005 before the 3–17–05 version was finalized. Regardless of which version of the Form I–129, U.S. employers chose to file, a certified Labor Condition Application (LCA) from the Department of Labor valid for the period of requested employment must be submitted with the Form I–129.

D. Availability of Premium Processing Program

FY 2006 petitions may be filed via the Premium Processing Program and should include the required Form I–907, Request for Premium Processing, along with the $1,000 premium processing fee.

U.S. employers who: (1) Have already filed an FY 2006 H–1B petition with premium processing, (2) whose FY 2006 H–1B petition is still pending adjudication, and (3) who now seek an upgrade for an FY 2005 number, do not need to submit a new Form I–907 or new premium processing fee.

U.S. employers who: (1) Have already filed an FY 2006 H–1B petition without using premium processing, (2) whose FY 2006 H–1B petition is still pending adjudication, and (3) who now seek an upgrade for an FY 2005 number, must include with the upgrade request a Form I–907, Request for Premium Processing, along with the premium processing fee.

U.S. employers who: (1) Have already filed an FY 2006 H–1B petition that has been approved, regardless of whether premium processing was requested, and (2) who now seek an upgrade for an FY 2005 number, do not need to submit a new Form I–907 or new premium processing fee.

E. Filing Fees

Petitioners are reminded that the Form I–129 must be filed with the base filing fee of $185, the ACWIA fees of $1,500 (for employers with 26 or more U.S. full-time-equivalent employees) or $750 (for employers with 25 or less U.S. full-time-equivalent employees, including all affiliated or subsidiary entities), the $500 fraud prevention and detection fee (as applicable), as well as the Form I–907 and premium processing fee of $1,000, if applicable. Payment for the $185 petition filing fee and the $1,500 (or $750) additional ACWIA fee may be made in the form of a single check or money order for the total amount due or two checks or money orders. Those petitioners who must pay the $500 fraud prevention and detection fee must pay with a check or money order that is separate from the additional ACWIA application fees of $1,500 (or $750) and the $185 petition filing fees. Similarly, any premium processing fee of $1,000 must be paid by separate check. Thus, in certain instances petitioners may need to file up to four separate checks or money orders: One for the $185 Form I–129 petition fee; one for the $1,500 or $750 additional ACWIA fee (which may be combined with the $185 fee); one for the $500 fraud prevention and detection fee; and one for the $1,000 premium processing fee (if applicable).

IX. Section-by-Section Analysis

USCIS is revising 8 CFR 214.2(h)(2)(i)(A) to provide that USCIS may set alternate filing locations via notice in the **Federal Register**.

USCIS is revising 8 CFR 214.2(h)(8)(ii) in its entirety to properly reflect that USCIS tracks petitions or applications subject to numerical limits, not by individual petition receipt numbers, but by monitoring the total number of petitions (including the number of beneficiaries when necessary) filed within a given fiscal year. This revision applies to all H nonimmigrant classifications subject to numerical limits. In calculating when the numerical limits have been or will likely be reached, USCIS will make projections of the number of petitions necessary to achieve the numerical limit of approvals, taking into account historical data related to approvals, denials, revocations, and other relevant factors. USCIS will continue to count H–1B petitions on a first-in, first-out basis and monitor the number of petitions received, approved, and pending adjudication to determine when USCIS is likely to reach or exceed the numerical limits in a given fiscal year.

As discussed above in Section VI, USCIS also is amending 8 CFR 214.2(h)(8)(ii)(B) to authorize random selection of H–1B numbers in FY 2005, FY 2006 and future fiscal years when USCIS determines that the numerical limits in a particular category will be reached.

USCIS recognizes that, given the period of time that has passed since cap-subject H–1B filings last were received, the anticipated high demand for immediate validity dates is substantial and may even exceed the 20,000 newly available numbers for FY 2005 on the first day. Therefore, any petitioner who desires an FY 2005 number must consider the importance of having the petition (or "upgrade" of an already filed FY 2006 petition) delivered on the first day on which filings will be accepted. Petitioners likely will send the petition or upgrade on the day before that date by overnight delivery to ensure arrival at the Vermont Service Center on the first day.

In order to reduce petitioners' concern that even an overnight delivery service from a remote location might not actually deliver the package on the first day, USCIS has decided that, in the event that the final receipt date is the same as the first date on which petitions may be filed (*i.e.* if the cap is reached on the first day filings can be made for FY 2005), USCIS will randomly apply all of the numbers among the petitions filed on the final receipt date and the following day. In such cases, no advantage will be gained by the particular time of day a filing is received. USCIS has concluded that such a commitment best ensures general fairness and orderly procedures for allocations of petitions subject to numerical limits.

X. Regulatory Requirements

A. Administrative Procedure Act (Good Cause Exception)

Implementation of this rule without notice and the opportunity for public comment is warranted under the "good cause" exception found under the Administrative Procedure Act (APA) at 5 U.S.C. 553(b). USCIS has determined that delaying implementation of this rule to await public notice and comment is impracticable and contrary to the public interest. The H–1B Visa Reform Act of 2004 was enacted on December 8, 2004. The provisions related to the H–1B numerical limitations and new fraud prevention and detection fees became effective March 8, 2005.

Immediate implementation of this rule is in the public interest, specifically that of U.S. employers, students and workers. While processing for the FY 2006 H–1B cap began on April 1, 2005, U.S. employers have been unable to hire new H–1B workers since October 1, 2004. A worker with an FY 2006 cap number cannot begin work until October 1, 2005, the date on which FY 2006 begins. In order to provide U.S. employers with the ability to address their employment needs as soon as possible and to alleviate the burdens imposed on their ability to hire H–1B workers since October 1, 2004, USCIS must issue this interim rule to implement immediately these provisions and notify the public of the process by which the remaining H–1B numbers for FY 2005 will be made available. This interim rule is necessary to allocate fairly and equitably the new FY 2005 H–1B numbers in an expeditious manner. In addition, the new fees to be generated by the FY 2005 filings will be allocated to public purposes of low-income student education, job training, and fraud prevention and detection, and further delay of the FY 2005 filings would delay the funding of those purposes. It is therefore impracticable and contrary to the public interest to adopt this rule with the prior notice and comment period normally required under 5 U.S.C. 553(b).

USCIS also finds that good cause exists under the Congressional Review Act, 5 U.S.C. 808, to implement this interim rule immediately upon publication in the **Federal Register**.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). Because good cause exists for issuing this regulation as an interim rule, no regulatory flexibility analysis is required under the RFA.

C. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA),

2 U.S.C. 1531–1538, requires Federal agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector of more than $100 million in any one year (adjusted for inflation with 1995 base year). Before promulgating a rule for which a written statement is needed, section 205 of UMRA requires an agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome option that achieves the objective of the rule. Section 205 allows an agency to adopt an alternative, other than the least costly, most cost-effective, or least burdensome option if DHS publishes an explanation with the final rule.

As discussed below under Executive Order 12866, this action will result in the expenditure by the private sector of $100 million or more in any one year, but these fees are mandated by statute and USCIS is obligated to implement the law as enacted by the OAA. Further, these costs do not accrue to the general public, but only those who choose to participate in the H–1B program, nor will they result in expenditures in excess of $100 million a year by State, local, or tribal governments.

D. Small Business Regulatory Enforcement Fairness Act of 1996

This interim rule is a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This interim rule will result in an annual effect on the economy of more than $100 million.

E. Executive Order 12866

This interim final rule is considered by DHS to be an economically "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. The implementation of this interim rule will provide USCIS with an additional $36,200,000 in FY 2005 in annual fee revenue over the fee revenue that would be collected under the current fee structure, based on a projected annual fee-paying volume of 20,000 approved petitions. This interim rule would provide USCIS with $138,425,000 in FY 2006 annual fee revenue, based on a projected annual fee-paying volume of 85,000 approved petitions (20,000 new exemptions and 65,000 petitions). This increase in revenue pursuant to the OAA (and ACWIA as amended), will be used to fund grants for training in high-growth industries, job training services and related activities, and programs and activities to prevent and detect fraud with respect to H and L petitions. Accordingly, this rule has been submitted to the Office of Management and Budget (OMB) for clearance.

USCIS is issuing this rule in order to provide for a fair and equitable allocation of additional H–1B numbers made available for FY 2005 by Congress.

USCIS has assessed both the costs and benefits of this rule as required by Executive Order 12866, section 1(b)(6), and has made a reasoned determination that this rule will result in additional costs to petitioning employers. The additional costs to employers are due to the new statutory requirement that H–1B petitioners must now pay an additional fee of either $1,500 or $750 per petition, depending upon the size of the business, unless otherwise exempt. In addition to the $1,500 or $750 fee, as of March 8, 2005, H–1B petitioners must also pay a separate fee of $500 per petition to assist federal agencies in fraud prevention and detection.

USCIS estimates that for FY 2005, all of the aforementioned new fees will cost H–1B petitioning employers an additional $36,200,000. DHS reached this conclusion by estimating that approximately half of the 20,000 new H–1B petitions that will be approved for FY 2005 employment will be for businesses with 25 or less full-time equivalent employees ($750 × 10,000 = $7,500,000), while the other half will be for businesses with 26 or more full-time equivalent employees ($1,500 × 10,000 = $15,000,000). USCIS has also included in this estimate the new $500 Fraud Prevention and Detection Fee applicable to the forthcoming 20,000 new H–1B petition approvals for FY 2005 employment ($500 × 20,000 = $10,000,000).

There will also be an additional 20,000 I–129 petitions approved for new H–1B employment in FY 2005 at a base filing fee cost of $185 per Form I–129, which adds an additional cost to H–1B petitioners ($185 × 20,000 = $3,700,000). Therefore, the total additional cost to the public during FY 2005 is $36,200,000.

In future fiscal years, the additional cost to H–1B petitioners is estimated to be $138,425,000 each fiscal year. USCIS reached this conclusion by estimating that approximately half of the 85,000 H–1B petitions approved per fiscal year will be for businesses with 25 or less full-time equivalent employees ($750 × 42,500 = $31,875,000), while the other half will be for businesses with 26 or more full-time equivalent employees ($1,500 × 42,500 = $63,750,000). USCIS includes in this estimate the fact that an additional 20,000 petitions for H–1B classification will be filed each fiscal year at a base filing fee cost of $185 per I–129 petition ($185 × 20,000 = $3,700,000). USCIS has also included in this estimate the new $500 Fraud Prevention and Detection Fee applicable to 78,200 new H–1B petitions approved per fiscal year ($500 × 78,200 = $39,100,000). USCIS notes that the $500 Fraud Prevention and Detection Fee is not required for Chileans and Singaporeans entering the United States under the Free Trade Agreements. Therefore, USCIS estimates that the total additional cost to the public in the future each fiscal year will be $138,425,000.

Although this interim rule will result in additional costs to H–1B petitioners that may deter some employers from seeking H–1B nonimmigrant workers, USCIS notes that these fees and the specific amounts of these fees are mandated by statute. USCIS is obligated to implement the law as enacted by the OAA.

The benefit of this interim rule is that affected employers will be able to address inconveniences and difficulties caused by the reaching of the FY 2005 H–1B, and USCIS will be able to facilitate that process in a manner that is fair to all employers. This interim rule will also facilitate the hiring of H–1B nonimmigrant aliens by U.S. employers who have not been able to fill jobs due to the H–1B cap being reached early in recent fiscal years and who demonstrate that they are willing to offer the same prevailing wage and working conditions as those of U.S. workers. The fees imposed will benefit congressional purposes of education for low-income students, job training for U.S. workers, and fraud detection and prevention in immigration programs.

USCIS will receive a larger number of filings subject to the increased filing fees than the number of petitions that ultimately will be approved. Almost all of such filings, however, will be those received in excess of the applicable numerical limits, and USCIS will be rejecting or refunding fee payments for such petitions. Petitions that are exempt from the cap, because they are for beneficiaries who are already in H–1B status and were previously been counted against the cap, are also exempt from the ACWIA fees. Such petitions, the number of which is unpredictable, are not exempt from the $500 fraud prevention and detection fee. Also a somewhat unpredictable number of petitions subject to the new ACWIA and fraud detection and prevention fees will be filed for initial petitions that will be denied or withdrawn, and those will be

in excess of the 85,000 set forth above. These petitions will impose costs on the employers that result from the OAA and this interim final rule, but funds will be applied to the congressionally required, publicly beneficial purposes of low-income student education, job training, and fraud detection and prevention. During fiscal years 2001, 2002 and 2003, an average of less than 2.5 percent of initial petitions were denied; thus, this cost factor is relatively insignificant.

The additional fees mandated by the OAA are not being codified by USCIS within the context of this rulemaking. However, USCIS, in a future rulemaking, will amend 8 CFR 214.2(h)(19), which currently addresses the fees initially required pursuant to ACWIA, to reflect the enhanced ACWIA fees of $1,500 (or $750) and to codify the new fraud prevention and detection fees ($500) affecting all H and L petitioners. USCIS notes, however, that the Form I–129 has recently been revised to comport with the provisions of the OAA by adding a supplement titled H–1B Data Collection and Filing Fee Exemption. The inclusion of the H–1B Data Collection and Filing Fee Exemption supplement within the revised Form I–129 has rendered the previous Form I–129W moot, as it captures the required information previously obtained via the Form I–129W. Therefore, the Form I–129W has been removed from the USCIS forms inventory. OMB has approved the revised Form I–129 for official use by the public and USCIS has released the revised Form I–129 for official use as of March 11, 2005. Petitioners are urged to consult and comply with the instructions on the revised I–129 and the H–1B Data Collection and Filing Fee Exemption supplement when filing their petitions for H–1B nonimmigrant workers.

Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circ*), in Table 1, USCIS has prepared an accounting statement showing the classification of the expenditures associated with the Allocation of Additional H–1B Visas created by the H–1B Visa Reform Act of 2004. The table provides our best estimate of the dollar amount of these costs and benefits, expressed in 2005 dollars, at three percent and seven percent discount rates. We estimate that the cost of this interim rule will be approximately $125 million annualized (7 percent discount rate) and approximately $127 million annualized (3 percent discount rate). The non-quantified benefit is compliance with the OAA.

TABLE 1.—ACCOUNTING STATEMENT: CLASSIFICATION OF EXPENDITURES, FY 2005 THROUGH FY 2014

[2005 dollars]

Three Percent Annual Discount Rate	
BENEFITS	
Annualized monetized benefits	
(Un-quantified) benefits: compliance with the law; funding of congressionally mandated programs; acquisition of needed professional workers	
COSTS	
Annualized monetized costs: $127 million	
Annualized quantified, but un-monetized costs	
Qualitative (un-quantified) costs	
Seven Percent Annual Discount Rate	
BENEFITS	
Annualized monetized benefits	
(Un-quantified) benefits: compliance with the law; funding of congressionally mandated programs; acquisition of needed professional workers	
COSTS	
Annualized monetized costs: $125 million	
Annualized quantified, but un-monetized costs	
Qualitative (un-quantified) costs	

In accordance with the provisions of E.O. 12866, this regulation was reviewed by the Office of Management and Budget.

F. Executive Order 13132

This interim rule will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this interim rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. Executive Order 12988 Civil Justice Reform

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

H. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to OMB, for review and approval, any reporting and recordkeeping requirements inherent in a rule. This interim rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act. As previously stated under Executive Order 12866, the Form I–129, Petition for Nonimmigrant Worker (OMB 1615–0009), has recently been revised to include the H–1B Data Collection and Filing Fee Exemption supplement to comport with the provisions of the OAA. These revisions include amendments to the H–1B Data Collection and Filing Fee Exemption Supplement to capture information about the beneficiary's level of education and whether the degrees were earned from a U.S. institution of higher education; to assist U.S. employers in assessing whether they are subject to the new $1,500 (or $750) ACWIA and $500 Fraud Detection and Prevention fees; and to assist U.S. employers in assessing whether they are eligible for the numerical limit exemptions provided under section 214(g)(5) of the INA. OMB has approved the revised Form I–129 for official use by the public (OMB Control Number 1615–0009); however, USCIS will continue to accept the prior paper

editions of Form I–129 until May 30, 2005. In addition, by increasing the number of Forms I–129 and Forms I–907 being submitted as a result of the OAA, USCIS has submitted to OMB for emergency clearance the Paperwork Reduction Change Worksheet (OMB–83C) increasing the total annual burden hours. Further, USCIS has submitted to OMB for emergency clearance Paperwork Reduction Act Submission (OMB 83–I) to permit USCIS to concurrent use of the Form I–129 (edition date 3–17–05, OMB 1615–0009 and the old Form I–129 (edition date 12–10–01, OMB 1115–0168, OMB 1615–0093) until May 30, 2005. Due to this temporary information collection, USCIS submitted the OMB 83–I to formally request that OMB adjust the burden hours for the use of the 12–10–01 version of the Form I–129. The public should reference the **Federal Register** notice contained at 70 FR 20590 (Apr. 20, 2005) for information about this collection. Please note however that USCIS hereby extends the deadline for comments solicited in that notice until May 30, 2005.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

■ Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1185 (pursuant to E.O. 13323, 69 FR 241, 3 CFR, 2003 Comp., p. 278), 1186a, 1187, 1221, 1281, 1282, 1301–1305, 1372, 1379, 1731–32; section 643, Pub. L. 104–208, 110 Stat. 3009–708; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively, 8 CFR part 2.

■ 2. Section 214.2 is amended by
■ (a) Revising (h)(2)(i)(A);
■ (b) Revising (h)(8)(ii)(B);
■ (c) Removing (h)(8)(ii)(C) and redesignating (h)(8)(ii)(D) through (F) respectively as (h)(8)(ii)(C) through (E);
■ (d) Revising the last sentence of newly designated (h)(8)(ii)(C) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(2) * * *

(i) * * *

(A) *General.* A United States employer seeking to classify an alien as an H–1B, H–2A, H–2B, or H–3, temporary employee shall file a petition on Form I–129, Petition for Nonimmigrant Worker, only with the USCIS Service Center which has jurisdiction in the area where the alien will perform services, or receive training, even in emergent situations, except as provided in this section or as specifically designated by USCIS via notice in the **Federal Register**.

* * * * *

(8) * * *

(ii) * * *

(B) When calculating the numerical limitations for a given fiscal year, USCIS will make numbers available to petitions in the order in which the petitions are filed. USCIS will make projections of the number of petitions necessary to achieve the numerical limit of approvals, taking into account historical data related to approvals, denials, revocations, and other relevant factors. USCIS will monitor the number of petitions (including the number of beneficiaries requested when necessary) received and will notify the public of the date that USCIS has received the necessary number of petitions (the "final receipt date"). The date of publication will not control the final receipt date. When necessary to ensure the fair and orderly allocation of numbers in a particular classification subject to numerical limits, USCIS may randomly select from among the petitions received on the final receipt date the remaining number of petitions deemed necessary to generate the numerical limit of approvals. This random selection will be made via computer-generated selection as validated by the Office of Immigration Statistics. Petitions not randomly selected, and petitions received after the final receipt date, will be rejected. If the final receipt date is the same as the first date on which petitions subject to the applicable cap may be filed (*i.e.*, if the cap is reached on the first day filings can be made), USCIS will randomly apply all of the numbers among the petitions filed on the final receipt date and the following day.

(C) * * * The petition shall be revoked pursuant to paragraph (h)(11)(ii) of this section and USCIS will take into account the unused number during the appropriate fiscal year.

* * * * *

Dated: May 2, 2005.

Michael Chertoff,

Secretary.

[FR Doc. 05–8992 Filed 5–2–05; 3:58 pm]

BILLING CODE 4410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–41–AD; Amendment 39–14015; AD 2005–06–07]

RIN 2120–AA64

Airworthiness Directives; General Electric Company (GE) CF6–80A1/A3 and CF6–80C2A Series Turbofan Engines, Installed on Airbus Industrie A300–600 and A310 Series Airplanes; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 2005–06–07. That AD applies to GE CF6–80A1/A3 and CF6–80C2A series turbofan engines. We published AD 2005–06–07 in the **Federal Register** on March 21, 2005, (70 FR 13365). A service bulletin number in the compliance section is incorrect. This document corrects that service bulletin number. In all other respects, the original document remains the same.

EFFECTIVE DATE: Effective May 5, 2005.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7192; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A final rule AD, FR Doc. 05–5299, that applies to GE CF6–80A1/A3 and CF6–80C2A series turbofan engines, was published in the **Federal Register** on March 21, 2005, (70 FR 13365). The following correction is needed:

PART 39—[CORRECTED]

§ 39.13 [Corrected]

■ On page 13368, in the first column, in compliance section paragraph (i)(2), in the sixth line, "No. CF6–80C2A SB 78A4022, Revision 2," is corrected to read "No. CF6–80C2A SB 78A1081, Revision 2".

Issued in Burlington, MA, on April 26, 2005.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 05–8883 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21029; Directorate Identifier 2005–NM–045–AD; Amendment 39–14077; AD 2005–09–08]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding two existing airworthiness directives (ADs); both apply to the same certain McDonnell Douglas Model MD–90–30 airplanes. The superseded ADs currently require a one-time general visual inspection to detect wire chafing damage and to determine adequate clearance between the disconnect panel structure and the wires above the aft left lavatory; and corrective actions, if necessary. This new AD retains those requirements and clarifies certain requirements for recording AD compliance. This AD is prompted by the determination that the form of the existing ADs could result in confusion to operators in recording compliance with the potentially conflicting requirements. We are issuing this AD to prevent damage to certain wires due to contact between the wires and the adjacent structure, which could result in electrical arcing and consequent smoke and fire in the cabin.

DATES: Effective May 20, 2005.

The incorporation by reference of Boeing Alert Service Bulletin MD90–24A074, excluding Appendix, Revision 02, dated June 3, 2003, as listed in the regulations, was approved previously by the Director of the Federal Register as of February 22, 2005 (70 FR 5920, February 4, 2005).

We must receive comments on this AD by July 5, 2005.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- For service information identified in this AD, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846; Attention: Data and Service Management, Dept. C1–L5A (D800–0024).

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21029; the directorate identifier for this docket is 2005–NM–045–AD.

Examining the Docket

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

FOR FURTHER INFORMATION CONTACT: George Y. Mabuni, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On February 14, 2003, we issued AD 2003–04–10, amendment 39–13058 (68 FR 9513, February 28, 2003). On January 26, 2005, we issued AD 2005–03–05, amendment 39–13961 (70 FR 5920, February 4, 2005).

Both ADs apply to the same certain McDonnell Douglas MD–90–30 airplanes. Both require a one-time general visual inspection to detect wire chafing damage and to determine adequate clearance between the disconnect panel structure and the wires above the aft left lavatory; and corrective actions, if necessary. The actions specified in the ADs are intended to prevent damage to certain wires due to contact between the wires and the adjacent structure, which could result in electrical arcing and consequent smoke and fire in the cabin.

Actions Since ADs Were Issued

Since we issued those ADs, we discovered some procedural regulatory complications that could prevent operators from complying with either AD. We had initially determined that AD 2003–04–10 should be revised when in fact it should have been superseded. Although a revised AD is identified by adding "R1" to the original AD number, in this case the "revised" AD was instead given a new AD number (AD 2005–03–05). As a result, two essentially identical ADs apply to the same airplanes. We have determined that superseding both AD 2003–04–10 and AD 2005–03–05 will eliminate the confusion associated with recording compliance with potentially conflicting requirements in the two ADs.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. This AD is being issued to supersede AD 2003–04–10 and AD 2005–03–05. This new AD retains the requirements of the existing AD.

Costs of Compliance

The requirements of this new AD are unchanged from those of AD 2003–04–10 and AD 2005–03–05; therefore, this AD imposes no additional economic burden on operators. The estimated costs associated with this AD are repeated for the convenience of affected operators, as follows:

There are about 89 airplanes of the affected design worldwide. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection	1	$65	None required	$65	21	$1,365

FAA's Determination of the Effective Date

This AD is issued for clarification only and adds no new burden on operators. Therefore, providing notice and opportunity for public comment is unnecessary before this AD is issued, and this AD may be made effective in less than 30 days after it is published in the **Federal Register**.

Comments Invited

Although this is a final rule that was not preceded by notice and an opportunity for public comment, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include "Docket No. FAA–2005–21029; Directorate Identifier 2005–NM–045–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the 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 AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov*.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing amendment 39–13058 (68 FR 9513, February 28, 2003) and amendment 39–13961 (70 FR 5920, February 4, 2005), and by adding the following new AD:

2005–09–08 McDonnell Douglas: Amendment 39–14077. Docket No. FAA–2005–21029; Directorate Identifier 2005–NM–045–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 20, 2005.

Affected ADs

(b) This AD supersedes AD 2003–04–10 (68 FR 9513, February 28, 2003) and AD 2005–03–05 (70 FR 5920, February 4, 2005).

Applicability

(c) This AD applies to McDonnell Douglas Model MD–90–30 airplanes, certificated in any category, as listed in Boeing Alert Service Bulletin MD90–24A074, Revision 02, dated June 3, 2003.

Unsafe Condition

(d) This AD was prompted by the determination that the form of the superseded ADs could result in confusion to operators in recording compliance with the potentially conflicting requirements. We are issuing this AD to prevent damage to certain wires due to contact between the wires and the adjacent structure, which could result in electrical arcing and consequent smoke and fire in the cabin.

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.

One-time Inspection/Corrective Actions

(f) At the applicable time specified in paragraph (f)(1) or (f)(2) of this AD: Do a one-time general visual inspection to find wire chafing damage and to determine adequate clearance between the disconnect panel structure and the wires above the aft left lavatory, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD90–24A074, Revision 02, dated June 3, 2003. If no damage is found and the clearance is adequate, no further action is required by this AD.

Note 1: For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror

may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(1) For airplanes listed in Boeing Alert Service Bulletin MD90–24A074, Revision 1, dated August 8, 2001: Inspect within 12 months after April 4, 2003 (the effective date of AD 2003–04–10).

(2) For airplanes not identified in paragraph (f)(1) of this AD: Inspect within 6 months after February 22, 2005 (the effective date of AD 2005–03–05).

(g) Based on the findings of the inspection required by paragraph (f) of this AD, do the applicable actions specified in paragraph (g)(1) or (g)(2) of this AD before further flight in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD90–24A074, Revision 02, dated June 3, 2003.

(1) If no damage is found, but the clearance is inadequate: Secure the wires using tie-wraps to obtain 0.50-inch minimum clearance.

(2) If damage and/or inadequate clearance is found: Repair damaged wires, replace damaged wires with new wires, and/or secure the wires using tie-wraps to obtain 0.50-inch minimum clearance.

(h) An inspection and corrective actions are also acceptable for compliance with the requirements of paragraphs (f) and (g) of this AD, if done as specified in paragraph (h)(1) or (h)(2) of this AD, as applicable.

(1) Boeing Alert Service Bulletin MD90–24A074, dated May 14, 2001, done before April 4, 2003.

(2) Boeing Alert Service Bulletin MD90–24A074, Revision 1, dated August 8, 2001, done before the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

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

Material Incorporated By Reference

(j) You must use Boeing Alert Service Bulletin MD90–24A074, excluding Appendix, Revision 02, dated June 3, 2003, to perform the actions that are required by this AD, unless the AD specifies otherwise. The incorporation by reference of that document was approved previously by the Director of the Federal Register as of February 22, 2005 (70 FR 5920, February 4, 2005). To get copies of the service information, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846; Attention: Data and Service Management, Dept. C1–L5A (D800–0024). To view the docket, go to the Docket Management Facility office, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC. To review copies of this service information, go to the National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, 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 28, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–8881 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20029; Airspace Docket No. 04–AAL–25]

Establishment of Class E Airspace; Perryville, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Perryville, AK to provide adequate controlled airspace to contain aircraft executing a new Standard Instrument Approach Procedure (SIAP) and Departure Procedure. This rule results in new Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Perryville, AK.

EFFECTIVE DATE: 0901 UTC, July 7, 2005.

FOR FURTHER INFORMATION CONTACT: Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Jesse.ctr.Patterson@faa.gov*. Internet address: *http://www.alaska.faa.gov/at*.

SUPPLEMENTARY INFORMATION:

History

On Monday, February 7, 2005, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to create new Class E airspace upward from 700 ft. and 1,200 ft. above the surface at Perryville, AK (70 FR 6378). The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing a new Standard Instrument Approach Procedure and Departure Procedure for the Perryville Airport. The new approach is Area Navigation-Global Positioning System (RNAV GPS) Runway (RWY) 3, original. The new departure procedure is the CILAC ONE RNAV Departure. New Class E controlled airspace extending upward from 700 feet and 1,200 feet above the surface in the Perryville Airport area is established by this action. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received; thus the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This revision to 14 CFR part 71 establishes Class E airspace at Perryville, Alaska. This additional Class E airspace was created to accommodate aircraft executing a new SIAP and Departure Procedure and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at Perryville Airport, Perryville, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, part A, subpart 1, section

40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing new and existing instrument procedures for the Perryville Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, *Airspace.Designations and Reporting Points,* dated August 30, 2004, and effective September 16, 2004, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Perryville, AK [New]

Perryville Airport, AK
(Lat. 55°54′03″ N., long. 159°09′20″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Perryville Airport, and that airspace extending upward from 1,200 feet above the surface within a 10-mile radius of the Perryville Airprot.

* * * * *

Issued in Anchorage, AK, on April 20, 2005.

Anthony M. Wylie,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 05–8933 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20031; Airspace Docket No. 05–AAL–02]

Revision of Class E Airspace; Kalskag, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Kalskag, AK to provide adequate controlled airspace to contain aircraft executing two new Standard Instrument Approach Procedures (SIAPs) and a new Textual Departure Procedure. This Rule results in new Class E airspace upward from 700 feet (ft.) above the surface at Kalskag, AK.

EFFECTIVE DATE: 0901 UTC, July 7, 2005.

FOR FURTHER INFORMATION CONTACT: Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Jesse.ctr.Patterson@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Monday, February 7, 2005, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace upward from 700 ft. above the surface at Kalskag, AK (70 FR 6379). The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing two new SIAPs and a textual departure procedure for the Kalskag Airport. The new approaches are (1) Area Navigation-Global Positioning System (RNAV GPS) Runway 6, original; and (2) RNAV (GPS)–A, original. Revised Class E controlled airspace extending upward from 700 feet above the surface within a 12.1-mile radius of the Kalskag Airport area is established by this action. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received, thus, the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This revision to 14 CFR part 71 revises Class E airspace at Kalskag, Alaska. Additional Class E airspace is being created to accommodate aircraft executing new instrument procedures and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at Kalskag Airport, Kalskag, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing new and existing instrument procedures for the Kalskag Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, *Airspace Designations and Reporting Points,* dated August 30, 2004, and effective September 16, 2004, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Kalskag, AK [Revised]

Kalskag Airport, AK
(Lat. 61°32′11″ N., long. 160°20′29″ W.)

That airspace extending upward from 700 feet above the surface within a 12.1-mile radius of the Kalskag Airport, excluding that airspace within the Aniak, AK Class E area.

* * * * *

Issued in Anchorage, AK, on April 20, 2005.

Anthony M. Wylie,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 05–8932 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20030; Airspace Docket No. 05–AAL–01]

Revision of Class E Airspace; St. Michael, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at St. Michael, AK to provide adequate controlled airspace to contain aircraft executing two new Standard Instrument Approach Procedures (SIAPs) and a new Textual Departure Procedure. This Rule results in new Class E airspace upward from 700 feet (ft.) above the surface at St. Michael, AK.

EFFECTIVE DATE: 0901 UTC, July 7, 2005.

FOR FURTHER INFORMATION CONTACT: Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Jesse.ctr.Patterson@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Monday, February 7, 2005, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace upward from 700 ft. above the surface at St. Michael, AK (70 FR 6381). The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing two new SIAPs and a textual departure procedure for the St. Michael Airport. The new approaches are (1) Area Navigation-Global Positioning System (RNAV GPS) Runway 2, original; and (2) RNAV (GPS) RWY 20, original. Revised Class E controlled airspace extending upward from 700 feet above the surface within a 8.4-mile radius of the St. Michael Airport area is established by this action. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received, thus, the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This revision to 14 CFR part 71 revises Class E airspace at St. Michael, Alaska. Additional Class E airspace is being created to accommodate aircraft executing new instrument procedures and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at St. Michael Airport, St. Michael, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing new and existing instrument procedures for the St. Michael Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, *Airspace Designations and Reporting Points*, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5 St. Michael, AK [Revised]

St. Michael Airport, AK
(Lat. 63°29'24" N., long. 162°06'37" W.)

That airspace extending upward from 700 feet above the surface within an 8.4-mile radius of the St. Michael Airport.

* * * * *

Issued in Anchorage, AK, on April 20, 2005.

Anthony M. Wylie,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 05–8931 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20063; Airspace Docket No. 05–ACE–5]

Modification of Class E Airspace; Neosho, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Neosho, MO.

EFFECTIVE DATE: 0901 UTC, July 7, 2005.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 3, 2005 (70 FR 10318). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 7, 2005. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on April 18, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–8935 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20066; Airspace Docket No. 05–ACE–8]

Modification of Class E Airspace; Macon, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Macon, MO.

EFFECTIVE DATE: 0901 UTC, July 7, 2005.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 7, 2005 (70 FR 10862). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 7, 2005. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on April 22, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–8936 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20064; Airspace Docket No. 05–ACE–6]

Modification of Class E Airspace; Mountain Grove, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Mountain Grove, MO.

EFFECTIVE DATE: 0901 UTC, July 7, 2005.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 10, 2005 (70 FR 11855). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 7, 2005. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on April 22, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–8937 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20065; Airspace Docket No. 05–ACE–7]

Modification of Class E Airspace; Monett, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Monett, MO.

EFFECTIVE DATE: 0901 UTC, July 7, 2005.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 7, 2005 (70 FR 10917). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit an adverse comment, were received within the comment period, the regulation would become effective on July 7, 2005. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on April 22, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–8938 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9170]

RIN 1545–BD99

Section 1374 Effective Dates; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document corrects temporary regulations (TD 9170) that were published in the **Federal Register** on Wednesday, December 22, 2004 (69 FR 76612). The document contains temporary regulations providing guidance concerning the applicability of section 1374 to S corporations that acquire assets in carryover basis transactions from C corporations on or after December 27, 1994, and to certain corporations that terminate S corporation status and later elect again to become S corporations.

DATES: This document is effective on December 22, 2004.

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (TD 9170) that is the subject of this correction are under section 1374 of the Internal Revenue Code.

Need for Correction

As published, the temporary regulations (TD 9170) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects 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 amendments:

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 * * *

■ **Par. 2.** The section heading and text of § 1.1374–8T is revised to read as follows:

§ 1.1374–8T 1374(d)(8) transactions (temporary).

(a)(1) [Reserved]. For further guidance, see § 1.1374–8(a).

(2) Section 1374(d)(8) applies to any section 1374(d)(8) transaction, as defined in paragraph (a)(1) of this section, that occurs on or after December 27, 1994, without regard to the date of the corporation's election to be an S corporation under section 1362.

(b) through (d) [Reserved]. For further guidance, see § 1.1374–8(b) through (d).

Cynthia Grigsby,

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

[FR Doc. 05–8912 Filed 5–4–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

48 CFR Parts 207, 212, 225, and 252

[DFARS Case 2003–D087]

Defense Federal Acquisition Regulation Supplement; Contractor Personnel Supporting a Force Deployed Outside the United States

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to address issues related to contract performance outside the United States. The rule contains a clause for use in contracts that require contractor personnel to deploy with or otherwise provide support in the theater of operations to U.S. military forces deployed outside the United States in contingency operations, humanitarian or peacekeeping operations, or other military operations or exercises designated by the combatant commander.

DATES: *Effective Date:* June 6, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2003–D087.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule contains DFARS policy relating to contracts that require contractor personnel to deploy with or otherwise provide support in the theater of operations to U.S. military forces deployed outside the United States in contingency operations, humanitarian or peacekeeping operations, or military operations or exercises designated by the combatant commander. In addition, as a result of the DFARS Transformation

initiative, this rule moves text from DFARS 225.802–70 and 225.7401 to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at *http://www.acq.osd.mil/dpap/dars/pgi*.

DoD published a proposed rule at 69 FR 13500 on March 23, 2004. Twenty-six sources submitted comments on the proposed rule. This final rule includes changes made as a result of public comments and as a result of comments received from within DoD. In addition, the paragraphs of the new clause have been re-ordered to provide a more logical sequence. The following is a synopsis of DoD's response to the public comments and the changes made to the rule.

1. Scope

a. *Too broad.*

Comment: Several respondents believe that the rule is too broadly written and that it attempts to cover too many disparate situations. One respondent states that the rule should distinguish between "combat" and "peacekeeping or humanitarian" operations. Another respondent also considers that contingency, humanitarian, peacekeeping, and combat operations are potentially greatly dissimilar.

DoD Response: Nonconcur. The clause language is written in such a way as to allow for its use in a wide range of military operations.

b. *Too narrow.*

Comment: Several respondents thought that the rule was too narrow. One respondent recommends that the clause cover defense contractors working mission essential services within the United States. The respondent suggests that the clause incorporate the requirements of DoDI 3020.37, Continuation of Essential DoD Contractor Services During Crises. Another respondent believes that the rule should cover "nation-" and "infrastructure-" building.

DoD Response: Out of scope/Concur in part. DoD considers the first comment to be out of scope because most of the requirements of the clause would be inapplicable in the United States. Creation of a new clause to implement DoDI 3020.37 as it applies to crises within the United States is not within the scope of this case. With regard to the second respondent, flexibility has been added to the scope by including other military operations or exercises designated by the combatant commander.

c. *Further revision.*

DoD has carefully considered how to accurately express the scope of this case and has developed the following scope statement at 225.7402–1:

"This section applies to contracts requiring contractor personnel to deploy with or otherwise provide support in the theater of operations to U.S. military forces deployed outside the United States in—

(a) Contingency operations;

(b) Humanitarian or peacekeeping operations; or

(c) Other military operations or exercises designated by the combatant commander."

The new clause is intended to apply not only to contractor personnel that "accompany" or "deploy" with the U.S. forces, but to also cover "support in the theater of operations." On the other hand, it does not apply to contractor personnel providing support from outside the theater of operations or to nation-building efforts such as the reconstruction of Iraq. The term "combat operations" was removed, as it is an undefined term, and "other military operations or exercises designated by the combatant commander" was added to increase flexibility. Application of this scope has caused revisions throughout the rule, particularly in the title of the clause, the clause prescription at 225.7402–4(a), and paragraphs (b) and (q) (as redesignated in the final rule) of the clause (applicability and subcontract flowdown).

2. Applicability to Other Nationals

Comment: One respondent comments that some of the requirements of the proposed DFARS clause appear not to apply to either host country contractor personnel or third country national contractor personnel.

DoD Response: Concur in part. DoD agrees that some requirements do not apply to host country contractor personnel or third country national contractor personnel. However, DoD considers that, in most cases, the clause is already drafted in such a manner that it specifies, when necessary, any limitations in the application to host country contractor personnel and third country national contractor personnel. With regard to compliance with laws and regulations, DoD has added the word "applicable." Thus, if a U.S. law is not applicable to host country contractor personnel or third country national contractor personnel, compliance is not required. The paragraphs on pre-deployment and processing and departure point clearly apply only to those employees who are deploying from the United States. The paragraph on evacuation is already focused on employees from the United States and third country national contractor personnel. All the other cited paragraphs would apply equally to United States contractor personnel, host country contractor personnel, and third country national contractor personnel.

3. Equitable Adjustment

Comment: Many respondents brought up the potential need for equitable adjustment due to the perceived risks to contractors in the situations covered by this clause.

DoD Response: The need for equitable adjustment has been addressed in the following specific areas where the respondents raised the issue: government support, compliance with orders of the combatant commander, contractor personnel, insurance, scarce commodities, and changes.

4. Need FAR Coverage

Comment: One respondent suggests that this clause would be beneficial to the civilian side of the Federal Government (GSA, NIH, DOI, etc.) who execute contracts for contractor support to accompany the forces. It would also be beneficial to the Department of State and the U.S. Agency for International Development, who deploy into contingency or humanitarian operations. Therefore, the respondent suggests either including authorization for other Federal agencies procuring on behalf of DoD or other deployed federal agencies to utilize the clause, or including it in the FAR.

DoD Response: Concur in part. We have no objection to any agency using this clause, but it would be up to that agency to make the decision. There is no prohibition against an agency adopting the clause of another agency. It may also be a good idea to eventually include a similar clause in the FAR but, because DoD has an urgent need for the clause, implementation is limited to the DFARS at this time.

5. Fewer Contractor Personnel Should Accompany Deployed Forces

Comment: One respondent states that contractor support in theaters of war should be limited to specialties that the military cannot or does not have within its personnel inventory, such as technical support for systems. Several respondents want to leave military operations to military personnel, and recruit more soldiers, if necessary.

DoD Response: Out of scope. The purpose of this DFARS change is to provide a clause to regulate contractor personnel supporting a deployed force, not to determine the policy on which contractors should do so.

6. Need for a List of Other Clauses That Should Be Used With This Clause

Comment: One respondent recommends revising the proposed rule to ensure that other FAR and DFARS clauses that address performance overseas are indicated as mandatory clauses, where applicable.

DoD Response: Concur in part. DoD has included at DFARS 225.7402–4(b) a reference to guidance in PGI on clauses to consider when using the new clause at DFARS 252.225–7040.

7. Contents of Written Acquisition Plans

Comment: One respondent suggests the rule explain "how" to implement DoDI 3020.37, Continuation of Essential DoD Contractor Services During Crises. The respondent stated that commanders and contracting officers must attend to these questions during acquisition planning.

DoD Response: Concur. A reference to PGI guidance on acquisition planning for crisis situations outside the United States has been added at DFARS 207.105(b)(19)(E).

8. Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

Comment: One respondent suggests that the final rule add to DFARS 212.301 the authority to use the clause at DFARS 252.225–7043, Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States, in commercial item contracts awarded under FAR Part 12.

DoD Response: Concur. DoD has revised DFARS 212.301 to prescribe use of the clause at DFARS 252.225–7043, Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States, in commercial item contracts that include the clause at DFARS 252.225–7040. Although the intent of FAR Part 12 is to keep contract requirements that are not standard commercial practices to a minimum, authorizing inclusion of this clause in commercial contracts when contractor personnel are providing support in the theater of operations will minimize the risk to personnel safety and the organization and, at the same time, make completion of contract performance more efficient and effective. This is important in contracts for acquisitions in high risk situations, whether the items are commercial or noncommercial.

9. Defense Contractors Outside the United States—General

Comment: One respondent questions why the rule only specifically addresses Germany. Several respondents request specific reference to bilateral agreements with Japan and Korea and policies that have application to contractor employees.

DoD Response: Concur. DoD has added 225.7401(c), with a reference to PGI 225.7401(c) for work performed in Japan or Korea.

10. Definitions (252.225–70XX(a)) (252.225–7040(a))

a. *"Combatant commander."*

Comment: Several respondents discuss the use of the term "combatant commander," which was defined in the proposed rule to include subordinate commanders given authority by the combatant commander to issue direction to contractors in a specified geographical area or for a specific functional area.

DoD Response: Concur in part. Subordinate commanders have been removed from the definition of "combatant commander." It is still possible for the combatant commander to delegate authority to a subordinate commander. According to FAR 1.108(b), each authority in the FAR (or DFARS) is delegable unless specifically stated otherwise. Furthermore, paragraph (p) of the clause in the proposed rule has been substantially modified, and paragraph (q) of the clause in the proposed rule has been deleted, which will remove the conflicts regarding contractors receiving direction from unidentified subordinate commanders.

b. *"Combat operations."*

Comment: One respondent observes that in the prescription the term "combat operations" is used but no definition is provided.

DoD Response: Concur. "Combat operations" is not a defined term in the DoD Dictionary of Military and Associated Terms, and has been deleted from the final rule.

c. *"Contractors accompanying the force."*

Comment: Several respondents request the definition for "accompanying a force." One respondent questions whether it is applicable strictly to contractors accompanying a force on the move or whether it also covers contractors situated in an area where military forces are deployed.

DoD Response: The term "accompanying the force" is no longer used. The phrase "deploy with or otherwise provide support in the theater of operations" should answer the issues raised by the respondents. It applies to contractor personnel situated in an area where military forces are deployed, and to some extent, contractor personnel in-transit, although some provisions would be applicable only in the theater of operations. DoD uses the term "in the theater of operations" rather than "in country" as the theater of operations may not be restricted to a single country.

d. *Further revision.*

DoD has not included definitions for "contingency operation" and "humanitarian or peacekeeping operation" in the clause as they are now automatically incorporated from FAR Part 2 by the new clause at FAR 52.202–1, Definitions (July 2004).

11. Shifts Risk to Contractors (252.225–70XX(b)) (252.225–7040(b))

Comment: Several respondents comment that the proposed rule appeared to shift too much risk to contractors. One respondent comments that the use of the term "inherently dangerous" in paragraph (b) of the clause could jeopardize a contractor's ability to obtain insurance coverage under the Defense Base Act and other provisions.

DoD Response: Concur in part. The term "inherently dangerous" overstates the intent of the rule. There was no intent to change the law or to affect coverage under the Defense Base Act, the War Hazards Compensation Act, or any other provision of law or regulation. Paragraph (b)(2) of the clause has been changed to state that contract performance in support of military forces may require work in dangerous or austere conditions. If an independent contractor volunteers or agrees to perform work in such a setting, the contractor must assume responsibility to supervise its employees and to train and prepare them to behave in as safe a mode as possible. Contractors must not directly participate in hostilities against an armed enemy. The risk associated with inherently Governmental functions will remain with the Government. Contractors should resolve concerns about a specific contract during pre-award negotiations.

12. Government Support

a. *Government-provided support should be set forth in contract.*

Comment: Several respondents comment that a contractor would not be able to ascertain what is in an individual operation order.

DoD Response: Concur. The language stating "or in the operation order of the combatant commander" has been removed.

Comment: Several respondents have concern about the effect of paragraph (c)(2) of the clause in the proposed rule. They believe that the Government should be required to specify in the

solicitation and resulting contract the types of Government-provided support, if any, that will be required or authorized.

DoD Response: Concur in part. DoD concurs that Government-provided support should be specified in the contract. Paragraph (c)(2) of the clause has been deleted.

b. *Changes in available support.*

Comment: One respondent expresses concern relative to any deficit (or unanticipated availability) that might arise between support authorized in a contract and actual support available in a particular theater. A second respondent notes that the combatant commander would make the ultimate decision on providing resources to a contractor regardless of what is in the contract. Another respondent recommends adoption of additional language that will provide a mechanism for handling delays or non-delivery of promised Government-provided support similar to that utilized in the Government property clauses. The respondent also recommends the adoption of language substantially similar to that in the FAR Government property clauses that would provide for equitable adjustment in the case of late or non-delivery of promised support on commercial contracts under FAR Part 12, since such contracts do not normally contain a Government property clause.

DoD Response: Concur in part. The rule should address potential differences between Government-provided support anticipated at time of contract/task/option award and actual support made available in the theater of operations. Changes will be handled as specified in the Changes clause of the contract, which will also cover changes in Government-furnished facilities, equipment, material, services, or site, as specified in paragraph (p) of the clause at 252.225–7040 in the final rule. DoD does not concur with the recommendation to outline the scope of any adjustment necessitated by changes in Government support, since there is no intent to modify the already-existing procedures inherent in any changes clause.

c. *Lack of sufficient detail defining variety of support functions.*

Comment: Several respondents believe that the subject provision is lacking in sufficient detail on defining a variety of support functions.

DoD Response: Partially concur. The final rule now implements DoD policy that the combatant commander will develop a security plan to provide protection, through military means, of contractor personnel engaged in the theater of operations unless the terms of the contract place the responsibility with another party. In addition, the clause states that all contractor personnel engaged in the theater of operations are authorized resuscitative care, stabilization, hospitalization at level III military treatment facilities, and assistance with patient movement in emergencies where loss of life, limb, or eyesight could occur. Hospitalization will be limited to stabilization and short-term medical treatment, with an emphasis on return to duty or placement in the patient movement system. However, the contractor is responsible for ensuring that the Government is reimbursed for any costs associated with such treatment or transportation.

The remaining language is deliberately non-specific in outlining available Government support, since that can only be ascertained after consultation with the relevant combatant command and service components. The general types of support that should be considered are outlined in the corresponding PGI coverage. Once adequate research regarding availability of Government support is accomplished, the contracting officer can then provide for such support in the resulting contract.

d. *Difficulty in ascertaining available support.*

Comment: Several respondents suggest that DoD inform users how to obtain the information necessary to specify support in a contract. This will require a high degree of coordination between a contracting officer and military organizations that would be responsible for providing resources in an area of operations.

DoD Response: Partially concur. The new PGI guidance on acquisition planning specifies that the requiring activity is responsible for obtaining pertinent operation plans, operation orders, and annexes from the affected combatant command or military service element, so that the contract will be consistent.

e. *Support should be commensurate with military personnel.*

Comment: One respondent expresses concern that companies in many cases do not, and cannot, provide in-country support for deployed employees. They note that contractor personnel have received, and should receive, support commensurate with the uniformed members with whom they serve.

DoD Response: Nonconcur. The Government will only provide support services that are available in the theater of operations concerned. To the extent that such support is identifiable and known at time of solicitation and award, it can be specified in the solicitation and resulting contract. However, where unavailable from Government sources, such support can only be provided by the contractor. Any contractor can base its decision to submit a proposal on its own assessment of ability to provide and price personnel support.

f. *Contracting officer must communicate support requirements to combatant commander.*

Comment: One respondent presumes that the contracting officer would have to communicate the support requirements to the combatant commander for incorporation into an operation order.

DoD Response: Nonconcur. The contracting officer can only provide for Government resources that are available to a combatant commander. The language referring to support outlined in operation orders has been deleted in response to another comment to avoid contractor confusion.

g. *Which military organization will provide the support?*

Comment: One respondent recommends adding a requirement for the contracting officer to specify in the contract or task order the military organizations that will provide support to a contractor, with further description in PGI.

DoD Response: Nonconcur. It is unlikely that the annexes will be specific in describing the individual military organizations that would provide any contractor with support in defined areas. Hence, the suggested additional language would be unworkable, particularly when specifying Government-provided resources too far in advance of an actual deployment.

h. *Effect on Defense Base Act.*

Comment: One respondent argues that the requirement for contractors to generally provide their own in-theater support would make it even more difficult for contractors to obtain Defense Base Act coverage.

DoD Response: The DAR Council believes that the type of support the respondent is concerned about is force protection. It is DoD policy that the combatant commander will develop a security plan to provide protection through military means unless valid contract terms, approved by the combatant commander, place the responsibility with another party. DoD has modified 225.7402–3(a) and paragraph (c) of the clause at 252.225–7040 to state this policy and to emphasize the fact that the Government may provide the other types of support listed in PGI 225.7402–3(a) and that such support to be provided will be

specified in the contract. Also see the responses at paragraph 12.c and the responses regarding insurance issues in paragraph 22.

i. *Force protection.*

Comment: One respondent expresses concern that the rule permits contractors to hire other contractors who, in turn, will hire armies of mercenaries (frequently local mercenaries) to provide force protection. The respondent foresees that such mercenaries will attempt control of the protection market, may be likely to put intelligence information at risk, and will contribute to "power politics" in the particular theater.

DoD Response: Nonconcur. As stated in the previous paragraph, it is DoD policy to provide force protection to contractor employees providing support in the theater of operations to U.S. military forces unless valid contract terms, approved by the combatant commander, place that responsibility with another party. Even though in some instances contractors may be required to hire security and force protection, this does not equate to "armies of mercenaries." Every contractor will be required to adhere to laws and regulations of the United States, the host country, and third country laws, as well as orders, directives, and instructions issued by the combatant commander relating to various topics, including force protection. This requirement effectively permits Government control over and minimization of the types of excesses foreseen by this respondent.

13. Compliance With Laws and Regulations

a. *Inaccessibility of information on applicable laws and regulations.*

Comment: Some respondents consider paragraph (d) of the clause to be an unreasonable requirement because there is no reliable and accessible source of information for contractors regarding all of the laws (particularly host country and local laws) that may be applicable to a contractor supporting a contingency or humanitarian effort. A contractor may be asked to deploy to countries or areas of the world on short notice without extended advance notice and without meaningful access to information on relevant foreign and local laws. Contractors are often denied access to the very information that would be required to comply with this requirement because it is classified. One respondent wants the Government to notify contractors in writing of all the requirements with which the contractors are expected to comply, other than laws and international treaties. The respondents are concerned that internal Government policies, procedures, and directives and instructions would not always be communicated by the Government to the contractor.

DoD Response: Generally nonconcur. Paragraph (d) of the clause is a reminder of the existing obligation for contractor personnel to comply with the laws and regulations applicable to a contract. Contractors have access to all of these laws and regulations and are bound to comply with them. For example, analysis of the host country law is an existing aspect of acquisition planning under FAR Part 7. Country studies are available online at *http://www.state.gov.* Such available online resources indicate that a contractor may independently ascertain the laws and regulations necessary to comply with paragraph (d) of the clause. A single resource for the laws and regulations enumerated in paragraph (d) would be convenient to the contractor, but it would need to be specific to each contract, it could easily inadvertently omit an applicable law or regulation, and is in large part redundant to available resources. However, DoD concurs that it needs to make organizational improvements to improve the accessibility of contractors to nonclassified portions of classified documents and orders of the combatant commanders.

b. *Conflicting requirements.*

Comment: One respondent is concerned that it may be impossible to comply with every applicable law, treaty, agreement, regulation, directive, and instruction simultaneously because they are inconsistent and contain conflicting provisions.

DoD Response: Nonconcur. Again, paragraph (d) of the clause is a reminder of the existing obligation. Regardless of paragraph (d), it is incumbent upon the contractor to make the best possible judgment in deciding which law or regulation takes precedence in the case of conflict.

c. *Employees do not need to know.*

Comment: One respondent notes that, while there may be a reason for a contractor to have a basic understanding of the special laws and policies related to performance of a contingency contract, there is little need for all employees to have such comprehensive knowledge.

DoD Response: Concur in part. The contractor personnel need to have sufficient knowledge of the laws and regulations that are applicable to them, to avoid violating them in a foreign country. DoD has added a qualifying phrase to focus the applicability to personnel "supporting a force deployed outside the United States as specified in paragraph (b)(1)" of the clause.

d. *The contractor cannot verify compliance by individual employees.*

Comment: One respondent comments that private business has no ability to verify compliance with local law when its individual employees are assigned to classified locations.

DoD Response: Nonconcur. The contractor is still responsible for its employees.

e. *Paragraph (d)(2) of the clause, Treaties and international agreements (e.g., Status of Forces Agreements, Host Nation Support Agreement, and Defense Technical Agreements).*

Comment: The Geneva and Hague Conventions should be added to the parenthetical.

DoD Response: Nonconcur. The treaties and international agreements that are listed are some examples, not an exhaustive list. The problem with examples is that they are not all inclusive, but are often misinterpreted (*i.e.*, if it is not listed, it doesn't apply). Therefore, DoD has deleted the examples.

f. *Paragraph (d)(4) of the clause, Orders, directives, and instructions issued by the Combatant Commander relating to force protection, security, health, safety, or relations and interaction with local nationals.*

Comment: One respondent states that the mandate in paragraph (d)(4) that contractors comply with the "orders, directives, and instructions issued by the Combatant Commander" puts the Commander in a position of directing contract performance without actual contracting authority. Another respondent suggests that a new subparagraph be added to read as follows: "The Government Contracting Officer or the Combatant Commander is responsible for communicating to the Contractor any applicable instructions, orders, directives, etc. to the Contractor and Contractor's personnel. To the extent that compliance requirements change after contract award, the contractor shall be entitled to an equitable adjustment for any increased costs associated with those costs."

DoD Response: Nonconcur. The combatant commander acts in a position of sovereign authority for issues relating to force protection, security, health, and safety. If a contractor were driving a vehicle on a street in the United States and a fire marshal directed the contractor to take a detour because of a fire, the contractor would be required to obey that order. The combatant commander has the authority to serve as the single point of contact for such areas in the theater of operations, since the

combatant commander is in the best position to anticipate the needs of the force and how it will operate in the field. Any claim to equitable adjustment as the result of a change in the orders, directions, or instructions of the combatant commander will be handled in accordance with the terms of the contract.

g. *Paragraph (d)(5) of the clause, Applicability of the Uniform Code of Military Justice (UCMJ).*

Comment: Some respondents request more specific delineation of the applicability of the UCMJ. One respondent comments that paragraph (d)(5) should be deleted because the UCMJ will never, as a practical matter, be applicable under the clause because contractor employees are not subject to the UCMJ except during a declared war.

DoD Response: Concur. Paragraph (d)(5) has been deleted in its entirety. To the extent that it is applicable, it is covered by paragraph (d)(1) of the clause.

14. Contractor Personnel (252.225–70XX(e)) (252.225–7040(h))

a. *Role of the combatant commander.*

Comment: One respondent recommends that paragraph (1) should reference paragraphs (p) and (q) because combatant commanders can also take action to remove contractor personnel without the involvement of the contracting officer.

DoD Response: Paragraph (p) has been substantially modified and paragraph (q) of the clause has been deleted. (See paragraph 25 of this section.)

b. *Notification to contractor.*

Comment: One respondent recommends rewording paragraph (e)(1) of the clause to require notification and an opportunity to resolve the matter with the contracting officer.

DoD Response: Nonconcur. Contracting officers must have the ability to summarily direct the removal of personnel perceived as jeopardizing or interfering with the mission. It is reasonable to assume that, prior to directing removal, the contracting officer would have already made efforts to resolve the matter with the contractor.

c. *Reasonable opportunity to replace/equitable adjustment.*

Comment: Several respondents recommend that contractors be given a reasonable opportunity to replace any personnel removed from the force and be given an equitable adjustment for any additional expenses that may be compensable under the contract.

DoD Response: Nonconcur. Contractors, in accordance with requirements of the contract, must have a plan for immediate replacement of employees removed from the theater of operations. Contractors must replace and, where applicable, repatriate any contractor personnel at its own expense.

Further revision: DoD has revised paragraph (e)(1) of the clause (redesignated as paragraph (h)(1) in the final rule) as follows: "(1) The Contracting Officer may direct the Contractor, at its own expense, to remove and replace any contractor personnel who jeopardize or interfere with mission accomplishment or who fail to comply with or violate applicable requirements of this clause. Such action may be taken at the Government's discretion without prejudice to its rights under any other provision of this contract, including the Termination for Default clause." This language was adopted from the Army interim rule (48 CFR 5152.225–74–9000, Contractors Accompanying the Force, 68 FR 66740, November 28, 2003).

d. *Provide the plan to the contracting officer.*

Comment: One respondent recommends revising the last sentence of paragraph (e)(2) of the clause to read: "This plan shall be provided to the Contracting Officer upon request and shall be made available for review by the Contracting Officer's Representative."

DoD Response: Partially concur. DoD concurs that the plan should be made available to the contracting officer upon request. Since the FAR defines "contracting officer" to include authorized representatives of the contracting officer when acting within the limits of their authority as delegated by the contracting officer, the phrase "shall be made available for review by the Contracting Officer's Representative" has been deleted from the clause.

e. *Data item description for the plan.*

Comment: One respondent recommends that the Government provide a data item description for the desired unavailable employee replacement plan and list the plan on the contract data requirements list.

DoD Response: Nonconcur. It is not necessary to establish a data item description in order to request that the contractor have a plan for replacing employees. This allows the contractor more flexibility in determining the format and content of the plan.

f. *Further revision.* DoD has also added a requirement to keep the plan current.

15. Personnel Data (252.225–70XX(f)) (252.225–7040(g))

a. *"Theater of operations" not defined.*

Comment: One respondent believes "theater of operations" (not the term used in the proposed rule) is not a specifically defined term and could create confusion as to which employees are in a given geographic location supporting specific activities. The respondent recommends revising paragraph (1) to require the contractor to maintain information on all employees deployed into a theater of operation as defined by the contracting officer for each covered contingency operation.

DoD Response: Concur in part. A definition of "theater of operations" has been added in paragraph (a) of the clause. In accordance with the scope of this case, DoD has substituted the following language: "current list of all contractor personnel that deploy with, or otherwise provide support in the theater of operations to the U.S. military forces as specified in paragraph (b)(1) of this clause."

b. *Cost of performance.*

Comment: Several respondents express concern over the time and expense for contractors to prepare and maintain the information.

DoD Response: Nonconcur. As the system is currently envisioned, this requirement is incidental to contract performance and it is not expected to place an unreasonable cost burden on the contractors. It would appear to be a normal prudent business practice to be able to identify which employees are working in high risk areas.

c. *Specifically priced contract deliverable.*

Comment: One respondent recommends making the contractual obligation to maintain and/or provide the data a specifically priced contract deliverable.

DoD Response: Nonconcur. Contractors should consider the work involved and price their proposal accordingly. As the system is currently envisioned, this requirement is incidental to contract performance and it is not expected to place an unreasonable cost burden on the contractors.

16. Pre-deployment Requirements (252.225–70XX(g)) (252.225–7040(e) and (k))

a. *Information from operation plans and operation orders may not be available to contractor.*

Comment: Several respondents suggest deleting the verbiage about "contract annex to the operation order"

and including requirements from the operation order in the contract. One respondent further recommends that the clause language require compliance "to the best of the contractor's knowledge."

DoD Response: Concur in part. DoD has deleted "contract annex to the operation order" from the clause. It is the responsibility of the requiring activity to ensure that specific operational requirements are deciphered, and the contracting officer must incorporate them into the contract. DoD does not agree that the clause language should be changed to require compliance "to the best of the contractor's knowledge," as language of this nature would be unenforceable. Specific requirements of each element of this clause paragraph will be sufficiently spelled out so contractors know exactly what is required.

b. *Specific number of employees.*

Comment: Several respondents believe that this clause should be revised to refer to a specific number of employees a contractor can provide to meet desired qualifications, to permit advance negotiations between contractors and customers to avoid lag times once operations begin.

DoD Response: Nonconcur. This clause puts contractors on notice that they may need to deploy and, therefore, they need to ensure they have qualified or qualifiable personnel to meet contract requirements.

c. *Security and background checks (para. (1)).*

Comment: One respondent notes that the Government must specify security requirements on the DD Form 254, Access to National Security Information, if the contractor and its employees may be required to have access to certain national security information. Another respondent recommends deleting "All applicable specified" and replacing it with "Applicable." A respondent also recommends adding "and acceptable" at the end of the paragraph to ensure security and background checks were accomplished and are acceptable.

DoD Response: Concur in part. A DD Form 254 is used when a contractor will require access to or will generate classified information, so it may or may not be applicable in a contract. Background checks may also be required and, if so, should be specified in the contract. DoD has changed "All applicable specified" to "All required" and "and acceptable" has been added at the end.

d. *Medical requirements (para. (2)).*

Comment: Several comments were received regarding the fact that no specific minimum medical standards were included in the clause; thus, contractors do not know what constitutes "medically and physically fit." Specific readiness requirements and required vaccinations must be set forth in the contract. An appeal procedure should be included to preclude forcing contractors to submit to potentially hazardous, experimental, or untested vaccinations. DoD should provide any vaccines that are only available to federal providers. This requirement has the potential to significantly increase cost of performance to establish and maintain a system concerning health and level of physical readiness for contractor employees. Another respondent is concerned that contractors are dependent upon the Government to provide certain vaccines because only the Government has access to those vaccines.

DoD Response: Concur in part. The clause has been revised to state that contractor personnel must meet the minimum medical screening requirements as set forth in the contract. The Government will provide contractors with theater-specific medical supplies or medications.

The term "vaccinations" has been changed to "immunizations" to be consistent with terminology in DoD policy. The Combatant Command Surgeon establishes immunization requirements for the area of operations and maintains a listing of them. The immunization listing will also need to be incorporated in contracts. DoD does not agree with establishment of appeal procedures for immunizations for contractors. If contractor personnel are not willing to receive the required immunizations, the contractor will be required to provide other personnel who are willing to meet the contractual requirements.

e. *Vehicle or equipment licenses (para. (3)).*

Comment: One respondent recommends adding "United States" before "licenses" to clarify that there is no obligation for contractors to search out or comply with any foreign requirements to operate vehicles or equipment.

DoD Response: Nonconcur. Although contractor personnel may not be able to obtain foreign licenses prior to deployment, contractors may be required to obtain foreign licenses at the deployed location. Paragraph (3) has been relocated from pre-deployment requirements to a separate paragraph (k).

Comment: Another respondent states that the clause should address ownership of vehicles and equipment necessary to perform the contract in the theater of operations and requests that the contractor and its employees not be held liable for damages, of any kind, resulting from the operation of Government owned or leased equipment, and shall be indemnified and held harmless against all losses, costs, claims, causes of action, damages, liabilities, and expenses arising directly or indirectly from any act or omission relating to the operation of such equipment by contractor or contractor's employees, agents, subcontractors, or suppliers.

DoD Response: Nonconcur. Generally, contractors are required to provide their own vehicles and equipment to meet the terms of their contract. Vehicle requirements should be specified elsewhere in the contract and any contract that provides government furnished equipment (GFE) will include a GFE clause in the contract to cover liability for damages. This paragraph only covers required licenses to operate vehicles and equipment.

f. *Visas.*

Comment: One respondent does not believe it is in the best interest of the United States to impose a requirement that a contractor obtain a foreign Government's approval through entrance or exit visas before implementing a U.S. Government contract.

DoD Response: Nonconcur. Contractors must coordinate through the State Department and ensure their personnel meet all requirements for entering and exiting the deployed location. The mere fact that a contractor has a contract with the U.S. Government does not absolve the contractor from meeting foreign entry and exit requirements.

g. *Geneva Conventions identification card.*

Comment: One respondent recommends issuing Geneva Conventions identification cards to contractor employees.

DoD Response: Concur. The clause has been revised to clarify that deploying contractor personnel should receive a Geneva Conventions identification card from the deployment center.

h. *Country and theater clearance (para. (5)).*

Comment: Several respondents comment that the clause should specify what country and theater clearances are required and where to obtain them.

DoD Response: Concur. The clause has been revised to cite DoD Directive 4500.54, Official Temporary Duty Abroad, and DoD 4500.54–G, DoD Foreign Clearance Guide.

17. Military clothing and equipment (252.225–70XX(h)) (52.225–7040(i))

a. *Authorization to wear military clothing (para (1)).*

Comment: One respondent commented that "specifically authorized by the Combatant Commander" should be changed to "required by the Combatant Commander." They recommended changing "military clothing" to "military uniforms" and they believe wearing of military uniforms by contractor personnel should require consent of the contractor.

DoD Response: Nonconcur. The combatant commander does not require the wearing of military clothing but may authorize, in writing, certain contractor personnel to wear standard military clothing for operational reasons on a case-by-case basis. "Uniforms" implies military uniforms with appropriate rank, decorations, etc., which are only authorized for uniformed military personnel. Clothing denotes uniform items worn without specific military insignia.

b. *Need for distinctive insignia.*

Comment: If contractor personnel are authorized by the combatant commander to wear military clothing (and are not carrying firearms), they should be required to wear distinctive civilian insignia to keep non-combatant civilian status clear under the Geneva Conventions.

DoD Response: Concur. DoD has added to the clause language pertaining to distinctive insignia.

c. *Organizational clothing and equipment.*

Comment: Change "specific items" to "military-unique organizational clothing and individual equipment (OCIE)." The Government should inform the contractor of necessary clothing and protective equipment and provide OCIE to the contractor when such equipment is only available from the Government.

DoD Response: Concur. Use of term OCIE instead of "specific items" adds clarification and consistency. The clause, as written, already provides for Government issuance of military-unique OCIE. Necessary clothing and protective equipment should be spelled out elsewhere in the contract.

d. *Return of OCIE.*

Comment: Several respondents recommend changing the clause to allow the return of OCIE to places other than the original point of issue, as directed by the contracting officer or contracting officer's representative (COR). Another respondent states that contracting officers are geographically separated from the place of performance and do not have visibility over equipment issued to contractor employees in the theater. This respondent recommends adding language to make contractors directly responsible to the issuing organization for equipment that needs to be returned.

DoD Response: Concur in part. Concur with changing the language to allow the return of OCIE to places other than the original point of issue, as directed by the contracting officer, to provide for flexibility at the deployed location. Concur in theory with the recommendation to have contractors directly responsible to the issuing organization. However, the COR is usually in the theater of operations and would have visibility over equipment that is issued in the theater of operations. The COR can direct the contractor to return the equipment to the desired location if given the authority to do so. The language "In accordance with Government-Furnished Property clauses specified elsewhere in this contract" is redundant and unnecessary so it has been deleted.

18. Weapons (252.225–70XX(i)) (252.225–7040(j))

a. *Contractor personnel must be able to protect themselves.*

Comment: Many respondents feel strongly that contractor personnel must be able to protect themselves in dangerous situations and seem to think that the proposed rule bans contractors from carrying weapons. There are fears that commanders could easily depend upon contractor labor, transportation of heavy equipment, or civil engineering services, but will not be manned to a level necessary to protect them.

DoD Response: Partially nonconcur. The clause does not require contractors to be unarmed in all cases. The clause states that the combatant commander will make a determination whether contractors can be armed, and the type of arms allowed, in any particular situation. The clause allows the combatant commander, who is responsible for military control in the region, to determine on a case-by-case basis whether arms are necessary.

b. *Privately owned weapons.*

Comment: Several respondents object that allowing contractors to carry privately owned weapons is a major policy shift and should not be allowed. Authorizing private firearms carries a great risk of a political/military occurrence that can negatively impact the overall mission and national security and is not outweighed by the benefit of private firearms, since there is authority for military issuance already. Several respondents believe that employee- or other privately-owned firearms should be prohibited in all cases, but wants a distinction made between "Government-furnished firearms" and "contractor-provided" firearms.

DoD Response: Concur in part. The language specifically allowing the combatant commander to authorize the carrying of privately-owned weapons has been deleted from the clause. However, as the DoD policy is not yet established, the clause leaves the decision to the combatant commander, to be made in conformity with treaties, laws, regulations, and policies that are in effect at the time of the decision.

c. *Status as noncombatant civilians.*

Comment: Several respondents are concerned that contractor personnel should not be armed except in extremely limited circumstances when necessary for self-defense. The Government actions of arming the contractor under certain circumstances places the contractor at risk of forfeiting their status as noncombatant civilians, subjecting a contractor captured by the enemy to be deemed an unlawful combatant or a mercenary, thereby losing POW status and treatment. If contractor employees are armed, the respondent recommends that the Government provide training to contractor personnel regarding when the weapons can be used, not just how to use them.

DoD Response: Concur in part. DoD understands the potential risk in allowing contractors to carry and use weapons in a hostile environment, which may arise in some of the situations covered by this clause. However, since the clause will be used for a variety of situations and circumstances, the most practical approach is to give the combatant commander the final decision as to whether to allow contractors to carry and use weapons and the types of weapons that will be authorized. The clause has been amended to caution that contractor personnel are not combatants and shall not undertake any role that would jeopardize that status. The clause already requires the Contractor to ensure that its personnel who are authorized to carry weapons are adequately trained. That should include training not only on how to use a weapon, but when to use a weapon.

d. *Contractor and contractor employees must agree to accept weapons.*

Comment: Several respondents want the rule to clarify that acceptance of weapons by contractor employees is strictly voluntary and must be explicitly authorized by the contractor.

DoD Response: Concur in part. The clause has been amended to explicitly state that the contractor must request authorization for its employees to carry weapons before the combatant commander authorizes such activity. It is the contractor's responsibility to determine whether to request authorization and for which employees to request such authorization. The employer-employee relationship is the responsibility of the contractor and its employees and should be dealt with in the employment agreement, not through the contract clause, as the Government has no privity of contract directly with the employees.

e. *Contractor liability.*

Comment: Several respondents are concerned about unmitigated liability for contractors in the event of injury or loss of life resulting from intentional use or accidental discharge of such weapons. The Government should indemnify and hold harmless the contractor against all losses, costs, claims, and causes of action relating to the use of Government-furnished weapons by contractor and/or contractor's employees. Unless the Government has and exercises authority to indemnify contractors and their employees against all claims for damage or injury and to ensure immunity from criminal prosecution associated with the use of weapons during deployment operations, the proposed clause should be modified to prohibit the issuance of weapons to contractor personnel.

DoD Response: Nonconcur. The clause in no way obligates contractors to allow their employees to carry weapons. Contractor personnel will only carry weapons if the contractor requests that its employees be allowed to carry weapons and the combatant commander authorizes the carrying of weapons. DoD cannot indemnify contractors and their personnel against all claims for damage or injury or ensure immunity from criminal prosecution associated with the use of weapons. Decisions to indemnify are made in accordance with FAR 50.403–1.

f. *Specified contractor employees.*

Comment: The word "specified" is not clear and could be interpreted to mean the Government specifies which contractor personnel would be issued the firearm, which the Government is not allowed to do.

DoD Response: Concur in part. The clause has been amended to clearly state that it is the contractor's responsibility to request that its personnel in the theater of operations be authorized to carry weapons. Therefore, it would be up to the contractor to determine which specific employees will be authorized to carry weapons and the criteria for that authorization.

g. *Redeployment or revocation.*

Comment: Upon termination of the commander's authority, the contractor is required to return any Government-issued firearms according to the direction given by the contracting officer. One respondent requests that, if the employee is permitted to carry contractor-issued firearms, the employee must cease carrying those firearms and must follow contractor-provided direction for their disposition.

DoD Response: Nonconcur in part. It is the contractor's responsibility to direct the disposition of contractor-provided weapons.

h. *DD Form 2760.*

Comment: One respondent recommends required use of DD Form 2760 when weapons are issued, to ensure compliance with the Lautenberg amendment regarding domestic violence convictions.

DoD Response: Partially concur. The clause requires the contractor to ensure that its personnel who are authorized to carry weapons are not barred from possession of a firearm by 18 U.S.C. 922. The draft DoD Instruction on Procedures for the Management of Contingency Contractor Personnel During Contingency Operations proposes additional requirements for contracted security services, including submission of a DD Form 2760 (Qualification to Possess Firearms and Ammunition) for each individual employee that will be providing the security services.

19. Next of Kin (252.225–70XX(j)) (252.225–7040(n))

a. *"In-person notification."*

Comment: Several respondents have concerns about the requirement for in-person notification.

DoD Response: Concur. It is the responsibility of the contractor to determine how to notify its employee's next of kin.

b. *Notify the contracting officer.*

Comment: One respondent also suggests adding a requirement that the contractor inform the contracting officer if the contractor is informed through other than Government channels of the death, injury, or capture of one of its employees, or if the employee appears to be missing, so the Government can take action to verify and provide support as appropriate.

DoD Response: Concur in part. The contractor is already required to notify the contracting officer, because the contractor has a responsibility to keep current personnel data in accordance with paragraph (g) of the clause.

c. *Point of contact for continuing support.*

Comment: Personnel Recovery Policy OSD/Defense requires that, in the case of a missing or captured contractor, the Government will assign an official point of contact to the next of kin for continuing support, and provision of information, as appropriate and proper.

DoD Response: Concur. In the case of missing, captured, or abducted contractor personnel, the Government will assist in personnel recovery actions in accordance with DoD Directive 2310.2, Personnel Recovery.

20. Evacuation of Bodies (252.225–XX(k)) (252.225–7040(o)) DoDD 1300.22

Comment: Several respondents believe that the clause places an undue burden on the contractor and does not adequately address Government responsibilities or procedures; question the meaning of "point of identification"; and request that the clause be in accordance with DoDD 1300.22, Mortuary Affairs Policy.

DoD Response: Concur. DoD has modified the clause to state that mortuary affairs will be handled in accordance with DoD Directive 1300.22.

21. Evacuation (252.225–70XX (l)) (252.225–7040(m))

a. *Mandatory evacuation.*

Comment: Some respondents want to add, after "Combatant Commander," the phrase "or other competent authority" or "or other authority over the U.S. Forces."

DoD Response: Nonconcur. The combatant commander has the authority to delegate within the military chain of command. If the ambassador orders an evacuation, that is the intervention of a sovereign authority and the obligation to comply is not created by the contract. Procedures for evacuation are provided for in other regulations and are outside the scope of this rule.

Comment: Another respondent states that if the Government decides to evacuate contractor personnel, the Government should furnish transportation to do so.

DoD Response: Concur in part. The clause provides that the Government will provide assistance to the extent feasible to United States and third country national contractor personnel. Government guaranteed evacuation may or may not be possible in a fluid situation. Setting forth a promise that the Government may not be able to meet would be misleading to potential employees.

b. *Nonmandatory evacuation—continued contract performance.*

Comment: One respondent wants evacuation of contractor personnel and their dependents whenever conditions cause the United States to issue travel warnings or permit voluntary evacuation of non-essential U.S. Government personnel and dependants.

DoD Response: Nonconcur. The situations covered by this clause are not the type of situations in which DoD envisions that contractor personnel would have dependents with them. The Contractor has been warned in paragraph (b) about the risks of supporting the force in such operations, and contractor personnel who are unwilling to accept these risks should not be in these positions.

Comment: Another respondent requests modification of paragraph (l) to allow for evacuation of contractor employees due to the inherent dangers associated with job performance during deployment. This change is necessary to meet legal requirements that an employer provide a safe workplace for employees. Any clause governing deployment of contractor personnel should contain language excusing contractor performance in the event of refusal of contractor personnel to accompany the force or to perform work upon deployment.

DoD Response: Nonconcur. Since these are contracts to support the war fighter, by their nature these contracts are likely to involve some risk. It is the contractor's responsibility to ensure that it has willing personnel to fulfill the contract terms.

Comment: Several respondents recommend inserting "essential" between "meet" and "contractual" in the final sentence.

DoD Response: Nonconcur. A nonmandatory evacuation will not necessarily constitute a crisis situation as defined in DoDI 3020.37. DoD has added PGI guidance regarding identification in the contract of mission essential services that would require continued performance during crisis situations outside the United States. If the contract specifies which mission essential services must be continued during a crisis situation, and the non-mandatory evacuation order is during a crisis situation, then meeting the contractual obligations will only entail the continued performance of mission essential services. If the contract does not specify which services are mission essential, or the situation is not a crisis, the contracting officer can still designate that certain contractor personnel may leave.

22. Insurance (252.225–70XX(m)) (deleted from 252.225–7040)

a. *Contractor responsibility for employee's personal insurance policies.*

Comment: Several respondents object to this paragraph in the proposed rule, finding that it is confusing. One respondent finds an erroneous inference that contractors will or do provide employees with personal insurance policies over and above company-sponsored coverage, or that the contractor is responsible for any gaps that may exist in personal coverage. Several respondents believe that paragraph (m), placing responsibility on the contractor for all issues dealing with the exclusions contained in an employee's personal insurance policies, conflicts with the statutory requirements and protections of the Defense Base Act, 42 U.S.C. 1651 *et seq.*, and the War Hazards Compensation Act, 42 U.S.C. 1701 *et seq.*

DoD Response: Concur in part. DoD agrees that the language is somewhat confusing and open to misinterpretation, and has therefore removed this paragraph in the final rule.

b. *Defense Base Act, War Hazards Compensation Act, and other workers' compensation programs.*

Comment: Some respondents recommend that the clause make reference to existing FAR and DFARS clauses regarding the Defense Base Act clauses and various workers' compensation programs. In doing so, contractors may avoid purchasing unnecessary coverage, the cost of which is passed to the Government. One respondent recommends that each of the clauses implementing the Defense Base Act and the War Hazards Compensation Act be identified for mandatory inclusion in contracts covered by this clause.

DoD Response: Concur in part. DoD has included guidance in PGI regarding additional clauses to consider when using the clause at DFARS 252.225–7040. The PGI guidance recommends consideration of either the clause at FAR 52.228–3, Worker's Compensation Insurance (Defense Base Act), or the clause at FAR 52.228–4, Worker's Compensation and War Hazard Insurance, in accordance with the clause prescriptions at FAR 28.309(a) and (b); use of the clause at FAR 52.228–7, Insurance-Liability to Third Persons, in cost-reimbursement contracts as prescribed at DFARS 228.311–1; and use of the clauses at FAR 52.251–1, Government Supply Sources, as prescribed at FAR 51.107, and DFARS 252.251–7000, Ordering from Government Supply Sources, as prescribed at DFARS 251.107.

Additionally, all other appropriate FAR and DFARS clauses will be included in the contract consistent with the prescriptions as to situations where they are applicable. This clause does not need to repeat the prescriptions for use of clauses that are already in the FAR and DFARS.

c. *Government should facilitate larger risk pool.*

Comment: One respondent believes that additional insurance coverage for war hazards, normally excluded from group life insurance policies, should be an allowable cost and recommends that the Government establish a mechanism for facilitating that coverage on an industry-wide basis in order to allow contractors to pool purchasing power.

DoD Response: Outside scope. The suggestions set forth, even if they were beneficial, are beyond the charter and authority of the DAR Council. DoD is participating in an interagency group, chaired by the Department of State, that is looking into insurance issues related to the Iraqi reconstruction.

23. Processing and Departure Points (252.225–70XX(n)) (252.225–7040(f))

a. *Purpose of deployment processing.*

Comment: One respondent recommended adding a sentence to state the purpose of deployment processing.

DoD Response: Concur. DoD has added language stating the purpose of deployment processing.

b. *Joint Reception Center.*

Comment: Another respondent suggests adding language about the Government notifying contractor personnel of all specific policies and requirements for personnel operating within the theater of deployment (IAW Joint Pub 4–0, Doctrine for Logistics Support of Joint Operations, Chapter V, Contractors in Theater).

DoD Response: Concur. The requirement to process through a Joint Reception Center in the theater of operations has been added to the clause.

24. Scarce Goods and Services (252.225–70XX(o)) (252.225–7040(l))

a. *Afford excusable delay relief and equitable adjustment allowance.*

Comment: One respondent expresses a concern that, if a contractor is not able to obtain scarce items in order to meet contract performance, this will impact the ability of the contractor to meet the terms and conditions of the contract, and that a contractor should be afforded an excusable delay and allowance for an equitable adjustment.

DoD Response: Concur in part. DoD has revised the clause language to

provide greater latitude to contractors for acquiring goods and services, so that they are not put in an untenable position. However, the processes and procedures for an equitable adjustment are already sufficiently covered under existing acquisition rules and regulations.

b. *Let contractor know about scarce commodities prior to contract formation.*

Comment: Such requirements to obtain approval of scarce commodities from the combatant commander's purchase review committee should be provided to the contractor prior to contract formation.

DoD Response: Concur in part. It is a good idea to provide this information in advance when available, but it is impossible to know all of the military operations that will occur during the period of performance on any specific contract, and it is not possible for the Government to provide contractors an advance listing of all those commodities that will be considered scarce.

c. *Acquisition of weapons, ammunition, and personal protective gear.*

Comment: One respondent is concerned that this language could prohibit or impede Private Security Companies from meeting their contract requirements and could compromise the physical safety of personnel.

DoD Response: Nonconcur. This paragraph in the clause covers local purchases of scarce goods such as clean water, fresh food, or building materials that might be in scarce supply in the local area, not weapons, ammunition, and personal protective gear. The clause has been revised to clarify that the contractor must coordinate local purchases of goods and services.

d. *Further revision.*

In addition, DoD has expanded the clause to cover scarce services, such as translators.

25. Changes (252.225–70XX(p) and (q)) (252.225–7040(p))

a. *Object to paragraphs (p) and (q) of 252.225–70XX.*

Comment: Many respondents had concerns about paragraphs (p) and (q). They are concerned that these paragraphs went beyond the "Changes" clause, to include what the contractor may consider out-of-scope changes. This could lead to the appearance of a personal services contract. Paragraph (p) could violate the Competition in Contracting Act and may lead to unauthorized commitments. The language raises questions about the Antideficiency Act in situations where the emergency exception may not apply. The contractor should not be put in position of determining whose orders take precedence (contracting officer or combatant commander) or whether a commander giving an order has appropriate authority.

DoD Response: Concur. The proposed language is not consistent with existing procurement law and policy. DoD has substantially revised paragraph (p) and deleted the paragraph (q) that was in the clause in the proposed rule.

b. *Generally support the inclusion of (p) and (q), but recommended clarifying or expanding.*

Comment: Some respondents support providing authority for the military commander to have the flexibility to direct contractors, recommend expanding it to make it available to the lowest level of military command, and recommend expanding it beyond its limitations to "all transportation, logistical and support requirements." They recommend inclusion of a provision that prevents combatant commanders from ordering contractors to engage in armed conflict; recommend that paragraph (q) address all changes in emergency situations; and recommend that contractors be excused from complying with any order or directive that the contractor reasonably believes is contrary to law or international treaty. It is imperative that actions by commanders that are inconsistent with the contract be recognized as changes. The rule should make clear what types of direction a combatant commander may issue and should add language that requires 48-hour notification by the contractor to the contracting officer's representative.

DoD Response: Nonconcur. DoD does not recommend any revisions or expansions to the authorities of the combatant commander in paragraphs (p) and (q) of the clause in the proposed rule. The authority of combatant commanders to issue instructions is not dependent on contract provisions. Therefore, it is out of scope to address in this rule their authorities relative to hostile or non-hostile environments, or to address any documentation requirements flowing from their exercising such authority.

Instead of paragraphs (p) and (q) of the clause in the proposed rule, DoD has added a new paragraph (p) that refers to the Changes clause of the contract, but adds provision for coverage of changes in Government-furnished facilities, equipment, material, services, or site.

c. *Generally agree with equitable adjustment for changes but recommend changes in wording or scope.*

Comment: Several respondents request revision of the proposed clause to address the fundamental issue of reimbursement to the contractor for additional costs and risks associated with deployment of contractor personnel. One respondent requests an equitable adjustment for continued contract performance, which would require segregation of all costs incurred in support of deployed military forces involved in humanitarian, peacekeeping, contingency, or combat operations.

Another respondent recommends addition of language that would require the contracting officer to approve requests for equitable adjustment, absent fraud, falsehood, or willful misconduct on the contractor's part. One respondent recommends addition of a new paragraph allowing the contractor to request equitable adjustment for unexpected costs beyond their reasonable control. Another respondent is concerned that the proposed rule would limit the ability of a contractor to submit a request for equitable adjustment to the situations described in (p) and (q). Therefore, other types of claims such as for delay and disruption or for third-party liability not covered by insurance appear to be proscribed.

DoD Response: Nonconcur. The authority of a combatant commander to issue orders is not a function of contract language, and remedies for additional costs incurred, if they exist, are either addressed by existing procurement laws and regulations (*e.g.*, constructive changes doctrine) or found in non-contractual remedies. As already stated, DoD has substantially modified paragraph (p) and deleted paragraph (q) in its entirety, and reaffirmed reliance on the Changes clause of the contract.

26. Subcontracts (252.225–70XX(r)) (252.225–7040(q))

Comment: Some respondents are concerned about the impact this paragraph would have on subcontracts if the whole clause is flowed down. There is concern that this paragraph commits the Government to undertake affirmative support of such subcontractors. Some respondents question how privity of contract between the prime and their subcontracts will be handled when combatant commanders or senior military personnel give directions to subcontract personnel.

DoD Response: The intent of most of the areas addressed under this clause is to ensure that all contractor personnel, prime and subcontract personnel, who accompany and support the force have the kind of support they need to ensure their safety and security. The intent is

not for the Government to establish a privity of contract relationship with the subcontractors. Furthermore, paragraph (p) has been substantially modified and (q) of the clause in the proposed rule has been deleted.

27. Paperwork Reduction

Comment: Only one respondent commented on the information collection requirements of the proposed rule. That respondent considers that the proposed rule constitutes an information collection requirement which imposes a burden on contractors because, in the event of direction issued to a contractor by a Government official other than a contracting officer, the contractor must comply with FAR 43.104, Notification of contract changes. The respondent contends that the proposed clause provides authority for combatant commanders and hundreds of subordinate military commanders to issue orders to the contractor, for which the contractor must execute notices and records as required by FAR 43.104.

DoD Response: Nonconcur. The clause at 52.243–7, Notification of Changes, already has an approved information collection requirement burden under OMB Clearance Number 9000–026, which covers all Government agencies that use the FAR clause. Moreover, with the removal of paragraph (q) from the final clause, there should no more than an average number of such notifications required.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule does not impose economic burdens on contractors. The purpose and effect of this rule is to relieve the current perceived burden on contractors operating in a contingency environment without consistent DoD guidance or a standardized clause. By establishing a standardized clause, spelling out the standardized rules such as the need for a Letter of Authorization, and providing specific guidelines on force protection and resuscitative medical care, this rule effectively reduces the burden on small businesses. It establishes a framework within which it will be easier for contractors to operate overseas. In addition, the availability of Government deployment centers in the United States will make it easier for small businesses to meet all deployment requirements. DoD did not receive any comments with regard to the Regulatory Flexibility Act or the impact of the proposed rule on small businesses.

C. Paperwork Reduction Act

This rule does not impose any new information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Although the clause requires contractors to maintain (1) a current plan on file showing how the contractor would replace employees who are unavailable for deployment or who need to be replaced during deployment, and (2) a current list of all employees in the area of operations in support of the military force, DoD believes that these requirements are usual and customary and do not exceed what a contractor would maintain in the normal course of business.

List of Subjects in 48 CFR Parts 207, 212, 225, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR Parts 207, 212, 225, and 252 are amended as follows:

PART 207—ACQUISITION PLANNING

■ 1. The authority citation for 48 CFR Parts 207, 212, 225, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

■ 2. Section 207.105 is amended by adding paragraph (b)(19)(E) to read as follows:

207.105 Contents of written acquisition plans.

* * * * *

(b) * * *

(19) * * *

(E) *Special considerations for acquisition planning for crisis situations outside the United States.* Ensure that the requirements of DoD Instruction 3020.37, Continuation of Essential DoD Contractor Services During Crises, are addressed. Also see the guidance at PGI 207.105(b)(19)(E).

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 3. Section 212.301 is amended by adding paragraphs (f)(vii) and (viii) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

* * * * *

(f) * * *

(vii) Use the clause at 252.225–7040, Contractor Personnel Supporting a Force Deployed Outside the United States, as prescribed in 225.7402–4.

(viii) Use the clause at 252.225–7043, Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States, in solicitations and contracts that include the clause at 252.225–7040.

PART 225—FOREIGN ACQUISITION

■ 4. Section 225.802–70 is revised to read as follows:

225.802–70 Contracts for performance outside the United States and Canada.

Follow the procedures at PGI 225.802–70 when placing a contract requiring performance outside the United States and Canada. Also see Subpart 225.74, Defense Contractors Outside the United States.

■ 5. Subpart 225.74 is revised to read as follows:

Subpart 225.74—Defense Contractors Outside the United States

Sec.

225.7401 General.

(a) If an acquisition requires performance of work in a foreign country by U.S. personnel or a third country contractor, follow the procedures at PGI 225.7401(a).

(b) For work performed in Germany, eligibility for logistics support or base privileges of contractor employees is governed by U.S.-German bilateral agreements. Follow the procedures in Army in Europe Regulation 715–9, available at *http://www.per.hqusareur.army.mil/cpd/docper/default.htm.*

(c) For work performed in Japan or Korea, see PGI 225.7401(c) for information on bilateral agreements and policy relating to contractor employees in Japan or Korea.

225.7402 Contractor personnel supporting a force deployed outside the United States.

225.7402–1 Scope.

This section applies to contracts requiring contractor personnel to deploy with or otherwise provide support in the theater of operations to U.S. military forces deployed outside the United States in—

(a) Contingency operations;

(b) Humanitarian or peacekeeping operations; or

(c) Other military operations or exercises designated by the combatant commander.

225.7402–2 Definitions.

Combatant commander and *theater of operations*, as used in this section, have the meaning given in the clause at 252.225–7040, Contractor Personnel Supporting a Force Deployed Outside the United States.

225.7402–3 Government support.

(a) Government support that may be authorized or required for contractor personnel performing in a theater of operations may include, but is not limited to, the types of support listed in PGI 225.7402–3(a).

(b) The contracting officer shall—

(1) Ensure that the contract contains valid terms, approved by the combatant commander, that specify the responsible party, if a party other than the combatant commander is responsible for providing protection to the contractor personnel performing in the theater of operations as specified in 225.7402–1;

(2) Specify in the terms of the contract, if medical or dental care is authorized beyond the standard specified in paragraph (c)(2)(i) of the clause at 252.225–7040, Contractor Personnel Supporting a Force Deployed Outside the United States;

(3) Provide direction to the contractor, if the contractor is required to reimburse the Government for medical treatment or transportation of contractor personnel to a selected civilian facility in accordance with paragraph (c)(2)(ii) of the clause at 252.225–7040; and

(4) Specify in the contract the exact support to be authorized or required if the Government authorizes or requires contractor personnel to use any other Government-provided support.

(c) Contractor personnel must have a letter of authorization (LOA) issued by a contracting officer in order to process through a deployment center or to travel to, from, or within the theater of operations. The LOA also will identify any additional authorizations, privileges, or Government support that the contractor personnel are entitled to under the contract. For a sample LOA, see PGI 225.7402–3(c).

225.7402–4 Contract clauses.

(a) Use the clause at 252.225–7040, Contractor Personnel Supporting a Force Deployed Outside the United States, in solicitations and contracts when contract performance requires that contractor personnel be available to deploy with or otherwise provide support in the theater of operations to U.S. military forces deployed outside the United States in—

(1) Contingency operations;

(2) Humanitarian or peacekeeping operations; or

(3) Other military operations or exercises designated by the combatant commander.

(b) For additional guidance on clauses to consider when using the clause at 252.225–7040, see PGI 225.7402–4(b).

225.7403 Antiterrorism/force protection.

225.7403–1 General.

Information and guidance pertaining to DoD antiterrorism/force protection policy for contracts that require performance or travel outside the United States can be obtained from the offices listed in PGI 225.7403–1.

225.7403–2 Contract clause.

Use the clause at 252.225–7043, Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States, in solicitations and contracts that require performance or travel outside the United States, except for contracts with—

(a) Foreign governments;

(b) Representatives of foreign governments; or

(c) Foreign corporations wholly owned by foreign governments.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. Section 252.225–7040 is added to read as follows:

252.225–7040 Contractor Personnel Supporting a Force Deployed Outside the United States.

As prescribed in 225.7402–4(a), use the following clause:

Contractor Personnel Supporting a Force Deployed Outside the United States (Jun 2005)

(a) *Definitions.* As used in this clause—

Combatant Commander means the commander of a unified or specified combatant command established in accordance with 10 U.S.C. 161.

Theater of operations means an area defined by the combatant commander for the conduct or support of specific operations.

(b) *General.* (1) This clause applies when contractor personnel deploy with or otherwise provide support in the theater of operations to U.S. military forces deployed outside the United States in—

(i) Contingency operations;

(ii) Humanitarian or peacekeeping operations; or

(iii) Other military operations or exercises designated by the Combatant Commander.

(2) Contract performance in support of U.S. military forces may require work in dangerous or austere conditions. The Contractor accepts the risks associated with required contract performance in such operations.

(3) Contractor personnel are not combatants and shall not undertake any role that would jeopardize their status. Contractor personnel shall not use force or otherwise directly participate in acts likely to cause actual harm to enemy armed forces.

(c) *Support.* (1) The Combatant Commander will develop a security plan to provide protection, through military means, of Contractor personnel engaged in the theater of operations unless the terms of this contract place the responsibility with another party.

(2)(i) All Contractor personnel engaged in the theater of operations are authorized resuscitative care, stabilization, hospitalization at level III military treatment facilities, and assistance with patient movement in emergencies where loss of life, limb, or eyesight could occur. Hospitalization will be limited to stabilization and short-term medical treatment with an emphasis on return to duty or placement in the patient movement system.

(ii) When the Government provides medical treatment or transportation of Contractor personnel to a selected civilian facility, the Contractor shall ensure that the Government is reimbursed for any costs associated with such treatment or transportation.

(iii) Medical or dental care beyond this standard is not authorized unless specified elsewhere in this contract.

(3) Unless specified elsewhere in this contract, the Contractor is responsible for all other support required for its personnel engaged in the theater of operations under this contract.

(d) *Compliance with laws and regulations.* The Contractor shall comply with, and shall ensure that its personnel supporting a force deployed outside the United States as specified in paragraph (b)(1) of this clause are familiar with and comply with, all applicable—

(1) United States, host country, and third country national laws;

(2) Treaties and international agreements;

(3) United States regulations, directives, instructions, policies, and procedures; and

(4) Orders, directives, and instructions issued by the Combatant Commander relating to force protection, security, health, safety, or relations and interaction with local nationals.

(e) *Pre-deployment requirements.* The Contractor shall ensure that the following requirements are met prior to deploying personnel in support of U.S. military forces. Specific requirements for each category may

be specified in the statement of work or elsewhere in the contract.

(1) All required security and background checks are complete and acceptable.

(2) All deploying personnel meet the minimum medical screening requirements and have received all required immunizations as specified in the contract. The Government will provide, at no cost to the Contractor, any theater-specific immunizations and/or medications not available to the general public.

(3) Deploying personnel have all necessary passports, visas, and other documents required to enter and exit a theater of operations and have a Geneva Conventions identification card from the deployment center.

(4) Country and theater clearance is obtained for personnel. Clearance requirements are in DoD Directive 4500.54, Official Temporary Duty Abroad, and DoD 4500.54–G, DoD Foreign Clearance Guide. Contractor personnel are considered non-DoD personnel traveling under DoD sponsorship.

(f) *Processing and departure points.* Deployed contractor personnel shall—

(1) Process through the deployment center designated in the contract, or as otherwise directed by the Contracting Officer, prior to deploying. The deployment center will conduct deployment processing to ensure visibility and accountability of contractor personnel and to ensure that all deployment requirements are met;

(2) Use the point of departure and transportation mode directed by the Contracting Officer; and

(3) Process through a Joint Reception Center (JRC) upon arrival at the deployed location. The JRC will validate personnel accountability, ensure that specific theater of operations entrance requirements are met, and brief contractor personnel on theater-specific policies and procedures.

(g) *Personnel data list.* (1) The Contractor shall establish and maintain with the designated Government official a current list of all contractor personnel that deploy with or otherwise provide support in the theater of operations to U.S. military forces as specified in paragraph (b)(1) of this clause. The Contracting Officer will inform the Contractor of the Government official designated to receive this data and the appropriate automated system(s) to use for this effort.

(2) The Contractor shall ensure that all employees on the list have a current DD Form 93, Record of Emergency Data Card, on file with both the Contractor and the designated Government official.

(h) *Contractor personnel.* (1) The Contracting Officer may direct the Contractor, at its own expense, to remove and replace any contractor personnel who jeopardize or interfere with mission accomplishment or who fail to comply with or violate applicable requirements of this clause. Such action may be taken at the Government's discretion without prejudice to its rights under any other provision of this contract, including the Termination for Default clause.

(2) The Contractor shall have a plan on file showing how the Contractor would replace employees who are unavailable for deployment or who need to be replaced during deployment. The Contractor shall keep this plan current and shall provide a copy to the Contracting Officer upon request. The plan shall—

(i) Identify all personnel who are subject to military mobilization;

(ii) Detail how the position would be filled if the individual were mobilized; and

(iii) Identify all personnel who occupy a position that the Contracting Officer has designated as mission essential.

(i) *Military clothing and protective equipment.* (1) Contractor personnel supporting a force deployed outside the United States as specified in paragraph (b)(1) of this clause are prohibited from wearing military clothing unless specifically authorized in writing by the Combatant Commander. If authorized to wear military clothing, Contractor personnel must wear distinctive patches, arm bands, nametags, or headgear, in order to be distinguishable from military personnel, consistent with force protection measures and the Geneva Conventions.

(2) Contractor personnel may wear military-unique organizational clothing and individual equipment (OCIE) required for safety and security, such as ballistic, nuclear, biological, or chemical protective clothing.

(3) The deployment center, or the Combatant Commander, shall issue OCIE and shall provide training, if necessary, to ensure the safety and security of contractor personnel.

(4) The Contractor shall ensure that all issued OCIE is returned to the point of issue, unless otherwise directed by the Contracting Officer.

(j) *Weapons.* (1) If the Contractor requests that its personnel performing in the theater of operations be authorized to carry weapons, the request shall be made through the Contracting Officer to the Combatant Commander. The Combatant Commander will determine whether to authorize in-theater contractor personnel to carry weapons and what weapons will be allowed.

(2) The Contractor shall ensure that its personnel who are authorized to carry weapons—

(i) Are adequately trained;

(ii) Are not barred from possession of a firearm by 18 U.S.C. 922; and

(iii) Adhere to all guidance and orders issued by the Combatant Commander regarding possession, use, safety, and accountability of weapons and ammunition.

(3) Upon redeployment or revocation by the Combatant Commander of the Contractor's authorization to issue firearms, the Contractor shall ensure that all Government-issued weapons and unexpended ammunition are returned as directed by the Contracting Officer.

(k) *Vehicle or equipment licenses.* Contractor personnel shall possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the theater of operations.

(l) *Purchase of scarce goods and services.* If the Combatant Commander has established an organization for the theater of operations whose function is to determine that certain items are scarce goods or services, the Contractor shall coordinate with that organization local purchases of goods and services designated as scarce, in accordance with instructions provided by the Contracting Officer.

(m) *Evacuation.* (1) If the Combatant Commander orders a mandatory evacuation of some or all personnel, the Government will provide assistance, to the extent available, to United States and third country national contractor personnel.

(2) In the event of a non-mandatory evacuation order, unless authorized in writing by the Contracting Officer, the Contractor shall maintain personnel on location sufficient to meet obligations under this contract.

(n) *Next of kin notification and personnel recovery.* (1) The Contractor shall be responsible for notification of the employee-designated next of kin in the event an employee dies, requires evacuation due to an injury, or is missing, captured, or abducted.

(2) In the case of missing, captured, or abducted contractor personnel, the Government will assist in personnel recovery actions in accordance with DoD Directive 2310.2, Personnel Recovery.

(o) *Mortuary affairs.* Mortuary affairs for contractor personnel who die while providing support in the theater of operations to U.S. military forces will be handled in accordance with DoD Directive 1300.22, Mortuary Affairs Policy.

(p) *Changes.* In addition to the changes otherwise authorized by the Changes clause of this contract, the Contracting Officer may, at any time, by written order identified as a change order, make changes in Government-furnished facilities, equipment, material, services, or site. Any change order issued in accordance with this paragraph (p) shall be subject to the provisions of the Changes clause of this contract.

(q) *Subcontracts.* The Contractor shall incorporate the substance of this clause, including this paragraph (q), in all subcontracts that require subcontractor personnel to be available to deploy with or otherwise provide support in the theater of operations to U.S. military forces deployed outside the United States in—

(1) Contingency operations;

(2) Humanitarian or peacekeeping operations; or

(3) Other military operations or exercises designated by the Combatant Commander. (End of clause)

252.225–7043 [Amended]

■ 7. Section 252.225–7043 is amended in the introductory text by removing "225.7402" and adding in its place "225.7403–2".

[FR Doc. 05–9007 Filed 5–4–05; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 211

Defense Federal Acquisition Regulation Supplement; Technical Amendment

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making a technical amendment to the Defense Federal Acquisition Regulation Supplement (DFARS) to add a reference to new DFARS Procedures, Guidance, and Information (PGI) requirements relating to the publication of justifications for use of brand name contract specifications.

DATES: *Effective Date:* May 5, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena Moy, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–1302; facsimile (703) 602–0350.

List of Subjects in 48 CFR Part 211

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR Part 211 is amended as follows:

PART 211—DESCRIBING AGENCY NEEDS

■ 1. The authority citation for 48 CFR Part 211 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

■ 2. Section 211.105 is added to read as follows:

211.105 Items peculiar to one manufacturer.

Follow the publication requirements at PGI 211.105.

[FR Doc. 05–9005 Filed 5–4–05; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 050302053–5120–03; I.D. 042605G]

RIN 0648–AT38

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Spiny Dogfish; Open Access; Routine Management Measure; Closure Authority

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

ACTION: Temporary rule; request for comments.

SUMMARY: This emergency rule establishes routine management measure authority, under the Pacific Coast Groundfish Fishery Management Plan (Pacific Coast Groundfish FMP), to reduce trip limits to incidental levels in the open access fishery for groundfish before the sector has taken its full target groundfish species' allocations, to minimize impacts on overfished species. This action establishes a mechanism that can be used to quickly restrict the directed open access groundfish fishery if NMFS estimates that the incidental catch of an overfished species is too high.

DATES: Effective May 2, 2005, until November 1, 2005. Comments must be received no later than 5 p.m., local time on June 6, 2005.

ADDRESSES: You may submit comments, identified by I.D. 042605G by any of the following methods:

- E-mail: *2005oalimits.nwr@noaa.gov*: Include 042605G in the subject line of the message.
- Federal eRulemaking Portal: *www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: 206–526–6736, Attn: Yvonne deReynier
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070, Attn: Yvonne deReynier.

Copies of the Final Environmental Impact Statement (FEIS) for the harvest specifications and management measures for the 2005–2006 groundfish fisheries are available from Donald Mclsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–820–2280. Copies of the Record of Decision, final regulatory flexibility analysis (FRFA), and the Small Entity Compliance Guide for the groundfish harvest specifications for 2005–2006 are available from D. Robert Lohn, Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way, NE, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier (Northwest Region, NMFS). phone: 206–526–6129; fax: 206–526–6736 and; e-mail: *yvonne.dereynier@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This emergency rule is accessible via the Internet at the Office of the **Federal Register**'s website at *www.gpoaccess.gov/fr/index.html*. Background information and documents are available at the NMFS Northwest Region website at *www.nwr.noaa.gov/1sustfsh/gdfsh01.htm*. and at the Council's website at *www.pcouncil.org*.

Federal regulations at 50 CFR 660.370(c) authorize the use of routine management measures in the groundfish fishery off Washington, Oregon, and California for the purpose of rebuilding and protecting overfished or depleted stocks. This action is consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requirements on the protection and rebuilding of overfished species.

New Entrant to the Open Access Fishery for Spiny Dogfish off the U.S. West Coast

In mid-April 2005, a representative of a Seattle-based fishing company contacted NMFS about the possibility of using one of its vessels to operate off Washington State in the West Coast open access fishery for spiny dogfish, *Squalus acanthias*. The vessel in question is a freezer-longliner 124.5 ft (38.3 m) in length. Vessel operators were intending to both catch and process dogfish and other groundfish species at sea in May-June 2005. The West Coast open access groundfish fishery is open to any vessel that is otherwise authorized to fish under U.S. Coast Guard safety, registration, and other requirements. Under the 2005–2006 groundfish fishery specifications and management measures, dogfish is part of the "other fish" complex. Dogfish is an unassessed species; NMFS anticipates that there will be adequate data available for its first assessment in time for the 2007 assessment season. There is no limit on the amount of dogfish that may be taken in either the limited entry or open access fisheries

(69 FR 77012, December 23, 2004.) NMFS's normal preference would be to coordinate with the Council on accommodating this vessel into the West Coast groundfish fisheries management. Because the Council does not meet again until June 13–17, 2005, the agency believes that it must take action in advance of any formal coordination with the Council. In developing this emergency rule, NMFS consulted with representatives from the three West Coast states, the Council chair and staff, and with representatives from the groundfish treaty tribes.

Under Federal groundfish regulations at 50 CFR 660.314(c), an at-sea catcher-processor shorter than 125 ft (38.4 m) in length must carry one NMFS-certified observer for each day that the vessel is used to take, retain, receive, land, process, or transport groundfish. Pursuant to § 660.314(e), NMFS may additionally require such vessels to carry NMFS staff or individuals authorized by NMFS, in addition to an observer provided by a permitted observer provider. The freezer-longliner intending to fish in the open access fishery has made plans to carry and pay for one observer pursuant to § 660.314(c) and has been cooperating with NMFS in its request that the vessel carry an additional NMFS West Coast Groundfish Observer Program (WCGOP) staff observer. These observers will allow NMFS to monitor the fishing and processing activities of this vessel on a daily basis, providing valuable bycatch data on this fishery.

The freezer-longliner intending to fish in the open access fishery for dogfish is of a notably larger harvest capacity than the West Coast vessels that traditionally participate in the longline dogfish fishery. Traditional West Coast longline dogfish vessels use 1–2,000 hooks per longline set, whereas freezer-longliners of this vessel's class will use 10–20,000 hooks per set. NMFS reviewed observer data from this and similar vessels in their operations off Alaska in order to compare their catch capabilities against that of vessels in the West Coast longline dogfish fleet. Vessels of this class routinely take 200 mt or more of groundfish per month. In 2004, the West Coast dogfish longline fleet landed 205 mt of dogfish, with vessels taking a high of 40–50 mt each of landed groundfish catch per month. These numbers are not a straight comparison because the freezer-longliner catch is in total (landed + discard) catch, whereas the traditional dogfish longliner boat catch is in landed catch. There is, however, a clear disparity between the amount of groundfish that a freezer-longliner of this vessel's class is able to take when compared against the amount of groundfish that a traditional West Coast longline vessel is able to take.

Bycatch Management in the West Coast Groundfish Fisheries

In the preamble to its proposed rule to implement the 2005–2006 groundfish harvest specifications and management measures, NMFS discussed its three-part strategy to meet Magnuson-Stevens Act mandates on minimizing and monitoring bycatch: (1) Gather data through a standardized reporting methodology on the amount and type of bycatch occurring in the fishery; (2) assess this data through bycatch models to estimate when, where, and with which gear types bycatch of varying species occurs; and (3) implement management measures through Federal fisheries regulations that minimize bycatch and bycatch mortality (69 FR 56550, September 21, 2004). Bycatch management and monitoring in the West Coast groundfish fisheries is particularly focused on monitoring the total catch of overfished groundfish species. There are eight overfished groundfish species, several of which are taken in a broad array of commercial and recreational fisheries with a wide variety of gear types. Based on observer, survey, and exempted fishing permit data, NMFS believes that canary and yelloweye rockfish are the overfished species most likely to be negatively affected by an increase in open access dogfish fishing effort off the northern West Coast. Under Federal regulations at § 660.383(a), retention of canary and yelloweye rockfish is prohibited in the open access fisheries. Current NMFS data systems are already capable of swiftly receiving and aggregating the observer data that will be generated through a freezer-longliner's operating in West Coast water, thus incorporating this vessel into the first part of NMFS's bycatch strategy can be accommodated through regular NMFS programs.

NMFS plans to provide its first release of WCGOP data on the open access fisheries in time for the June 13–17, 2005, Council meeting in Foster City, CA. For the 2005–2006 management cycle, NMFS and the Council developed estimates of total overfished species catch for the directed open access fisheries based on historic catch levels during years when fishing was less constrained by overfished species rebuilding efforts. Overfished species total catch estimates for the incidental open access fisheries, those fisheries that do not target groundfish directly but which may take groundfish incidentally, were derived from a combination of historic catch and state observation data. The combined estimated effects of all of the fisheries known to take groundfish either directly or incidentally is summarized in Table 2–13a and 2–13b of the FEIS for the 2005–2006 groundfish harvest specifications and management measures. This table, informally known in the Council process as the "bycatch scorecard," is used to both provide a baseline for expected effects of the different fisheries on overfished species and to track those effects during a fishing year, as they may be affected by new data.

In the bycatch scorecard, 1.0 mt of canary rockfish and 0.6 mt of yelloweye rockfish are expected to be taken in the 2005 directed open access fisheries. An additional 1.8 mt of canary rockfish and 0.8 mt of yelloweye rockfish are expected to be taken in the 2005 incidental open access fisheries, those fisheries that do not target groundfish but which may take groundfish incidentally. Both of these species also have unassigned amounts of fish that are not currently expected to be taken in any fishery. The bycatch scorecard did not anticipate the entrance of a vessel like a 124.5 ft (38.3 m) freezer-longliner into the open access fisheries. There are no Federal fishery regulations, however, prohibiting such a vessel from entrance into the open access fishery. Barring further recommendations from the Council, any bycatch of canary and yelloweye rockfish taken in the open access longline dogfish fishery would need to be accommodated within the current bycatch scorecard amounts of 1.0 mt of canary rockfish and 0.6 mt of yelloweye rockfish for the directed open access fisheries. Constraining the freezer-longliner to the directed open access fishery's bycatch scorecard amounts would meet the second part of NMFS's bycatch strategy of managing fisheries to attribute bycatch estimates of overfished species to their appropriate fishery sectors and gear types.

Without the action finalized in this emergency rule, NMFS does not believe that it would have adequate Federal regulations to accommodate the entrance of a freezer-longliner into the open access dogfish fishery while minimizing bycatch and preventing overfished species optimum yields (OYS) from being exceeded. NMFS is implementing this emergency rule to ensure that the third part of NMFS's bycatch strategy of minimizing bycatch through appropriate regulatory measures is met for this and any other similar entrants to the open access fishery.

Routine Management Measures

The regulatory measures available to manage the West Coast groundfish fisheries include, but are not limited to, harvest guidelines, quotas, landing limits, frequency limits, gear restrictions (escape panels or ports, codend mesh size, etc.), time/area closures, prohibited species, bag and size limits, permits, other forms of effort control, allocation, reporting requirements, and onboard observers. Routine management measures are those regulatory measures that the Council determines are likely to be adjusted on an annual or more frequent basis.

Routine management measures are necessary to meet the varied and interwoven mandates of the Magnuson-Stevens Act and the Pacific Coast Groundfish FMP. These mandates include: implementing the overfished species rebuilding plans, reducing bycatch, preventing overfishing, allowing the harvest of healthy stocks as much as possible while protecting and rebuilding overfished and depleted stocks, and equitably distributing the burden of rebuilding among the fishing sectors. Routine management measures may be used to address a resource problem with an overfished species.

Measures are classified as routine through a rulemaking process. For a measure to be classified as routine, NMFS determines whether the measure is appropriate to address a particular management issue. Once a measure is classified as routine, it may be modified thereafter by recommendation of the Council at a single Council meeting, providing it is used for the same intended purpose as the original measure. This allows for a swift adjustment of management measures to respond to updated information received during the fishing year. (See the Pacific Coast Groundfish FMP at Section 6.2)

In August 2004, NMFS implemented an emergency rule to set a canary rockfish bycatch limit for the whiting fisheries as a routine management measure (69 FR 46448, August 3, 2004.) This action used the 2004 bycatch scorecard to set a canary rockfish bycatch limit of 7.3 mt. That emergency rule provided NMFS with a regulatory mechanism to close one or all non-tribal sectors of the whiting fishery if the whiting sectors collectively achieved 7.3 mt of incidental canary rockfish catch. At its September 2004 meeting, the Council adjusted the canary bycatch limit for the Pacific whiting fisheries to 6.2 mt and added a bycatch limit for darkblotched rockfish of 9.5 mt (69 FR 59816, October 6, 2004). NMFS implemented bycatch limits for the Pacific whiting fishery as a routine management measure available by permanent regulation through its final rule for the 2005–2006 groundfish harvest specifications and management measures. The authority to set bycatch limits for the Pacific whiting fishery is found in § 660.370(c)(1)(ii) and the 2005–2006 bycatch limits for canary and widow rockfish taken incidentally in that fishery are found in § 660.373(b)(4). Because bycatch limits for the Pacific whiting fishery are now permanent routine management measures, the Council may recommend that NMFS adjust those limits inseason, or may recommend that NMFS add bycatch limits for additional species inseason.

Regulatory Changes put into Effect Through This Emergency Action

The freezer-longliner planning on entering the northern West Coast dogfish fishery has similar bycatch reporting requirements and capabilities to at-sea whiting catcher-processors. Like observer data from whiting catcher-processors, observer data from a freezer-longliner would be available to NMFS on a daily basis, with an approximate one-day lag time. NMFS uses observer data to monitor the inseason total catch in the whiting fisheries, including incidental catch levels of non-target species. Because the agency would have access to a similar quality of data for a freezer-longliner vessel, NMFS believes that management via bycatch limits would be appropriate for this vessel's participation in the directed open access fishery. Therefore, with this action, NMFS is implementing the bycatch scorecard limits of 1.0 mt of canary rockfish and 0.6 mt of yelloweye rockfish for the directed open access fishery for groundfish. If those limits are estimated to have been achieved inseason, the open access fishery would be subject to incidental trip limit levels via NMFS automatic action at § 660.370(d). These bycatch limits for the directed open access fishery are intended to ensure that any increased open access harvest levels that may result from the participation of any freezer-longliner or other high capacity vessels in the open access fishery will not jeopardize either overfished species' OYs or the availability of incidental overfished species catch in fisheries other than the directed open access fishery.

Under Federal groundfish regulations at § 660.302, the open access fishery is defined as "the fishery composed of vessels using open access gear fished pursuant to the harvest guidelines, quotas, and other management measures governing the open access fishery. Any commercial fishing vessel that does not have a limited entry permit and which lands groundfish in the course of commercial fishing is a participant in the open access fishery." Because open access fishery participants are simply defined as all vessels that do not have limited entry permits and which land groundfish, there are no regulatory mechanisms for distinguishing between the directed and incidental open access fisheries.

The bycatch scorecard, which represents the division of estimated effects of the various directed and incidental groundfish fisheries on the environment, differentiates between directed and incidental open access fisheries. If the directed open access fisheries were to achieve the canary and yelloweye rockfish bycatch limits, the bycatch scorecard would still accommodate incidental take of these species in incidental open access groundfish fisheries (salmon troll, California halibut trawl, Dungeness crab pot, etc.) At its April 4–8, 2005, meeting in Tacoma, WA, the Council discussed whether to implement vessel monitoring system (VMS) requirements for the open access fishery. During its discussion, the Council indicated a desire to differentiate between the directed and open access fisheries through a review of some minimal groundfish level that might be needed to accommodate incidental groundfish catch in non-groundfish fisheries.

NMFS reviewed landings data to estimate the minimal amount of groundfish that would be needed to allow vessels catching groundfish incidentally in fisheries directed at non-groundfish species to land their incidentally caught groundfish. Landings data indicates that vessels participating in non-groundfish fisheries that take groundfish incidentally would need access to approximately 200 lb (90.7 kg) of groundfish per month in order to continue to prosecute their non-groundfish fisheries and land incidentally caught groundfish. To recognize the bycatch scorecard's differentiation between directed and open access fisheries, NMFS is, therefore, implementing a provision that if the open access bycatch limits are reached, open access fishery participants would be permitted to land up to 200 lb (90.7 kg) of groundfish per month.

Classification

This emergency rule establishes routine management measure authority to reduce groundfish trip limits to incidental levels in the open access

groundfish fishery before the sector has taken its full target groundfish species' allocations in order to address bycatch concerns for overfished species. It is issued under the authority of the Magnuson-Stevens Act at section 305(c)(1) and is consistent with the regulations implementing the Pacific Coast Groundfish FMP at 50 CFR part 660.

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause to waive the requirement to provide prior notice and comment on this action pursuant to 5 U.S.C. 553(b)(3)(B), because providing prior notice and opportunity for public comment would be impracticable. The information on which this action is based was not available to NMFS until mid-April 2005, for a fishing activity intended for May-June 2005. There was insufficient time in April to undergo a proposed and final rulemaking, since this action needs to be in effect as soon as possible in early May. Prior notice and comment would be impracticable because affording prior notice and opportunity for public comment would impede the Agency's mandated duty to manage fisheries to protect overfished species from overfishing.

The Pacific Coast Groundfish FMP and implementing regulations provide that closed areas, seasons, trip limits, and other measures may be used to protect overfished species in any commercial fisheries and for any gear type. This action provides a mechanism to reduce groundfish trip limits to an incidental level in the open access fisheries for groundfish to keep the harvest of canary and yelloweye rockfish within their OYs. NMFS has been made aware of a new higher-capacity intended participant in the directed open access groundfish fisheries. This intended fishery participant comes to the fishery with notably greater fishing capacity than current participants, but also without the long experience of current fishery participants in avoiding bycatch of overfished species. Due to the expected faster pace of fishing of this intended fishery participant, delaying this rule could result in unexpectedly high bycatch of canary or yelloweye rockfish in the open access fishery. Both of these species are overfished and their 2005 OYs were established at rebuilding levels. High bycatch levels of these stocks could result in their OYs being exceeded, or in the closure of some or all portions of the groundfish fishery being closed because of bycatch in the open access fishery.

NMFS sets overfished species OYs using the guidance of those species' rebuilding plans, which are part of the Pacific Coast Groundfish FMP. To meet the goals of the rebuilding plans of canary and yelloweye rockfish, NMFS set 2005 OYs for those species at 46.8 mt and 26 mt, respectively. NMFS made catch projections for all West Coast groundfish fisheries before the start of the 2005 fishing year to determine if the preferred management measures would keep harvests of overfished species within their OYs. The projected catches of canary and yelloweye rockfish in the directed open access fisheries are 1.0 mt and 0.6 mt, respectively. As noted above, NMFS has recently been contacted by a high-capacity at-sea longline catcher-processor intending to join the West Coast groundfish open access fisheries to target spiny dogfish. This emergency rule is needed to address concerns that this and any other unexpected high-capacity entrants to the directed open access fisheries could jeopardize the OYs for canary and yelloweye rockfish, and thereby take away fishing opportunities from hundreds of other commercial vessels and thousands of recreational vessels that also take these species incidentally.

For the reasons described above, pursuant to 5 U.S.C. 553(d)(3), the AA also finds good cause to waive the 30-day delay in effectiveness, so that this rule may become effective as soon as possible to enable NMFS to reduce trip limits to an incidental level in the open access fisheries should either the 1.0 mt canary bycatch limit or the 0.6 mt yelloweye rockfish bycatch limit be reached by the directed open access fishery.

This emergency rule has been determined to be not significant for purposes of Executive Order 12866.

This action is within the scope of the October 2004 Environmental Impact Statement (EIS) prepared by the Council for the 2005–2006 Pacific Coast groundfish ABCs, OYS, and management measures. Copies of this EIS are available from the Council [See **ADDRESSES**].

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

The proposed and final rules to implement the 2005–2006 groundfish harvest specifications and management measures were developed after meaningful consultation and collaboration with tribal officials from the area covered by the Pacific Coast Groundfish FMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. The tribal representative on the Council made a motion to adopt the 2005–2006 tribal management measures, which was passed by the Council. This emergency rule is intended in part to constrain the incidental catch of overfished species in the directed open access fishery, so that excessive catch in that fishery does not negatively affect tribal and other fisheries for groundfish. NMFS consulted with the representatives from the groundfish treaty tribes on this emergency rule before publishing it in the **Federal Register**.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: May 2, 2005.

Rebecca Lent,

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

■ For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

■ 1. The authority citation for part 660 continues to read as follows:

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

■ 2. In § 660.370, paragraphs (c)(1)(ii) and (d) are suspended and paragraphs (c)(1)(iii) and (i) are added to read as follows:

§ 660.370 Specifications and management measures.

* * * * *

(c) * * *

(1) * * *

(iii) *Differential trip landing limits and frequency limits based on gear type, closed seasons.* Trip landing and frequency limits that differ by gear type and closed seasons may be imposed or adjusted on a biennial or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks. To achieve the rebuilding of an overfished or depleted stock, the Pacific whiting primary seasons described at § 660.373(b), may be closed for any or all of the fishery sectors identified at § 660.373 (a) before the sector allocation is reached if any of the bycatch limits identified at § 660.373(b)(4) are reached. To achieve the rebuilding of an overfished or depleted stock, groundfish trip limits in the open access fishery

may be reduced to an incidental level if any of the bycatch limits identified at § 660.383(f) are reached.

* * * *

(i) *Automatic actions.* Automatic management actions may be initiated by the NMFS Regional Administrator without prior public notice, opportunity to comment, or a Council meeting. These actions are nondiscretionary, and the impacts must have been taken into account prior to the action. Unless otherwise stated, a single notice will be published in the **Federal Register** making the action effective if good cause exists under the APA to waive notice and comment. Automatic actions are used in the Pacific whiting fishery to close the fishery or reinstate trip limits when a whiting harvest guideline, commercial harvest guideline, or a sector's allocation is reached, or is projected to be reached; or to reapportion unused allocation to other sectors of the fishery. An automatic action may also be used in the open access fishery to reduce groundfish trip limits to an incidental level when overfished species bycatch limits at § 660.383(f) are reached.

■ 3. In § 660.383, paragraph (f) is added to read as follows:

§ 660.383 Open access fishery management measures.

* * * * *

(f) *2005 bycatch limits in the directed open access fishery.* Bycatch limits for the directed open access fishery may be used inseason to reduce overall groundfish trip limits to incidental levels to achieve the rebuilding of an overfished or depleted stock, under routine management measure authority at § 660.370(c)(1)(ii). These limits are routine management measures under § 660.370(c) and, as such, may be adjusted inseason or may have new species added to the list of those with bycatch limits. For 2005, the directed open access fishery bycatch limits are 1.0 mt of canary rockfish and 0.6 mt of yelloweye rockfish. Under automatic action authority at § 660.370(d), if either of these limits is reached, groundfish trip limits will be reduced to an incidental level. Under this authority, reducing groundfish trip limits to an incidental level means that any vessel operating off the West Coast that is not registered for use with a limited entry permit will be constrained to a trip limit for all groundfish, excluding Pacific whiting of no more than 200 lb (90.7 kg) per month.

[FR Doc. 05–9001 Filed 5–2–05; 2:58 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 86
Thursday, May 5, 2005

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 02–089–2]

Availability of a Risk Analysis Evaluating the Exotic Newcastle Disease Status of Denmark

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that a risk analysis has been prepared by the Animal and Plant Health Inspection Service concerning the exotic Newcastle disease status of Denmark, and the related disease risks associated with importing poultry carcasses, parts or products of poultry carcasses, and eggs (other than hatching eggs) of poultry, game, or other birds from Denmark. This evaluation will be used as a basis for determining whether to relieve certain restrictions on the importation of those articles into the United States from Denmark. We are making this evaluation available to the public for review and comment.

DATES: We will consider all comments that we receive on or before July 5, 2005.

ADDRESSES: You may submit comments by either of the following methods:

- EDOCKET: Go to *http://www.epa.gov/feddocket* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the "View Open APHIS Dockets" link to locate this document.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 02–089–2, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–089–2.

Reading Room: You may read any comments that we receive on the evaluation in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: You may view APHIS documents published in the **Federal Register** and related information on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. Chip Wells, Senior Staff Veterinarian, Regionalization Evaluation Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products into the United States in order to prevent the introduction of various animal diseases. The regulations in § 94.6 govern, among other things, the importation of poultry carcasses, parts or products of poultry carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds from regions where exotic Newcastle disease (END) is considered to exist. END is considered to exist in all regions not listed in § 94.6(a)(2).

Under § 94.6, poultry carcasses, and parts and products of poultry carcasses may be imported into the United States from regions where END exists only if they have been cooked or are consigned directly to an approved establishment in the United States. Eggs (other than hatching eggs) of poultry, game birds, or other birds from regions where END exists may be imported into the United States only if: (1) They are accompanied by a health certificate regarding the flock of origin and meet certain other conditions; (2) they are consigned directly to an approved establishment for breaking and pasteurization; (3) they are imported under permit for scientific, educational, or research purposes; or (4) they are imported under permit and have been cooked or processed and will be handled in a manner that prevents the introduction of END into the United States.

Further, poultry carcasses, parts or products of poultry carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds that do not qualify for entry into the United States under one of these conditions may transit the United States via air and sea ports under the conditions set out in § 94.15(d).

In an interim rule effective July 16, 2002, and published in the **Federal Register** on September 20, 2002 (67 FR 59136–59137, Docket No. 02–089–1), we amended the regulations by removing Denmark from the list of regions considered to be free of END. That action was necessary because END had been confirmed in that region. The effect of the interim rule was to restrict the importation of poultry carcasses, parts or products of poultry carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds into the United States from Denmark.

Although we removed Denmark from the list of regions considered free of END, we recognized that Denmark immediately responded to the outbreak of END by imposing restrictions on the movement of poultry and poultry products within its borders and initiating measures to eradicate the disease. We stated that we intended to reassess the situation in the region at a future date, and that as part of that reassessment process, we would consider all comments received regarding the interim rule.

Additionally, we stated that the future assessment would enable us to determine whether it was necessary to continue to restrict the importation of poultry and poultry products from Denmark, whether we could restore Denmark to the list of regions in which END is not known to exist, or whether we could restore portions of Denmark as free of END.

In this notice, we are announcing the availability for review and comment of a document titled "APHIS Risk Analysis on Importation of Exotic Newcastle Disease (END) Virus from Denmark." This evaluation assesses the END status

of Denmark and the related disease risks associated with importing poultry and poultry products into the United States from Denmark. This risk analysis will serve as a basis for our determination whether to relieve certain restrictions on the importation of poulty and poultry products into the United States from Denmark. We are making the risk analysis available for public comment for 60 days.

You may view the document on the APHIS Web site at *http://www.aphis.usda.gov/vs/ncie/reg-request.html*. At the bottom of that APHIS page, click on "Information previously submitted by Regions requesting export approval and supporting documentation." At the next screen, click on the triangle beside "European Union/Poultry and Poultry Products/Newcastle Disease," then click on the triangle beside "Response by APHIS," which will reveal a link to the risk analysis. You may also view the evaluation in our reading room (information on the location and hours of the reading room is provided under the heading **ADDRESSES** at the beginning of this notice). You may also request a copy by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the evaluation when requesting copies.

Authority: 7 U.S.C. 450, 7701–7772, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 29th day of April 2005.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–8954 Filed 5–4–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–21034; Airspace Docket No. 05–AEA–09]

Class E–2 Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E–2 airspace designated as a surface area for Hancock County-Bar harbor Airport, Bar Harbor, Maine. The airport is served by an RNAV/GPS RWY 4 Standard Instrument Approach Procedure (SIAP), an Instrument Landing System (ILS) RWY 22 SIAP, and a Localizer (LOC)/DME RWY 4 SIAP. This proposed action would accommodate these SIAPs and provide additional controlled airspace for aircraft operating under Instrument Flight Rule (IFR) operations to the airport.

DATES: Comments must be received on or before June 6, 2005.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–21034/Airspace Docket No. 05–AEA–09 at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace and Operations, Eastern Terminal Service Unit, ETSU, 1 Aviation Plaza, Jamaica, NY 11434–4809, telephone: 718–553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposal rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. FAA–2005–21034/Airspace Docket No. 05–AEA–09". The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Documents Web page at *http://www.access.gpo.gov/nara*. Additionally, any person may obtain a copy of this notice by submitting a request to the Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both the docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677 to request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a Class E2 airspace surface area at Bar Harbor, ME, to accommodate current SIAPs and for IFR operations at Hancock County-Bar Harbor Airport. Class E2 airspace areas designated as a surface area for an airport are published in Paragraph 6002 of FAA Order 7400.9M dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, is proposed to be amended as follow:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

ANE ME E2 Bar Harbor, ME

Hancock County-Bar Harbor Airport, ME
(Lat. 44°26′59″ N long. 68°21′41″ W)

Within a 4.2-mile radius of the Hancock County-Bar Harbor Airport and within 2.7 miles each side of a 204° bearing from the airport, extending from the 4.2-mile radius to 6.2 miles southwest of the airport and within 2.7 miles each side of a 024° bearing from the airport, extending from the 4.2-mile radius to 6.2 miles northeast of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Jamaica, New York, on April 26, 2005.

John G. McCartney,

Acting Area Director, Eastern Terminal Operations.

[FR Doc. 05–8928 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

RIN 0691–AA59

[Docket No. 050406094–5094–01]

International Services Surveys: Cancellation of Five Annual Surveys

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Economic Analysis (BEA) plans to amend its regulations to remove the reporting requirements for five annual surveys covering international trade in services. The five annual surveys that would be discontinued are: BE–36, BE–47, BE–48, BE–82, and BE–93. BEA proposed to discontinue these surveys because they have been replaced by quarterly surveys that collect essentially the same information.

DATES: Comments on this proposed rule will receive consideration if submitted in writing on or before 5 p.m., July 5, 2005.

ADDRESSES: You may submit comments, identified by RIN 0691–AA59, and referencing the agency name (Bureau of Economic Analysis), by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *Obie.Whichard@bea.gov*.
- Fax: Office of the Chief, International Investment Division, (202) 606–5318.
- Mail: Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230.
- Hand Delivery/Courier: U.S. Department of Commerce, Bureau of Economic Analysis (BE–50), Shipping and Receiving Section, Room M–100, 1441 L Street, NW., Washington, DC 20005.

Public Inspection: Comments may be inspected at BEA's offices, 1441 L Street, NW., Room 7006, between 8:30 a.m. and 5 p.m., Monday through Friday.

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

SUPPLEMENTARY INFORMATION: This proposed rule would amend 15 CFR Part 801 by revising Section 801.9(b) to remove the reporting requirements for five annual surveys that collect data covering international trade in services. The five surveys are:

BE–36, Foreign Airline Operators' Revenues and Expenses in the United States.

BE–47, Annual Survey of Construction, Engineering, Architectural, and Mining Services Provided by U.S. Firms to Unaffiliated Foreign Persons.

BE–48, Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies with Foreign Persons.

BE–82, Annual Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons.

BE–93, Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons.

The Department of Commerce invites the general public and other Federal agencies to comment on the cancellation of the reporting requirements for these surveys.

The Department is proposing to remove the reporting requirements for these five annual surveys because the information collected is now being collected on four separate quarterly surveys. Specifically, the BE–9, Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States, replaces the BE–36 survey; the BE–25, Quarterly Survey of Transactions Between U.S. and Unaffiliated Foreign Persons in Selected Services and in Intangible Assets, replaces the BE–47 and BE–93 surveys; the BE–45, Quarterly Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons, replaces the BE–48 survey; and the BE–85, Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, replaces the BE–82 survey. BEA began collecting data on these quarterly surveys in 2004.

Executive Order 12866

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

Executive Order 13132

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

Regulatory Flexibility Act

The five annual surveys referenced above currently do not have a significant economic impact on a substantial number of small entities. Although the number of small entities that are affected by this rulemaking is unknown because this type of information is not tracked by BEA, the five surveys that BEA proposes to remove excludes most small entities from mandatory reporting. Most small entities would not be required to report the information collected in these surveys because they do not meet the reporting threshold. The BE–36 is required to be filed by U.S. offices, agents, or other representatives of

foreign airlines operating in the United States with total annual covered revenues or total annual covered expenses incurred in the United States of $500,000 or more. The BE–47 survey is required to be filed by each U.S. person (other than U.S. Government agencies) if, for all countries and all projects combined, the gross value of new contracts received or gross operating revenues with unaffiliated foreign persons is $1 million or more. The BE–48 annual survey is required to be filed by U.S. persons who have engaged in reinsurance transactions with foreign persons, or who have received premiums from, or paid losses to, foreign persons in the capacity of primary insurers, in excess of $2 million. The BE–82 survey is required to be filed by U.S. persons who are financial services providers or intermediaries, or whose consolidated U.S. enterprise includes a separately organized subsidiary or part that is a financial services provider or intermediary and who had transactions (either sales or purchases) directly with unaffiliated foreign persons in all financial services combined in excess of $10 million during the fiscal year covered by the survey. The BE–93 is required to be filed by U.S. persons who have entered into agreements with unaffiliated foreign persons to buy, sell, or use intangible assets or proprietary rights, excluding oil royalties and other natural resources (mining) royalties. A U.S. person is required to report if total receipts or total payments for these agreements are in excess of $2 million in the reporting year.

Since few small businesses are subject to mandatory reporting, the elimination of the five annual surveys should have a negligible impact on those businesses. Therefore, the Chief Counsel for Regulation certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The surveys that would be discontinued by this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act under the following OMB control numbers: 0608–0013 (BE–36 survey), 0608–0015 (BE–47 survey), 0608–0016 (BE–48 survey), 0608–0017 (BE–93 survey), and 0608–0063 (BE–82 survey). OMB approved the quarterly surveys under the following OMB control numbers: 0608–0068 (BE–9 survey); 0608–0067 (BE–25 survey); 0608–0066 (BE–45 survey); and 0608–0065 (BE–85 survey).

List of Subjects in 15 CFR Part 801

International transactions, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: March 30, 2005.

Rosemary D. Marcuss,

Acting Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 801, as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR Part 801 continues to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; and E.O. 11961, 3 CFR, 1977 Comp., p. 86, as amended by E.O. 12318, 3 CFR, 1981 Comp., p. 173, and E.O. 12518, 3 CFR, 1985 Comp., p. 348.

2. Section 801.9(b)is revised to read as follows:

§ 801.9 Reports required.

* * * * *

(b) *Annual surveys.* (1) BE–29, Foreign Ocean Carriers' Expenses in the United States:

(i) *Who must report.* A BE–29 report is required from U.S. agents on behalf of foreign ocean carriers transporting freight or passengers to or from the United States. U.S. agents are steamship agents and other persons representing foreign carriers in arranging ocean transportation of freight and cargo between U.S. and foreign ports and in arranging port services in the United States. Foreign carriers are foreign persons that own or operate ocean going vessels calling at U.S. ports, including VLCC tankers discharging petroleum offshore to pipelines and lighter vessels destined for U.S. ports. They include carriers who own or who operate their own or chartered (United States or foreign-flag) vessels. They also include foreign subsidiaries of U.S. companies operating their own or chartered vessels as carriers for their own accounts. Where the vessels under foreign registry are operated directly by a U.S. carrier for its own account, the operations of such vessels should be reported on Form BE–30, Ocean Freight Revenues and Foreign Expenses of United States Carriers. The Bureau of Economic Analysis may, in lieu of BE–29 reports required from foreign carriers' U.S. agents, accept consolidated reports from foreign governments covering the operations of their national shipping concerns when, in the Bureau's discretion, such consolidated reports would provide the required information. Where such reports are accepted, the individual reports from foreign carriers' U.S. agents will not be required.

(ii) *Exemption.* Any U.S. person otherwise required to report is exempted from reporting if the total number of port calls by foreign vessels handled in the reporting period is less than forty or total covered expenses are less than $250,000. For example, if an agent handled less than 40 port calls in a calendar year, the agent is exempted from reporting. If the agent handled 40 or more calls, the agent must report unless covered expenses for all foreign carriers handled by the agent were less than $250,000. The determination of whether a U.S. person is exempt may be based on the judgment of knowledgeable persons who can identify reportable transactions without conducting a detailed manual records search.

(2) BE–22, Annual Survey of Selected Services Transactions With Unaffiliated Foreign Persons:

(i) *Who must report*—(A) Mandatory reporting. A BE–22 report is required from each U.S. person who had transactions (either sales or purchases) in excess of $1,000,000 with unaffiliated foreign persons in any of the covered services during the U.S. person's fiscal year. The determination of whether a U.S. person is subject to this mandatory reporting requirement may be judgmental, that is, based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty without conducting a detailed manual records search.

(B) Voluntary reporting. If, during the U.S. person's fiscal year, the U.S. person's total transactions (either sales or purchases) in any of the covered services is $1,000,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service. Provision of this information is voluntary. The estimates may be judgmental, that is, based on recall, without conducting a detailed manual records search.

(C) Any U.S. person receiving a BE–22 survey form from BEA must complete all relevant parts of the form and return the form to BEA. A person that is not subject to the mandatory reporting requirement in paragraph (b)(2)(i)(A) of this section and is not filing information on a voluntary basis must only complete the "Determination of reporting status" and the "Certification" sections of the survey. This requirement is necessary to ensure

compliance with the reporting requirements and efficient administration of the survey by eliminating unnecessary followup contact.

(ii) *Covered services.* The covered services are: Advertising services; auxiliary insurance services (by non-insurance companies only); educational and training services; financial services (purchases only by non-financial services providers); medical services, inpatient (receipts only); medical services, other than inpatient (receipts only); merchanting services (receipts only); mining services; disbursements to fund news-gathering costs of broadcasters; disbursements to fund news-gathering costs of print media; disbursements to fund production costs of motion pictures; disbursements to fund production costs of broadcast program material other than news; disbursements to maintain government tourism and business promotion offices; disbursements for sales promotion and representation; disbursements to participate in foreign trade shows (purchases only); other trade-related services; performing arts, sports, and other live performances, presentations, and events; primary insurance premiums (payments only); primary insurance losses recovered; sale or purchase of rights to natural resources, and lease bonus payments; use or lease of rights to natural resources, excluding lease bonus payments; waste treatment and depollution services; and other private services (language translation services; salvage services; security services; account collection services; satellite photography and remote sensing/satellite imagery services; space transport (includes satellite launches, transport of goods and people for scientific experiments, and space passenger transport); and transcription services).

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[FR Doc. 05–8976 Filed 5–4–05; 8:45 am]
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 2004N–0382]

RIN 0910–ZA23

Food Labeling: Safe Handling Statements: Labeling of Shell Eggs

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the agency's food labeling regulations to permit the egg industry to place the safe handling statement for shell eggs on the inside lid of egg cartons if the statement "Keep Refrigerated" appears on the principal display panel (PDP) or information panel. This proposed rule, if finalized, will provide the industry greater flexibility in the placement of safe handling instructions on egg cartons, while continuing to provide consumers with this important information. This proposed action is in response to numerous requests from the egg industry.

DATES: Submit written or electronic comments by July 19, 2005. See section VII for the proposed effective date of a final rule based on this proposal.

ADDRESSES: You may submit comments, identified by [Docket No. 2004N–0382], by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.
- E-mail: *fdadockets@oc.fda.gov*. Include [Docket No. 2004N–0382] in the subject line of your e-mail message.
- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD-ROM submissions]: Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the agency name and Docket No. or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Catalina Ferre-Hockensmith, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2371.

SUPPLEMENTARY INFORMATION;

I. Background

A. Safe Handling Labeling of Shell Eggs

In the **Federal Register** of December 5, 2000 (65 FR 76092), FDA published a final rule entitled "Food Labeling, Safe Handling Statements, Labeling of Shell Eggs; Refrigeration of Shell Eggs Held for Retail Distribution" (hereinafter referred to as the "shell egg labeling regulation"), which established a labeling regulation in § 101.17(h) (21 CFR 101.17(h)) that requires the egg industry to place a safe handling statement on cartons of shell eggs that have not been treated to destroy *Salmonella* microorganisms. The regulation also requires retail establishments to store and display shell eggs under refrigeration. FDA issued that rule because of the number of outbreaks of foodborne illnesses and deaths caused by *Salmonella* Enteriditis (SE) that are associated with the consumption of shell eggs. Safe handling statements help consumers take measures to protect themselves from illness or death associated with consumption of shell eggs that have not been treated to destroy *Salmonella*. Refrigeration of shell eggs that have not been treated to destroy *Salmonella* helps prevent the growth of SE.

B. Placement and Prominence of FDA's Safe Handling Statement

Section 403(f) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(f)) requires that mandatory label information be placed on the label with such conspicuousness as to render it likely to be read and understood by ordinary individuals under customary conditions of use. Accordingly, the shell egg labeling regulation requires the safe handling statement to appear either on the PDP or on the information panel of egg cartons.

FDA regulations define the PDP for packaged food as "the part of a label that is most likely to be displayed, presented, shown, or examined by a consumer under customary conditions of display for retail sale" (§ 101.1). For egg cartons, the top is usually the PDP. The information panel for packaged food generally is defined by § 101.2(a) as that part of the label that is immediately contiguous and to the right of the PDP, with the following exceptions. If the

part of the label immediately contiguous and to the right of the PDP is too small to accommodate the necessary information or is otherwise unusable label space, the panel immediately contiguous and to the right of that part of the label may be used (§ 101.2(a)(1)). If the package has one or more alternative PDPs, the information panel is immediately contiguous and to the right of any PDP (§ 101.2(a)(2)). If the top of a container is the PDP and the package has no alternate PDP, the information panel is any panel adjacent to the PDP (§ 101.2(a)(3)). For egg cartons, the information panel is considered to be any side panel of the carton. Thus, the shell egg labeling regulation requires the safe handling statement to appear on either the top or side of egg cartons.

C. Requests for Flexibility in Placement and Prominence of the Safe Handling Statement

FDA has received over 20 letters regarding the shell egg labeling regulation from egg producers, egg carton manufacturers, grocery retailers, an egg producer cooperative, and a consumer group. These 20 letters have been placed in Docket No. 2004N–0382 and may be seen at the Division of Dockets Management (see **ADDRESSES**). The egg industry generally supported the requirement of a safe handling statement on egg cartons but expressed concern that placing the statement on the top or sides of the carton would result in a financial hardship for their companies. The egg industry asked FDA to allow safe handling statements to be placed on the inside lid of egg cartons for the following reasons: (1) The lack of equipment to print on the side panels of egg cartons (i.e., the information panel), (2) the high cost to purchase equipment to print on the sides of egg cartons, and (3) the high cost to change the graphic design of the PDP for each brand that manufacturers produce for each customer.

The egg industry also argued that most consumers open cartons to check eggs before purchase, so the placement of the safe handling statement on the inside lid would be sufficiently prominent and conspicuous. To support this argument, a cooperative of egg producers included results of a consumer opinion survey conducted by the U.S. Department of Agriculture's (USDA) Cooperative State Research, Education, and Extension Service, in cooperation with the University of Georgia (UGA) (hereinafter referred to as the "USDA/UGA survey") (Ref. 1). Nearly 92 percent of the consumers surveyed reported that they open up egg cartons before purchase to check for cracked eggs. The egg producers argued that consumers are quality conscious and would be likely to see and read at the time of purchase a safe handling message on the inside lid of the egg carton. One egg carton manufacturer pointed out that all of its customers (egg producers) print the nutrition labeling information on the inside lid of egg cartons. Thus, the manufacturer asserted, many consumers consider the inside lid of the carton to be the information panel.

The consumer group, who also supported the shell egg labeling regulation, asked that FDA re-evaluate the type size and readability of the safe handling statement because the safe handling statement may be illegible, particularly for elderly consumers. The consumer group did not provide data or other appropriate information to support this assertion.

In the summer of 2001, FDA responded (by letter) to these requests by stating that the agency had decided to issue a proposed rule to amend the regulation in § 101.17(h) to include the option of placing the safe handling statement on the inside lid of egg cartons. The agency stated that, until such rulemaking is complete, it would consider requests from individual companies for permission to place the safe handling statement on the inside lid of egg cartons. FDA further indicated that actions for enforcement of § 101.17(h)(2) would not be a high priority for the agency, where companies have ensured that the statement on the inside lid is prominent (e.g., there is language, i.e., a referral statement, on the PDP that instructs consumers to look at the inside lid of egg cartons for the safe handling statement). FDA also stated that, in considering whether the statement in the inside lid is prominent, it might consider whether any referral statement is in close proximity to the "Keep Refrigerated" statement required by USDA under 9 CFR 590.50.

II. Proposal

FDA is proposing to allow the egg industry to place the required safe handling statement on the inside lid of egg cartons if the statement "Keep Refrigerated" appears on the PDP or information panel.

FDA tentatively believes that the inside lid would serve as an acceptable panel for the safe handling instructions without diminishing the effectiveness of the message. Consumers must open egg cartons before removing the eggs and thus would be exposed to the instructions before cooking. Also, as noted by the USDA/UGA survey, many consumers open the lids of egg cartons to check for cracked eggs at the point of purchase. These consumers would be exposed to the instructions at this time as well.

The agency further notes that companies using inside-lid labeling may print the safe handling instructions in a larger font because there is generally more space available inside the lid for such labeling. A larger font may increase the number of consumers who read the instructions. As mentioned previously in section I.C of this document, a consumer group contended that the currently required safe handling statement may be illegible for some consumers. We solicit comment on this issue. We also solicit comment on whether it is necessary to require a referral statement on the outside lid when the safe handling instructions are placed on the inside lid.

Furthermore, the agency is aware of the industry's data showing that the cost of printing the safe handling instructions on the PDP or information panel may be prohibitively expensive for some firms. FDA believes that providing flexibility may result in a cost savings for the egg industry and, thus, for consumers.

The change to permit placement of the safe handling instructions that FDA is proposing in § 101.17(h)(2) necessitates safeguards to ensure that the egg safe handling instruction "Keep Refrigerated" is seen as soon as possible and by those who might not open egg cartons. As discussed in the shell egg labeling regulation, refrigeration is a practicable and useful measure to limit the number of viable SE in shell eggs (65 FR 76092 at 76100–76102). Because personnel involved in the production, distribution, and storage of shell eggs may not open the lid of egg cartons, some consumers may not open the eggs cartons until they cook the eggs, and because the instruction to "Keep Refrigerated" is relevant before a consumer opens the carton, the agency believes that refrigeration instruction must appear on the outside of egg cartons that have an inside-lid safe handling statement. Accordingly, FDA is proposing to amend § 101.17(h)(2) to require that, when the safe handling statement appears on the inside lid of the egg carton, the words, "Keep Refrigerated"appear on the PDP or information panel.

III. Analysis of Economic Impacts

A. Preliminary Regulatory Impact Analysis

FDA has examined the economic implications of this proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including: Having an annual effect on the economy of $100 million, adversely affecting a sector of the economy in a material way, adversely affecting competition, or adversely affecting jobs. A regulation is also considered a significant regulatory action under Executive Order 12866 if it raises novel legal or policy issues. The Office of Management and Budget has determined that this proposed rule is a significant regulatory action as defined by Executive Order 12866.

1. Need for the Proposed Regulation

The need for this proposed regulation is to provide the shell egg industry, which includes egg producers, carton manufacturers, egg distributors, and retailers, additional flexibility in complying with FDA requirements for the placement of safe handling instructions on egg cartons, without reducing the prominence or conspicuousness of the information and without undermining the effectiveness of the shell egg labeling regulation. Allowing the inside lid to be used for the safe handling instructions may create cost savings for firms that were concerned that complying with the shell egg labeling regulation would be a financial hardship. This proposed regulation would allow the safe handling instructions to be placed on the inside lid of egg cartons if the words "Keep Refrigerated" are placed on the PDP or information panel.

2. Options

FDA has evaluated three regulatory options to allow the safe handling statement to be printed on the inside lid of egg cartons. The options considered are the following: (1) No new regulatory action, (2) allow the safe handling statement to be placed on the inside lid with a referral statement on the outside of the carton if the words "Keep Refrigerated" are placed on the PDP or information panel, and (3) the proposed option, allow the safe handling statement to be placed on the inside lid with no referral statement required if the words "Keep Refrigerated" are placed on the PDP or information panel. The policy options are presented in an order that allows each to be built on the preceding option and facilitates comparison among the options.

The first option analyzes the existing requirement for printing the safe handling statement on egg cartons. The second option proposes flexibility in the placement of the safe handling statement on egg cartons to include the inside lid, provided that a referral statement and the words "Keep Refrigerated" are placed on the PDP or information panel. The proposed option is a modification of the second option and allows additional flexibility by removing the referral statement requirement when the safe handling statement is located on the inside lid if the words "Keep Refrigerated" are placed on the PDP or information panel. FDA estimates the cost of each option by measuring the additional costs where they first occur—at the carton manufacturers, which is consistent with the method used in the Preliminary Regulatory Impact Analysis of the proposed shell egg refrigeration and labeling rule (64 FR 36516 at 36529, July 6, 1999).

FDA analyzed the impacts of this rule relative to a baseline that includes FDA no longer exercising enforcement discretion with regard to the placement requirements of the shell egg labeling regulation, which we believe is a reasonable scenario in the absence of this rulemaking. Because the placement requirements in the shell egg labeling regulation are not currently fully enforced, we assume, for the purposes of setting a baseline only, that if FDA did not finalize this proposed rule, we would eventually start fully enforcing the shell egg labeling regulation no earlier than 12 months and no later than 36 months following the date of publication of this proposed rule.

Option One: Require Safe Handling Labeling on the PDP or Information Panel

Option one is to maintain the labeling requirements imposed by the shell egg labeling regulation. With no new regulatory action, the total number of people who currently read the safe handling statement would remain unchanged. The benefits from the current shell egg labeling regulation would not change, so the benefits associated with this option would be zero. With no new regulatory action, the costs of the existing regulation, measured as the costs to egg carton manufacturers of printing the safe handling statement on the PDP or information panel, also would remain unchanged.

Though the agency finds no new costs associated with option one, the letters from industry provide additional information on the costs associated with compliance with the shell egg labeling regulation. The letters explained that placing the safe handling statement on the PDP may require a logo redesign, while placing it on the information panel may require the manufacturer to purchase special equipment. One manufacturer reported the costs for the purchase of new equipment required for printing on the information panel to be approximately $230,000 (Ref. 2). The same manufacturer estimated the costs for mold changes required for logo redesign to be approximately $780,000 and the total costs for redesigning a logo for one complete brand to be approximately $1,740 (Ref. 2). This latter cost estimate does not account for the potential opportunity cost of lost advertising revenue to the egg carton producer due to the reduction in space available for promotion when the safe handling statement is required on the PDP or information panel.

Option Two: Allow the Safe Handling Statement to Be Placed on the Inside Lid With a Required Referral Statement on the Outside of the Carton if the Words "Keep Refrigerated" are Placed on the PDP or Information Panel

Option two would allow the safe handling statement to be printed on the inside lid of the egg carton, provided that a referral statement and the words "Keep Refrigerated" are placed on the PDP or information panel.

a. Costs of option two: potential reduction in the numbers of consumers reached—FDA estimates that there would be no costs to the proposed flexibility. The agency believes that at least as many, if not more, consumers would read safe handling instructions on the inside lid of egg cartons than would read the statement on the PDP or information panel, based on the following factors:

1. The referral statement required on the outside panel;

2. The consumer practice of looking inside the egg carton either at the time of purchase or at a time before consumption; and

3. The potential for more space on the inside lid of egg cartons because of the relatively large surface area there.

A study has shown that labels that are larger and have less text density are more attractive (Ref. 3). Another study has shown that larger font sizes enhance label readability (Ref. 4). Because the inside lid may allow more space for printing the safe handling statement in larger font sizes, such placement may result in a larger number of consumers reading the safe handling statement than under the existing regulation and could be considered an additional benefit from the proposed flexibility. FDA seeks comment on the impact, if any, on consumer behavior of the font size of instructional labeling statements.

b. Benefits of option two: cost savings realized by egg carton manufacturers—The benefits from the proposed flexibility would be the cost savings for firms that place the safe handling statement inside the lid, rather than placing it on the PDP or information panel, accompanied by the referral statement and words "Keep Refrigerated" on the outside of the carton. No cost savings would be attributed to firms that continue to place the safe handling statement on the PDP or information panel, as required by the existing regulation. FDA assumes that a firm would choose the inside lid with referral statement option if the cost of printing the safe handling statement on the inside lid plus the cost of printing the referral statement were less than the cost of printing the safe handling statement on either the PDP or information panel.

The cost savings for a firm from the additional flexibility equal the difference between the sum of the costs of printing the safe handling statement on the inside lid and printing the referral statement, and the costs of printing the safe handling statement on either the PDP or information panel. When the cost savings for each firm in the industry are added together, then the total cost savings from the added flexibility for the entire industry is expressed as:

Total Cost Savings = S1 x (IP - IN - REF) + S2 x (PDP - IN - REF),

where,

S1 represents the proportion of the industry that avoids printing the safe handling statement on the information panel by using the inside lid with referral statement option,

S2 represents the proportion of the industry that avoids printing the safe handling statement on the PDP by using the inside lid with referral statement option,

IP, PDP, and IN represent the cost to the industry of printing the safe handling statement on the information panel, PDP, and inside lid, respectively, and REF reflects the costs of printing the referral statement.

The agency estimated the cost savings associated with option two by computing the costs of full logo redesign and of a safe handling statement using the FDA Labeling Cost Model, Final Report (Ref. 5). Based on evidence elicited from experts, the labeling cost model assumes a flexography method for printing the safe handling statement on egg cartons. While other printing methods exist, such as offset lithography or rotogravure, expert elicitation suggests that the flexography method is representative for egg packaging and labeling. Furthermore, the principal determinant of the costs of printing the safe handling statement is the number of colors used, rather than the amount of space that the label occupies. For full logo redesign, we assume that six colors will be used; for a safe handling statement, we assume only one color will be used. Since the labeling cost model does not have explicit options for determining the costs of either a referral statement or an inside lid safe handling statement, we assume that each of these statements uses one color. Therefore, the costs of printing a referral statement are assumed to be equal to the costs of printing an inside lid safe handling statement.

Under these cost assumptions, the labeling cost model predicts that no firm would choose the inside lid with referral statement option over the information panel option in the absence of a need for logo redesign, because the inside lid with referral statement option will cost twice as much as placing all of the information on the information panel. This is because the cost of printing a safe handling statement on the inside lid is equivalent to the cost of printing it on an information panel. A firm choosing the inside lid alternative would incur the additional cost of printing a referral statement on the information panel, which is also assumed to be equivalent to the costs of a safe handling statement on the information panel. Therefore, the model predicts that all potential cost savings from added flexibility come from firms that would otherwise have had to redesign their logo on the PDP.

In practice, there could also be cost savings for firms that, in the absence of the proposed flexibility, might have chosen to print the safe handling statement on an information panel (e.g., if specialized, new machinery were required for printing it on an information panel but not on the inside lid). However, because of the way that the labeling costs are computed by the labeling cost model as described previously, we do not take this possibility into account. Consequently, the value generated by the labeling cost model underestimates the true cost savings that would be realized from this option because there would also be costs savings for firms that would otherwise place the safe handling statement on an information panel. Because we do not know how large these costs savings might be, we request comments on this possibility. Finally, the cost savings estimated using the labeling cost model do not account for any producer surplus generated by making available valuable marketing space on the PDP that would otherwise have been used to display the safe handling statement. To the extent producer surplus is generated, the costs savings estimated from the labeling cost model will understate the true gains from the proposed flexibility.

The agency ran the labeling cost model for option two, using both a 12-month and a 36-month compliance period. The labeling costs are reported in table 1 of this document as a range that includes three numbers. The top and bottom numbers reported in each cell are the low and high cost estimates for the relevant label and compliance period. The middle number is the estimate of the most likely cost to industry for the relevant label and compliance period.

The most likely cost estimate for a full logo redesign with a 12-month compliance period is $31.4 million, with low and high estimates of $23.6 and $56.8 million. These represent the estimates of the total costs to the industry if all firms have to redesign the logos on their egg cartons in order to print the safe handling statement. The figures likely overestimate the costs of the safe handling statement, because most firms will not need to redesign their logos. For a 12-month compliance period, the low and high costs of adding a safe handling statement are estimated to be $4.5 and $11.6 million, with the most likely cost estimate to be $6.6 million.

For a full logo redesign and a 36-month compliance period, the low and high costs are estimated to be $6.1 and $14.8 million, with the most likely cost estimate to be $8.2 million. For a 36-month compliance period, the low and high costs of adding a safe handling statement are estimated to be $1.2 and $3.1 million, with the most likely cost estimate to be $1.7 million. The higher costs reported for the 12-month compliance period compared with the 36-month compliance period reflects the loss of inventories of cartons not in

compliance with the regulation that would be incurred in the shorter compliance period.

TABLE 1.—COSTS FOR A SAFE HANDLING STATEMENT AND FOR FULL LOGO REDESIGN

Compliance Period	Full Logo Redesign (2002 $)	Safe Handling Statement (2002 $)
12 months	Low: $23.6 million Most likely: $31.4 million High: $56.8 million	Low: $4.5 million Most likely: $6.6 million High: $11.6 million
36 months	Low: $6.1 million Most likely: $8.2 million High: $14.8 million	Low: $1.2 million Most likely: $1.7 million High: $3.1 million

Monte Carlo simulations of the total cost savings from the added flexibility were performed using the above expression, with distributional assumptions, for both the 12-month and 36-month compliance period estimates reported in table 1 of this document. Logriormal distributions, rather than fixed values, were assumed to reflect uncertainty about the true values of the industry shares, S1 and S2, that would avoid printing the safe handling statement on either the PDP or information panel. Triangular distributions were used to reflect uncertainty about the true cost of each label change. This distribution was appropriate since it incorporates all of the knowledge that we have about the true cost of each label change. The three numbers in each cell reported in table 1 of this document were used as parameters for the triangular distributions.

The lognormal distribution is appropriate for representing the uncertainty in the true values of S1 and S2 because it is not symmetric in general; almost all of its values lie between 0 and 1 when certain values of the mean and variance are assumed, and it can accommodate a wide range of prior beliefs about the true values of S1 and S2. One prior belief is that the true value of S1 is close to 0. We chose a lognormal distribution of mean 0.1 and variance 0.1 to represent the uncertainty surrounding this belief. We chose a lognormal distribution of mean 0.4 and variance 0.1 to represent the uncertainty surrounding our belief of the true value of S2. The findings from the Monte Carlo simulation are reported in table 2 of this document.

TABLE 2.—TOTAL COST SAVINGS, OPTION 2

	Savings from Avoiding a Label on the PDP		Savings from Avoiding a Label on the Information Panel		Total Cost Savings	
	12-month compliance	36-month compliance	12-month compliance	36-month compliance	12-month compliance	6-month compliance
Mean estimate	$11,032,000	$2,888,000	0	0	$11,032,000	$2,888,000
Low estimate (5th percentile)	$5,125,000	$1,352,000	0	$5,125,000	$1,352,000	
High estimate (95th percentile)	$18,658,000	$4,732,000	$365,000	$112,000	$19,022,000	$4,844,000

The mean, low, and high estimates of the cost savings are reported in table 2 of this document. Low estimates are where there is a 5 percent probability of being higher than the true value. High estimates are where there is a 95 percent probability of being higher than the true value. The distribution of the cost savings is truncated at zero, since no firms would print the safe handling statement on the information panel if the savings were negative. The total cost savings from option two are estimated to range from $5.1 to $19 million, with a mean of $11 million assuming a 12-month compliance period, and from $1.4 to $4.8 million, with a mean of $2.9 million, assuming a 36-month compliance period.

After inventories of the labeled egg cartons have been depleted, it can reasonably be expected that firms would again decide on which panel to print the safe handling statement for a new batch of egg cartons. There could be additional savings from the proposed flexibility if firms at that later date would choose to print the safe handling statement on the inside lid rather than either the PDP or information panel. However, in this analysis we assume that all cost savings from the proposed flexibility result from the initial decision on the placement of the safe handling statement. This assumption is justified because it is likely that adjustment costs from changing the earlier decision on the placement of the safe handling statement are greater than any savings that could result from a labeling change at that later date. Once a firm has decided on which panel to print the safe handling statement and has incurred the labor and capital costs of that decision, the costs of changing that decision at a later date are assumed to be greater than any potential benefit from doing so. Finally, as explained previously in this document, the placement of the safe handling statement on the inside lid could result in a larger number of consumers reading it than under the existing regulation.

Although this possibility is not quantified in the analysis, it may be considered as an additional benefit from the proposed flexibility. We request comments on this possibility.

The proposed option: Allow the Safe Handling Statement to Be Placed on the Inside Lid Without a Referral Statement if the Words "Keep Refrigerated" are Placed on the PDP or Information Panel

The proposed option allows firms to print the safe handling statement on the inside lid but does not require a referral if the words "Keep Refrigerated" are placed on the PDP or information panel.

c. Costs of the proposed option: potential reduction in the numbers of consumers reached—FDA estimates that the costs of the proposed option are likely to be zero. We assume that the costs of this option arise from changes in the number of consumers who read the safe handling statement. The number of consumers who would read the safe handling statement on the inside lid under the proposed option is assumed to be about the same as the number who read it under the existing regulation. The reasons for this assumption are:

1. The consumer practice of looking inside the egg carton either at the time of purchase or at a time before consumption and

2. The potential for more space on the inside lid of egg cartons because of the relatively large surface area there. Because all consumers look inside the egg carton at some time before consumption, FDA assumes that the costs of the proposed option are the same as those from option two. In addition, as explained in option two, because of the potential for larger font sizes and less text density on the inside lid, the safe handling statement located there may actually be read by more consumers than the same statement placed on the outside of the carton, as is currently required by the shell egg labeling regulation. We request comments on this possibility.

d. Benefits of the proposed option: no required referral statement if the words "Keep Refrigerated" appear on the PDP or information panel—FDA performed Monte Carlo simulations of the total cost savings for the proposed option by modifying the distributional assumptions in option two, to incorporate additional potential cost savings of not requiring a referral statement. The results are reported in table 3 of this document, which contains the mean, low, and high estimates of the cost savings.

TABLE 3.—TOTAL COST SAVINGS, PROPOSED OPTION

	Savings from Avoiding a Label on the PDP		Savings from Avoiding a Label on the Information Panel		Total Cost Savings	
	12-month compliance	36-month compliance	12-month compliance	36-month compliance	12-month compliance	6-month compliance
Mean estimate	$14,843,000	$3,886,000	0	0	$14,843,000	$3,886,000
Low estimate (5th percentile)	$8,039,000	$2,175,000	0	0	$8,039,000	$2,175,000
High estimate (95th percentile)	$23,192,000	$6,192,000	$1,453,000	$389,000	$24,645,000	$6,582,000

The distribution of the cost savings is truncated at zero, since no firms would print the safe handling statement on the information panel if the savings were negative. Consequently, the cost savings for the mean and lower estimates of cost savings for firms that would otherwise print the safe handling statement on the information panel are reported to be zero. Only the high estimate of cost savings (95 percent), for firms that would otherwise print the safe handling statement on the information panel, is reported to be positive.

The range of cost savings from the proposed option is estimated to be between $8 and $24.6 million, with a mean of $14.8 million assuming a 12-month compliance period. and between $2.2 and $6.6 million, with a mean of $3.9 million, assuming a 36-month compliance period. As in the analysis for option two, we assume that there are no additional cost savings from proposed flexibility after the initial cost savings, because the adjustment costs from changing the earlier decision on the placement of the safe handling statement are probably greater than any savings from a labeling change.

Comparing the Benefits of Option Two With Those of the Proposed Option

A comparison of the estimates of the total costs savings reported for option two with those reported for the proposed option indicates the potential for substantial cost savings from the proposed option. The larger cost savings from the proposed option compared with option two reflects the lower cost from not requiring a referral statement on an outside panel in the proposed option, as well as the cost savings from a larger share of the industry choosing the inside lid statement under the proposed option (i.e., S2 would be larger under the proposed option than under option two). The results from the comparison are reported in table 4 of this document. The cost savings from the proposed option compared with option two range from $0 to $11.5 million, with a mean of $3.8 million assuming a 12-month compliance period, and from $0 to $3.3 million, with a mean of $1 million assuming a 36-month compliance period.

TABLE 4.—SAVINGS FROM THE PROPOSED OPTION COMPARED WITH OPTION 2

	Savings from Avoiding a Label on the PDP		Savings from Avoiding a Label on the Information Panel		Total Cost Savings	
	12-month compliance	36-month compliance	12-month compliance	36-month compliance	12-month compliance	6-month compliance
Mean estimate	$3,811,000	$998,000	0	0	$3,811,000	$998,002
Low estimate (5th percentile)	0	0	0	0	0	0
High estimate (95th percentile)	$10,308,100	$2,977,000	$1,180,000	$306,000	$11,488,000	$3,282,000

Note: The values reported here are computed by assuming a joint distribution of the difference in cost savings between option 2 and the proposed option. Consequently, a value reported here may be different from that which would be obtained by simply subtracting a value reported in table 2 of this document from the appropriate value reported in table 3 of this document.

Summary of Costs and Benefits

FDA estimates the costs and benefits for three regulatory options for flexibility in the placement of the safe handling statement on egg cartons. The regulatory options considered were: (1) No new regulatory action, (2) allowing flexibility in the placement of the safe handling statement to include the inside lid, accompanied by a referral statement on an outside panel if the words "Keep Refrigerated" are placed on the PDP or information panel, and the proposed option, allowing flexibility in the placement of the safe handling statement to include the inside lid but without requiring the referral statement if the words "Keep Refrigerated" are placed on the PDP or information panel. The analysis concludes that the costs of the proposed flexibility, measured as the public health effects of a decrease in the number of consumers that would read the safe handling statement, are zero for both option two and the proposed option. Because all consumers open egg cartons before consumption, we assume the same number of consumers will notice the safe handling statement on the inside lid as would notice statement on the outside of the carton, because of the greater potential for larger font sizes and lower text density on the inside lid. If this is true, there would be no additional benefit from the required referral statement on an outside panel under option two. However, we requested comments on these assumptions.

The benefits from the options considered are measured as the cost savings from allowing firms the flexibility of printing the safe handling statement on the inside lid. Option two requires an accompanying referral statement on an outside panel and the words "Keep Refrigerated" to be placed on the PDP or information panel, while the proposed option does not require a referral statement but does require the words "Keep Refrigerated" to be placed on the PDP or information panel. The estimated cost savings from option two range from $4.7 to $20 million, with a mean of $11 million. The estimated cost savings from the proposed option range from $8 to $25 million, with a mean of $15 million. The estimated cost savings from the proposed option range from $8 and $24.6 million, with a mean of $14.8 million assuming a 12-month compliance period, and between $2.2 and $6.6 million, with a mean of $3.8 million assuming a 36-month compliance period. The estimated savings from the proposed option compared with option two range between $0 and $11.5 million, with a mean of $3.8 million assuming a 12-month compliance period, and between $0 and $3.3 million, with a mean of $1 million assuming a 36-month compliance period.

B. Initial Regulatory Flexibility Analysis

FDA has examined the economic implications of this proposed rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612). If a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would lessen the economic effect of the rule on small entities. The proposed rule provides additional options for placing the safe handling statement on egg cartons. No small business would be forced to use this option, so the proposed rule imposes no costs on small businesses. For those small businesses choosing the option, the proposed rule reduces labeling costs. FDA certifies that this proposed rule, if it becomes final, would not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires cost-benefit and other analyses before any rulemaking if the rule would include a "Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year." The current inflation-adjusted statutory threshold is $115 million. FDA has determined that this proposed rule does not constitute a significant rule under the Unfunded Mandates Reform Act.

D. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121) defines a major rule for the purpose of congressional review as having caused or being likely to cause one or more of the following: An annual effect on the economy of $100 million; a major increase in costs or prices; significant adverse effects on competition, employment, productivity, or innovation; or significant adverse effects on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. In accordance with the Small Business Regulatory Enforcement Fairness Act, the Office of Management and Budget (OMB) has determined that this proposed rule, when final, will not be a major rule for the purpose of congressional review.

IV. Analysis of Environmental Impact

The agency has determined under 21 CFR 25.30(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collection of information. Therefore, clearance by OMB under the Paperwork Reduction Act of 1995 is not required.

VI. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule would have a preemptive effect on State law. Section 4(a) of the Executive order requires agencies to "construe * * * a Federal Statute to preempt State law only where the statute contains an express preemption provision, or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute."

To ensure the safety of eggs for all consumers in this country, not only must there be minimum national standards, but enforcement of these standards must be uniform across the country. However, because State and local public health officials are the primary enforcement officials in retail establishments, FDA has recognized that it must rely on these officials to provide the bulk of the enforcement of these regulations. FDA thus believes that it is critical for these regulations to establish uniform minimum standards. If less stringent State or local refrigeration and labeling requirements are not preempted, enforcement of those less stringent requirements—which are not sufficient to protect the public health—will interfere with the cooperative enforcement of the Federal egg refrigeration and labeling requirements. FDA believes that the cooperative enforcement approach utilized in FDA's egg labeling regulation is critical to effective implementation of this important food safety requirement.

Thus, although Congress did not expressly preempt State law in this area, FDA finds preemption is needed because State and local laws that are less stringent than the Federal requirements will significantly interfere with the important public health goals of these regulations.

FDA believes that preemption of State and local labeling requirements that are the same as or more stringent than the requirements of this proposed regulation would not be necessary, as enforcement of such State and local requirements would not interfere with the food safety goals of this regulation. Further, it is likely that any states that enacted similar labeling requirements to those in FDA's rule would change those requirements to be consistent with any changes made by FDA as a result of this rulemaking. Accordingly, the preemptive effect of this rule would be limited to State or local requirements that are not as stringent as the requirements of this regulation. Requirements that are the same as or more stringent than FDA's requirement would remain in effect.

Further, section 4(e) of the Executive order provides that "when an agency proposes to act through adjudication or rulemaking to preempt State law, the agency shall provide all affected State and local officials notice and an opportunity for appropriate participation in the proceedings." We are providing an opportunity for State and local officials to comment on FDA's proposed change to FDA's shell egg labeling regulation in this rulemaking. For the reasons set forth previously in this document, the agency believes that it has complied with all of the applicable requirements under the Executive order. In conclusion, FDA has determined that the preemptive effects of this proposed rule would be consistent with Executive Order 13132.

VII. Proposed Effective Date

FDA is proposing that any final rule that may be issued based upon this proposal become effective 30 days after its publication in the **Federal Register**.

VIII. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this 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. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IX. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. United Egg Producers letter, Carlton Lofgren, Chairman, Al Pope, President, Ken Klippen, Vice President for Government Relations, and Randy Green, Senior Government Relations Representative, to Dr. Christine Lewis, FDA, March 2, 2001.

2. Foam Packaging, Inc. letter, Ray B. English, President, to Felicia Satchell, FDA, January 25, 2001.

3. Tuominen, R., "Why Do Some Yellow Page Advertisements Capture Attention Better Than Others?," *Acta Odontologica Scandinavia*, 59: 79-82, 2001.

4. Dietrich, D.A., "Enhancing Label Readability for Over-the-Counter Pharmaceuticals by Elderly Consumers," *Journal of Safety Research*, 27: 132, 1996.

5. RTI International, "FDA Labeling Cost Model, Final Report,"prepared by Mary Muth, Erica Gledhill, and Shawn Karns, RTI. Prepared for Amber Jessup, FDA/Center for Food Safety and Applied Nutrition, April 2002.

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 101 be amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371; 42 U.S.C. 243, 264, 271.

2. Section 101.17 is amended by revising paragraph (h)(2) to read as follows:

§ 101.17 Food labeling warning, notice, and safe handling statements.

* * * * *

(h) * * *

(2) The label statement required by paragraph (h)(1) of this section shall appear prominently and conspicuously, with the words "SAFE HANDLING INSTRUCTIONS" in bold type, on the principal display panel, the information panel, or on the inside of the lid of egg cartons. If this statement appears on the inside of the lid, the words "Keep Refrigerated" must appear on the principal display panel or information panel.

* * * * *

Dated: October 12, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–8907 Filed 5–4–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[CGD01–05–012]

RIN 1625–AA00 and 1625–AA08

Safety Zones; Long Island Sound Annual Fireworks Displays

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise regulations governing safety zones for fireworks displays in Long Island Sound. This revision would establish 9 new permanent safety zones, would revise the location for one established fireworks safety zone, and would amend the notification and enforcement provisions to include additional launches from beach areas. This action is necessary to provide for the safety of life on navigable waters during the events.

DATES: Comments and related material must reach the Coast Guard on or before May 25, 2005.

ADDRESSES: You may mail comments and related material to U.S. Coast Guard Group/MSO Long Island Sound, 120 Woodward Ave, New Haven, Connecticut 06512. Coast Guard Group/Marine Safety Office Long Island Sound maintains the public docket (CGD01–05–012) for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Group/Marine Safety Office Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Andrea K. Logman, Chief, Waterways Management Division Coast Guard Group/MSO Long Island Sound, Connecticut (203) 468–4429.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–05–012), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

If, as we anticipate we make this temporary final rule effective less than 30 days after publication in the **Federal Register**, we will explain in that publication, as required by 5 U.S.C. (d)(3), our good cause for doing so.

Public Meeting

We do not now plan to hold a public meeting, but you may submit a request for a meeting by writing to the U.S. Coast Guard Group/Marine Safety Office at the address listed under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard proposes to revise its safety zones for fireworks displays in the Long Island Sound Captain of the Port Zone found at Title 33 Code of Federal Regulations (CFR), section 165.151. These revisions would add 9 permanent safety zones and revises one current safety zone that would be activated for fireworks displays that occur on an annual basis. Of the 9 new permanent safety zones, 5 of these currently have special local regulations established under 33 CFR 100.114, which will be moved to 33 CFR 165.151. These 5 events have specific dates assigned to them under that regulation. However, due to scheduling issues, the events have not been held over the last several years on the dates specified. As a result, numerous temporary regulations have needed to be implemented to provide for safety or the maritime community. As the events require a limited access but flexibility in scheduling, a permanent safety zone as opposed to special local regulations is prudent. This will ensure the safety of the maritime community viewing the displays or transiting in the vicinity of the displays. Once implemented as safety zones, the special local regulations located at 33 CFR 100.114 for these events will be removed. The remaining 4 new safety zones being proposed are for annual events that do not currently have permanent safety zones or special local regulations.

The events for which safety zones are proposed are held in the following 9 locations: on the Thames River off of Norwich, CT; in Branford Harbor off of Branford Point, Branford, CT on Long Island Sound; in Long Island Sound off Cosey Beach, East Haven, CT; in Long Island Sound off Compo Beach, Westport, CT; in Westbrook Harbor on Long Island Sound, CT; in Long Island Sound off Calf Pasture Beach, Norwalk, CT; in Long Island Sound off Short Beach, Stratford, CT; in Long Island Sound off Old Black Point Beach, East Lyme, CT; and in Northport Bay off Asharoken Beach, NY. By establishing permanent safety zones, the Coast Guard will eliminate the need to establish temporary rules annually. The Coast Guard has promulgated safety zones or special local regulations for fireworks displays at all of these 9 areas in the past and has received no public comments or concerns regarding the impact to waterway traffic from these annually recurring events. Additionally, this rulemaking will revise the regulations currently in place in 33 CFR 165.151(a)(10) for the Mashantucket Pequot Fireworks Safety zone. This revision changes the location of the three barges used for this fireworks display, increasing the distance between each of the barges. Smaller-sized fireworks shells, a maximum of a 10-inch shell, will be used on the two outer barges, decreasing the safety zone radius for each of the two outer barges from 1200 feet to 1000 feet. The center barge in this display would continue to have a maximum of 12-inch shells, and will continue to have a 1200-foot radius safety zone surrounding it. Due to the changes in the outer barge shell size, there is no increase to the restricted area of the safety zone as compared with what has been in place for this event in 33 CFR 165.151(a)(10). The Coast Guard has received no public comments or concerns regarding the impact to waterway traffic from the Mashantucket Pequot Fireworks.

While this proposed regulation would prevent vessels from transiting areas made hazardous from the launching of fireworks, vessels may transit in all portions of the affected waterways except for those areas covered by the proposed zones.

Discussion of Proposed Rule

The Coast Guard proposes to revise 33 CFR section 165.151 to add 9 new safety zones for fireworks displays that occur on a regular basis in the same locations. The Coast Guard also proposes to revise 33 CFR 165.151(a)(10), an established safety zone for the Mashantucket Pequot Fireworks. The sizes of these safety zones were determined in accordance with Navigational and Vessel Inspection Circular (NVIC) 07–02, entitled *Marine Safety at Fireworks Displays,* and in accordance with National Fire

Protection Association Standard 1123, Code for Fireworks Displays (100-foot distance per inch of diameter of the fireworks mortars). Proposed barge locations and mortar sizes were determined to ensure the proposed safety zone locations would not interfere with any known marinas or piers. The 9 proposed new safety zones and revisions to 33 CFR 165.151(a)(10) for the Mashantucket Pequot Fireworks Safety Zone are described below under the respective event. All coordinates are North American Datum 1983 (NAD 83).

Norwich July Fireworks

The proposed safety zone for the annual Norwich July Fireworks display encompasses all waters of the Thames River turning basin within a 600-foot radius of the fireworks barge in approximate position 41°31′20.9″ N, 072°04′45.9″ W, located off of Norwich, CT.

Town of Branford Fireworks

The proposed safety zone for the annual Town of Branford fireworks display encompasses all waters of Branford Harbor off of Branford Point within a 600-foot radius of the fireworks launch area located on Branford Point in approximate position 41°15′30″ N, 072°49′22″ W.

Vietnam Veterans Local 484; Town of East Haven Fireworks

The proposed safety zone for the annual Vietnam Veterans Local 484/ Town of East Haven fireworks display encompasses all waters of Long Island Sound off of Cosey Beach, East Haven, CT within a 1000-foot radius of the fireworks barge in approximate position 41°14′19″ N, 072°52′9.8″ W.

Westport Police Athletic League Fireworks

The proposed safety zone for the annual Westport Police Athletic League fireworks display encompasses all waters of Long Island Sound off Compo Beach, Westport, CT within a 800-foot radius of the fireworks barge in approximate position 41°09′2.5″ N, 073°20′1.1″ W.

Westbrook, CT July Celebration

The proposed safety zone for the annual Westbrook July Celebration fireworks display encompasses all waters of Westbrook Harbor, Westbrook, CT within a 800-foot radius of the fireworks barge located in approximate position 41°16′50″ N, 072°26′14″ W.

Norwalk Fireworks

The proposed safety zone for the annual Norwalk Fireworks display encompasses all waters of Long Island Sound off of Calf Pasture Beach in Norwalk, CT within a 1000-foot radius of the fireworks barge located in approximate position 40°05′10″ N, 073°23′20″ W.

Town of Stratford Fireworks

The proposed safety zone for the annual Town of Stratford fireworks display encompasses all waters of Long Island Sound of Long Island Sound off of Short Beach in Stratford, CT, within a 800-foot radius of the fireworks launch area located in approximate position 41°09′5″ N, 073°06′5″ W.

Old Black Point Beach Association Fireworks

The proposed safety zone for the annual Old Black Point Beach Association fireworks display encompasses all waters of Long Island Sound off of Old Black Point Beach in East Lyme, CT, within a 1000-foot radius of the fireworks launch area located on Old Black Point Beach at approximate position 41°17′34.9″ N, 072°12′55.6″ W.

Village of Asharoken Fireworks

The proposed safety zone for the annual Village of Asharoken Fireworks encompasses all waters of Northport Bay off of Asharoken Beach in Asharoken, NY within a 600-foot radius of the fireworks launch area located in approximate position 40°55′30″ N, 072°21′ W.

Mashantucket Pequot Fireworks

The proposed safety zone for the Mashantucket Pequot Fireworks includes all waters of the Thames River within 1200 feet of a fireworks barge located at 41°20′57.1″ N, 72°05′22.1″ W; and within 1000-feet of each of the fireworks barges located at 41°21′03.3″ N, 72°05′24.5″ W and 41°20′51.75″ N, 72°05′18.90″ W.

This rulemaking also proposes to change 33 CFR 165.151(b) and (c). These changes would clarify the marking requirements for fireworks barges, described below, and would include marking requirements for fireworks launches from land within the regulations.

Schedule

The Coast Guard does not know the specific annually recurring dates of these fireworks display safety zones. Coast Guard Group/MSO Long Island Sound or Coast Guard Group Moriches will give notice of the activation of each safety zone by all appropriate means to provide the widest publicity among the affected segments of the public. This will include publication in the Local Notice to Mariners. Marine information and facsimile broadcasts may also be made to notify the public regarding these events. Broadcast notice to mariners will begin 12 to 24 hours before the event is scheduled to begin. Fireworks barges used in the locations stated in this rulemaking will also have a sign on their port and starboard side labeled "FIREWORKS—STAY AWAY". This will provide on-scene notice that the safety zone the fireworks barge is located in will be activated on that day. This sign will consist of, at a minimum, 10″ high by 1.5″ wide red lettering on a white background. Displays launched from shore sites would have a sign labeled "FIREWORKS—STAY AWAY" with the same size requirements.

The enforcement period for each proposed safety zone is from 8 p.m. to 11 p.m. (e.s.t.). However, vessels may enter, remain in, or transit through these safety zones during this time frame if authorized by the Captain of the Port Long Island Sound, or designated Coast Guard patrol personnel on scene, as provided for in 33 CFR 165.23. Mariners may request permission to transit through these safety zones from the Captain of the Port Long Island Sound or his on-scene representative. On-scene representatives are commissioned, warrant, and petty officers of the U.S. Coast Guard.

This rule is being proposed to provide for the safety of life on navigable waters during the events.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This regulation may have some impact on the public, but the potential impact would be minimized for the following reasons: Vessels will only be restricted from the safety zone areas for a 3 hour period; vessels may transit in all portions of the affected waterways except for those areas covered by the proposed zones; the Coast Guard has promulgated either safety zones or special local regulations in accordance with 33 CFR part 100 for

fireworks displays at all 10 locations areas in the past and has not received notice of any negative impact caused by any of the safety zones or special local regulations. Additionally, advance notifications will also be made to the local maritime community by the Local Notice to Mariners well in advance of the events. Marine information and facsimile broadcasts may also be made.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: Commercial vessels wishing to transit, fish or anchor in the portions of the Thames River, Long Island Sound or Northport Bay covered by the proposed rule. For the reasons outlined in the Regulatory Evaluation section above, this rule would not have a significant impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT Andrea K. Logman, Waterways Management Officer or the Command Center at Coast Guard Group/Marine Safety Office Long Island Sound, CT, at (203) 468–4429 or (203) 468–4444 respectively.

Collection of Information

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

Federalism

We have analyzed this proposed rule under Executive Order 13132 and have determined that this rule would not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

The Coast Guard has considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1D, this proposed rule would be categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 100

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

33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

2. In the table for § 100.114(a), remove 6.4 and redesignate 6.5 and 6.6 as 6.4 and 6.5 respectively; and remove 7.38, 7.39, 7.41 and 7.42, and redesignate 7.40 as 7.38, and 7.43 through 7.51 as 7.39 through 7.47 respectively.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1225 and 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g). 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

4. Revise § 165.151(a)(10), add new § 165.151 (a)(18) to (26), and revise paragraph (b) to read as follows:

§ 165.151 Safety Zones; Long Island Sound annual fireworks displays.

(a) * * *

(10) *Mashantucket Pequot Fireworks Safety Zone.* All waters of the Thames River off of New London, CT, within a 1200-foot radius of a fireworks barge located in approximate position 41°20′57.1″ N, 72°05′22.1″ W; and within 1000 feet of fireworks barges located in approximate positions: barge one, 41°21′03.3″ N, 72°05′24.5″ W; and barge two, 41°20′51.75″ N, 72°05′18.90″ W.

* * * * *

(18) *Norwich July Fireworks Safety Zone.* All waters of the Thames River within a 600-foot radius of the fireworks launch area in approximate position 41°31′20.9″ N, 072°04′45.9″ W, located off of Norwich, CT.

(19) *Town of Branford Fireworks Safety Zone.* All waters of Branford Harbor off of Branford Point within a 600-foot radius of the fireworks launch area located on Branford Point in approximate position 41°15′30″ N, 072°49′22″ W.

(20) *Vietnam Veterans Local 484/ Town of East Haven Fireworks Safety Zone.* All waters of Long Island Sound off of Cosey Beach, East Haven, CT within a 1000-foot radius of the fireworks barge in approximate position 41°14′19″ N, 072°52′9.8″ W.

(21) *Westport Police Athletic League Fireworks Safety Zone.* All waters of Long Island Sound off Compo Beach, Westport, CT within a 800-foot radius of the fireworks barge in approximate position 41°09′2.5″ N, 073°20′1.1″ W.

(22) *Westbrook, CT July Celebration Safety Zone.* All waters of Westbrook Harbor in Long Island Sound within a 800-foot radius of the fireworks barge located in approximate position 41°16′50″ N, 072°26′14″ W.

(23) *Norwalk Fireworks Safety Zone.* All waters of Long Island Sound off of Calf Pasture Beach in Norwalk, CT within a 1000-foot radius of the fireworks barge located in approximate position 40°05′10″ N, 073°23′20″ W.

(24) *Town of Stratford Fireworks Safety Zone.* All waters of Long Island Sound of Long Island Sound off of Short Beach in Stratford, CT, within a 800-foot radius of the fireworks launch area located in approximate position 41°09′5″ N, 073°06′5″ W.

(25) *Old Black Point Beach Association Fireworks Safety Zone.* All waters of Long Island Sound off of Old Black Point Beach in East Lyme, CT, within a 1000-foot radius of the fireworks launch area located on Old Black Point Beach in approximate position 41°17′34.9″ N, 072°12′55.6″ W.

(26) *Village of Asharoken Fireworks Safety Zone.* All waters of Northport Bay off of Asharoken Beach in Asharoken, NY within a 600-foot radius of the fireworks launch area located in approximate position 40°55′30″ N, 072°21′ W.

(b) *Notification.* Coast Guard Group/ Marine Safety Office Long Island Sound and Coast Guard Group Moriches will cause notice of the activation of these safety zones to be made by all appropriate means to effect the widest publicity among the affected segments of the public, including publication in the local notice to mariners, marine information broadcasts, and facsimile. Fireworks barges used in these locations will also have a sign on their port and starboard side labeled "FIREWORKS—STAY AWAY". Displays launched from shore sites will have a sign labeled "FIREWORKS—STAY AWAY" with the same size requirements. The signs required by this section must consist of red letters at least 10 inches high, and 1.5 inch thick on a white background.

* * * * *

Dated: April 25, 2005.

Peter J. Boynton,

Captain, U. S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 05–8940 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–05–035]

RIN 1625–AA00

Safety Zone; Legal Seafood Firework Display Boston, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for the Legal Seafood Firework Display in Boston, Massachusetts. The safety zone would temporarily close all waters of Boston Harbor within a 400-yard radius of the fireworks barge, temporarily prohibiting entry into or movement within this portion of Boston Harbor. This safety zone is necessary to provide for the safety of life and property during a firework display.

DATES: Comments and related material must reach the Coast Guard on or before May 20, 2005.

ADDRESSES: You may mail comments and related materials to Sector Boston, 427 Commercial Street, Boston, MA. Sector Boston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket are part of docket CGD01–05–035 and are available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Paul English, Sector Boston, Waterways Safety and Response Division, at (617) 223–3010.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for the rulemaking (CGD01–05–035), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related materials in an unbound format, no larger than 8.5 by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We

may change this proposed rule in view of them.

If, as we anticipate we make this temporary final rule effective less than 30 days after publication in the **Federal Register**, we will explain in that publication, as required by 5 U.S.C. (d)(3), our good cause for doing so.

Public Meeting

We do not plan to hold a public meeting. But you may submit a request for a meeting by writing to Sector Boston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This rule proposes to establish a safety zone in Boston Harbor within a 400-yard radius of the fireworks barge located at approximate position 42°21.280′ N, 071°2.123′ W. The firework event is being sponsored by Legal Seafoods. The safety zone would be in effect from 9:30 p.m. until 10:30 p.m. on June 17, 2005.

The zone would temporarily restrict movement within this portion of Boston Harbor and is needed to protect the maritime public from the potential dangers posed by a fireworks display. Marine traffic may transit safely outside of the safety zone during the effective period. The Captain of the Port does not anticipate any negative impact on vessel traffic as a result of this event. Public notifications will be made prior to the effective period via safety marine information broadcasts and local notice to mariners.

Discussion of Proposed Rule

The safety zone will be in effect from 9:30 p.m. until 10:30 p.m. on June 17, 2005. Marine traffic may transit safely outside of the safety zone in the majority of Boston Harbor during the event.

Because of the limited time and because the zone leaves the majority of Boston Harbor open for navigation, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via Local Notice to Mariners and marine information broadcasts.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DHS is unnecessary. Although this rule will prevent traffic from transiting a portion of Boston Harbor during the effective periods, the effects of this rule will not be significant for several reasons: vessels will only be excluded from the area of the safety zone for 1 hour, vessels will be able to operate in the majority of Boston Harbor during this time, and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Small Entities

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

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

This proposed rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Boston Harbor from 9:30 p.m. to 10:30 p.m. on June 17, 2005.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only 1 hour, vessel traffic can safely pass around the safety zone, and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

Under figure 2–1, paragraph (34) (g), of the Instruction, an "Environmental Analysis Check List" is not required for the rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. From 9:30 p.m. until 10:30 p.m. on June 17, 2005, add temporary §165.T01–035 to read as follows:

165.T01–035 Safety Zone; Legal Seafood Fireworks Display Boston, Massachusetts.

(a) *Location.* The following area is a safety zone:

All waters of Boston Harbor within a 400-yard radius of the fireworks barge located at approximate position 42°21.280′ N, 071°2.123′ W.

(b) *Effective date.* This section is effective from 9:30 p.m. until 10:30 p.m. EDT on June 17, 2005.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: April 24, 2005.

James L. McDonald,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 05–8927 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

48 CFR Part 204

[DFARS Case 2003–D052]

Defense Federal Acquisition Regulation Supplement; Authorization for Continued Contracts

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add policy permitting assignment of an additional identification number to an existing contract for administrative purposes. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before July 5, 2005, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2003–D052, using any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Defense Acquisition Regulations Web site: *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. Follow the instructions for submitting comments.
- E-mail: *dfars@osd.mil*. Include DFARS Case 2003-D052 in the subject line of the message.
- Fax: (703) 602–0350.
- Mail: Defense Acquisition Regulations Council, Attn: Ms. Robin Schulze, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.
- Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

All comments received will be posted to *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dpap/dfars/transf.htm*.

This proposed rule is a result of the DFARS Transformation initiative. The

proposed DFARS changes permit DoD contracting activities to assign an additional identification number to an existing contract by issuing a separate "continued" contract, when continued performance under the existing contract number is not practical for administrative reasons. The continued contract would incorporate all prices, terms, and conditions of the predecessor contract. Use of this procedure is expected to be limited, but will help to simplify administration, payment, and closeout of lengthy, complex contracts; and will help in situations where a contracting activity has exhausted its assigned series of identification numbers for orders placed against another activity's contract.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the proposed change is administrative. A continued contract does not constitute a new procurement and will incorporate all prices, terms, and conditions of the predecessor contract. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D052.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 204

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR Part 204 as follows:

PART 204—ADMINISTRATIVE MATTERS

1. The authority citation for 48 CFR Part 204 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

2. Section 204.7001 is revised to read as follows:

204.7001 Policy.

(a) Use the uniform PII numbering system prescribed by this subpart for the solicitation/contract instruments described in 204.7003 and 204.7004.

(b) Retain the basic PII number unchanged for the life of the instrument unless the conditions in paragraph (c) of this section exist.

(c)(1) If continued performance under a contract number is not possible or is not in the Government's best interest solely for administrative reasons (e.g., when the supplementary PII serial numbering system is exhausted or for lengthy major systems contracts with multiple options), the contracting officer may assign an additional PII number by issuing a separate continued contract to permit continued contract performance.

(2) A continued contract—

(i) Does not constitute a new procurement;

(ii) Incorporates all prices, terms, and conditions of the predecessor contract effective at the time of issuance of the continued contract;

(iii) Operates as a separate contract independent of the predecessor contract once issued; and

(iv) Shall not evade competition, expand the scope of work, or extend the period of performance beyond that of the predecessor contract.

(3) When issuing a continued contract, the contracting officer shall—

(i) Issue an administrative modification to the predecessor contract to clearly state that—

(A) Any future awards provided for under the terms of the predecessor contract (*e.g.*, issuance of orders or exercise of options) will be accomplished under the continued contract; and

(B) Supplies and services already acquired under the predecessor contract shall remain solely under that contract for purposes of Government inspection, acceptance, payment, and closeout; and

(ii) Follow the procedures at PGI 204.7001(c).

[FR Doc. 05–9006 Filed 5–4–05; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 232

[DFARS Case 2003–D043]

Defense Federal Acquisition Regulation Supplement; Contract Financing

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to contract financing. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before July 5, 2005, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2003–D043, using any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Defense Acquisition Regulations Web Site: *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. Follow the instructions for submitting comments.
- E-mail: *dfars@osd.mil*. Include DFARS Case 2003-D043 in the subject line of the message.
- Fax: (703) 602–0350.
- Mail: Defense Acquisition Regulations Council, Attn: Mr. Bill Sain, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.
- Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

All comments received will be posted to *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Sain, (703) 602–0293.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR

requirements, and policies/procedures that have a significant impact beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dpap/dfars/transf.htm*.

This proposed rule is a result of the DFARS Transformation initiative. The proposed DFARS changes include—

- Relocation of text addressing general contract financing payment issues from 232.906 to 232.007.
- Deletion of unnecessary text at 232.071 on the composition and responsibilities of the DoD Contract Finance Committee, and deletion of references to the Committee at 232.070(a) and 232.617(a).
- Deletion of text at 232.108 on financial consultation, and deletion of text at 232.207 on specifying amounts to be charged to foreign military sales accounts in approvals of financing requests. These issues are adequately addressed in the FAR.
- Deletion of text at 232.206(d) on instructions for distribution of financing payments to multiple appropriations accounts. Text on this subject was proposed for inclusion in the new DFARS companion resource, Procedures, Guidance, and Information (PGI), in the proposed rule published at 69 FR 35564 on June 25, 2004, under DFARS Case 2003–D009, Payment and Billing Instructions.
- Amendment of 232.404(a)(9) to increase, from $500 to $2,500, the dollar value at or below which the requirements of FAR Subpart 32.4, Advance Payments for Non-Commercial Items, do not apply to high school and college publications for military recruitment efforts.
- Clarification of text at 232.501–3(b) on limitation of the Government's liability when the contract price exceeds the funds obligated under the contract.
- Deletion of unnecessary text at 232.605(b) regarding integrated accounting at DoD installations.
- Relocation of text on payment due dates, from 232.905(1) and (2), to 232.904 and 232.906, respectively.
- Deletion of unnecessary text at 232.905(f)(6) on electronic notification to the payment office of Government acceptance and approval. Electronic submission and processing of payment requests is addressed in Subpart 232.70.
- Addition of text at 232.906(a)(i) to address the requirement for contracting officers to insert the standard due date for interim payments on cost-reimbursement contracts for services.
- Deletion of unnecessary text at 232.1007 on specifying amounts to be charged to foreign military sales accounts.
- Deletion of text at DFARS 232.1108 on mandatory use of the Governmentwide commercial purchase card. This issue is addressed in 213.270.
- Deletion of informational and procedural text at 232.070(c), 232.409–1, 232.410, 232.501–2, 232.606, 232.610, 232.670, and 232.671. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at *http://www.acq.osd.mil/dpap/dars/pgi*.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule clarifies existing DFARS text or provides guidance for contracting officers. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D043.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 232

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 232 is proposed to be amended as follows:

PART 232—CONTRACT FINANCING

1. The authority citation for 48 CFR part 232 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR chapter 1.

2. Section 232.007 is added to read as follows:

232.007 Contract financing payments.

(a) DoD policy is to make contract financing payments as quickly as possible. Generally, the contracting officer shall insert the standard due dates of 7 days for progress payments, and 14 days for performance-based payments and interim payments on cost-type contracts, in the appropriate paragraphs of the respective payment clauses. However, for interim payments on cost-reimbursement contracts for services, see 232.906(a)(i).

(b) The contracting officer should coordinate contract financing payment terms with offices that will be involved in the payment process to ensure that specified terms can be met. Where justified, the contracting officer may insert a due date greater than, but not less than, the standard. In determining payment terms, consider—

(i) Geographical separation;

(ii) Workload;

(iii) Contractor ability to submit a proper request; and

(iv) Other factors that could affect timing of payment.

3. Section 232.070 is amended by revising paragraphs (a) and (c) to read as follows:

232.070 Responsibilities.

(a) The Director of Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) (OUSD(AT&L)DPAP) is responsible for ensuring uniform administration of DoD contract financing, including DoD contract financing policies and important related procedures. Agency discretion under FAR Part 32 is at the DoD level and is not delegated to the departments and agencies. Proposals by the departments and agencies, to exercise agency discretion, shall be submitted to OUSD(AT&L)DPAP.

* * * * *

(c) See PGI 232.070(c) for information on department/agency contract financing offices.

232.071 [Removed and Reserved]

4. Section 232.071 is removed and reserved.

232.108 [Removed]

5. Section 232.108 is removed.

232.206 [Amended]

6. Section 232.206 is amended by removing paragraph (d).

232.207 [Removed]

7. Section 232.207 is removed.

8. The heading of Subpart 232.4 is revised read as follows:

Subpart 232.4—Advance Payments for Non-Commercial Items

232.404 [Amended]

9. Section 232.404 is amended in paragraph (a)(9) by removing "$500" and adding in its place "$2,500."

10. Section 232.409–1 is revised to read as follows:

§ 232.409–1 Recommendation for approval.

Follow the procedures at PGI 232.409–1 for preparation of the documents required by FAR 32.409–1(e) and (f).

11. Section 232.410 is revised to read as follows:

§ 232.410 Findings, determination, and authorization.

If an advance payment procedure is used without a special bank account, follow the procedures at PGI 232.410.

12. Section 232.501–2 is revised to read as follows:

§ 232.501–2 Unusual progress payments.

Follow the procedures at PGI 232.501–2 for approval of unusual progress payments.

13. Section 232.501–3 is amended by revising paragraph (b) introductory text to read as follows:

232.501–3 Contract price.

(b) The contracting officer may approve progress payments when the contract price exceeds the funds obligated under the contract, provided the contract limits the Government's liability to the lesser of—

* * * * *

232.503–15 [Amended]

14. Section 232.503–15 is amended in paragraph (d) introductory text, in the first sentence, by removing "252.242–7004(f)(7)" and adding in its place "252.242–7004(e)(7)'.

232.605 [Amended]

15. Section 232.605 is amended in paragraph (b) by removing the second sentence.

16. Section 232.606 is revised to read as follows:

232.606 Debt determination and collection.

When transferring a case to the contract financing office, follow the procedures at PGI 232.606.

17. Section 232.610 is revised to read as follows:

232.610 Demand for payment of contract debt.

When issuing a demand for payment of a contract debt, follow the procedures at PGI 232.610.

232.616 [Amended]

18. Section 232.616 is amended by removing "(232.108(1))" and adding in its place "(see 232.070(c))'.

19. Section 232.617 is revised to read as follows:

232.617 Contract clause.

(a) The Director of Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics), may exempt the contracts in FAR 32.617(a)(2) through (5) and other contracts, in exceptional circumstances, from the administrative interest charges required by this subpart.

(7) Other exceptions are—

(A) Contracts for instructions of military or ROTC personnel at civilian schools, colleges, and universities;

(B) Basic agreements with telephone companies for communications services and facilities, and purchases under such agreements; and

(C) Transportation contracts with common carriers for common carrier services.

20. Section 232.670 is revised to read as follows:

232.670 Transfer of responsibility for debt collection.

Follow the procedures at PGI 232.670 for transferring responsibility for debt collection.

21. Section 232.671 is revised to read as follows:

232.671 Bankruptcy reporting.

Follow the procedures at PGI 232.671 for bankruptcy reporting.

22. Section 232.903 is revised to read as follows:

232.903 Responsibilities.

DoD policy is to assist small disadvantaged business concerns by paying them as quickly as possible after invoices are received and before normal payment due dates established in the contract (see 232.906(a)).

23. Section 232.904 is added to read as follows:

232.904 Determining payment due dates.

(d) In most cases, Government acceptance or approval can occur within the seven day constructive acceptance period specified in the FAR Prompt Payment clauses. Government payment of construction progress payments can, in most cases, be made within the 14 day period allowed by the Prompt Payment for Construction Contracts clause. While the contracting officer may specify a longer period because the period specified in the contract is not reasonable or practical, such change should be coordinated with the Government offices responsible for acceptance or approval and for payment. Reasons for specifying a longer period include but are not limited to: the nature of the work or supplies or services, inspection or testing requirements, shipping and acceptance terms, and resources available at the acceptance activity. A constructive acceptance period of less than the cited 7 or 14 days is not authorized.

232.905 [Removed]

24. Section 232.905 is removed.

25. Section 232.906 is revised to read as follows:

232.906 Making payments.

(a)(i) Generally, the contracting officer shall insert the standard due date of 14 days for interim payments on cost-reimbursement contracts for services in the clause at FAR 52.232–25, Prompt Payment, when using the clause with its Alternate I.

(ii) The restrictions of FAR 32.906 prohibiting early payment do not apply to invoice payments made to small disadvantaged business concerns. Contractors shall not, however, be entitled to interest penalties if invoice payments are not made before the normal payment due dates established in the contract.

232.1007 and 232.1108 [Removed]

26. Sections 232.1007 and 232.1108 are removed.

[FR Doc. 05–9004 Filed 5–4–05; 8:45 am]
BILLING CODE 5001–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 050421110–5110–01; I.D. 041505F]

RIN 0648–AT03

Pacific Halibut Fisheries; Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Community Development Quota Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes an amendment to the Pacific halibut regulations for waters in and off Alaska.

This proposed action modifies the Individual Fishing Quota (IFQ) Program and the Western Alaska Community Development Quota (CDQ) Program by allowing quota share holders in International Pacific Halibut Commission (IPHC) Regulatory Area (Area) 4C to fish their Area 4C IFQ in Area 4D. This proposed action is intended to enhance harvesting opportunities for halibut by IFQ and CDQ fishermen and is necessary to promote the objectives of the Northern Pacific Halibut Act of 1982 (Halibut Act) with respect to the IFQ and CDQ Pacific halibut fisheries, consistent with the regulations and resource management objectives of the IPHC.

DATES: Written comments must be received no later than June 6, 2005.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Lori Durall. 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: *4cd–0648–AT03@noaa.gov.* Include in the subject line of the e-mail the following document identifier: IFQ Halibut 4CD RIN 0648–AT03. E-mail comments, with or without attachments, are limited to 5 megabytes.
- Webform at the Federal eRulemaking Portal: *www.regulations.gov* Follow the instructions at that site for submitting comments.

Copies of the environmental assessment (EA), regulatory impact review (RIR), and initial regulatory flexibility analysis (IRFA) prepared for this action are available from NMFS at the above address or by calling the Sustainable Fisheries Division, Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Bubba Cook, 907–586–7425 or *bubba.cook@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background and Need for Action

Management of the Pacific halibut (*Hippoglossus stenolepis*) (halibut) fishery in and off Alaska is based on an international agreement between Canada and the United States. This agreement, titled the "Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea" (Convention), was signed at Ottawa, Canada on March 2, 1953, and was amended by the "Protocol Amending the Convention," signed at Washington, D.C., March 29, 1979. The Convention is implemented in the United States by the Halibut Act.

Generally, the IPHC develops halibut fishery management regulations pursuant to the Convention and submits those regulations to the U.S. Secretary of State for approval. NMFS publishes approved IPHC regulations in the **Federal Register** as annual management measures. NMFS published the IPHC's current annual management measures on February 25, 2005 (70 FR 9242).

The Halibut Act also authorizes the North Pacific Fishery Management Council (Council) to develop halibut fishery regulations in and off Alaska that are in addition to, but not in conflict with, the approved IPHC regulations (Halibut Act, section 773(c)). Regulations developed by the Council will be implemented only upon approval of the U.S. Secretary of Commerce (Secretary).

The IFQ and CDQ Fisheries

In December 1991, the Council adopted a limited access system for managing the halibut fishery in and off Alaska under authority of the Halibut Act. This limited access system included an IFQ Program for Areas 2C through 4D, and the CDQ program for Areas 4B through 4E. The Council designed the IFQ and CDQ Programs to allocate specific harvesting privileges among U.S. fishermen and eligible western Alaska communities to resolve management and conservation problems associated with "open access" fishery management, and to promote the development of fishery-based economic opportunities in western Alaska. Acting on behalf of the Secretary, NMFS initially implemented the IFQ and CDQ programs through regulations published in the **Federal Register** on November 9, 1993 (58 FR 59375). Fishing for halibut under these two programs began on March 15, 1995.

Each quota share (QS) represents a transferable harvest privilege, within specified limitations, which is converted annually into IFQ. Fishermen granted IFQs are authorized to harvest a specified amount of halibut in the Areas specified on an IFQ permit issued to the fishermen.

NMFS and the State of Alaska jointly manage the CDQ Program based on a program design developed by the Council. Currently, 65 communities are eligible to participate in the CDQ Program, representing about 27,000 western Alaska residents. These communities are located within 50 nautical miles of the Bering Sea coast or on an island in the Bering Sea and are predominantly populated by Alaska Natives. The eligible communities formed six non-profit corporations known as CDQ groups to manage and administer allocations, investments, and economic development projects.

Catch Sharing Plan (CSP) for Area 4

The CSP for Area 4 originally was developed by the Council to apportion the IPHC's halibut catch limit for Area 4 among Areas 4A, 4B, 4C, 4D, and 4E as necessary to carry out the socioeconomic objectives of the IFQ and CDQ programs. The Area 4 CSP was published in the **Federal Register** on March 20, 1996 (61 FR 11337) and implemented that same year.

NMFS subsequently modified the Area 4 CSP to remove Areas 4A and 4B from the CSP in 1998, to allow the catch limits for these two areas and a combined Area 4C-E to be set according to the IPHC's revised area specific biomass-based methodology. The IPHC considers Area 4A, Area 4B, and the combined Area 4C-E to have separate halibut populations for purposes of management. A complete description of the proposed revisions to the Area 4 CSP, catch limit apportionments, and geographical description of each subarea was published in the **Federal Register** on January 12, 1998 (63 FR 1812). These modifications were approved March 17, 1998 (63 FR 13000). Beginning in 1998, the IPHC has annually implemented the measures specified in the Area 4 CSP to apportion the combined Area 4C-E catch limit independently among Areas 4C, 4D, and 4E. The annual management measures addressing the Area 4C-E catch limit in 2005 were published on February 25, 2005 (70 FR 9242).

The IPHC assesses the halibut resource in Areas 4C-E as a single stock unit. The IPHC continues to use survey-based estimates scaled to adjoining areas for the combined Area 4C-E because the information needed for an analytical assessment is not available. In the past, the IPHC scaled the combined area to Area 3A because it represented the nearest area with an analytical estimate. Since the development of an analytical estimate for Area 4A in 2003, the IPHC now estimates the Area 4C-E biomass as 142 percent of the Area 4A biomass. The combined area quota is subsequently broken out by subarea according to the CSP.

Since its implementation in 1998, the CSP has been applied to the annual combined Area 4C-E catch limit established by the IPHC. A direct allocation of 80,000 lb (36.3 mt) is made to Area 4E in the revised CSP when the Area 4C-E catch limit is greater than 1,657,600 lb (751.9 mt). The purpose is

to provide CDQ fishermen in Area 4E with additional harvesting opportunity. The entire Area 4E catch limit is assigned to the CDQ reserve and subsequently allocated to qualifying CDQ groups. The remainder of the combined catch limit is allocated as 46.43 percent to Area 4C, 46.43 percent to Area 4D, and 7.14 percent to Area 4E.

Previous Revision of the CSP

In 1999, four CDQ groups with CDQ halibut fishing authority in Area 4D requested a regulatory change to allow CDQ halibut allocated to them in Area 4D to be harvested in Area 4E. The Council subsequently recommended a CSP change authorizing halibut CDQ issued in Area 4D to be harvested in Area 4E. In January 2002, the IPHC concurred in the Council's recommendation because it considers the halibut in Areas 4C, 4D, and 4E to be a single stock unit for management purposes. The Council based its recommendation on the fact that most of the communities in CDQ groups with only Area 4D halibut CDQ had to travel extended distances offshore to harvest Area 4D halibut CDQ or the quota had to be harvested by large, non-local vessels. In 2003, the CSP and the regulations were amended by the Secretary to allow only Area 4D QS holders to harvest their CDQ in Area 4E (68 FR 9902, March 3, 2003).

The Proposed Revision of the CSP

Halibut IFQ and CDQ fishermen in Area 4C have experienced a steady drop in catch rates since 1985. The drop is consistent among gear types and amounts to a decline in catch rates of greater than 70 percent over the past ten years. The reduced catch rates have consequently reduced the total harvest of halibut by IFQ and CDQ fishermen in Area 4C. During the 2003 fishing season, Area 4C fishermen landed just 42 percent of the total Area 4C IFQ halibut allocation compared to a statewide average of 97 percent for all Areas. Only 45 percent of the Area 4C CDQ halibut allocation was landed by 4C fishermen during the 2003 fishing season compared to an average of 94 percent in other CDQ areas. The declines in catch rates and consequent poor harvests have generated considerable concern among Area 4C community residents who depend heavily on the halibut resource to support their local economies.

Recent research conducted by the IPHC indicates localized depletion in Area 4C. Localized depletion results from concentrated fishing effort in a limited area that exceeds the sustainable level for fishing in that area. Although effort and catches of halibut have increased in Area 4C over the last 10 years, catch per unit effort (CPUE) has declined steadily since commercial fishing began. Catches increased because fishing effort increased, offsetting the decline in CPUE. IPHC research shows that a comparison of CPUE with effort indicates a continuous pattern of increasing effort and decreasing CPUE. The IPHC suggests that increased effort in Area 4C is unlikely to produce increased catch.

The commercial catch taken in Area 4C is highly concentrated around the two Pribilof Islands of St. Paul and St. George. For commercial catches between 1993 and 2004, with known latitude/longitude locations, approximately 73 percent of the Area 4C catch was taken within 18 nautical miles of St. Paul Island and 25 percent within 18 nautical miles of St. George Island. More importantly, much of the directed effort for the halibut fishery during the 1993–2004 time period occurred in relatively small areas south of the Pribilof Islands and were concentrated in the southwest corner of Area 4C. The IPHC notes that 46.43 percent of the entire Area 4C-E catch limit is allotted for only 5.1 percent of the total Area 4C-E fishing grounds located in Area 4C. The available fishing grounds in Area 4C consists of only 561 square nautical miles out of a total of 11,076 square nautical miles comprising Area 4C. The limited fishing grounds in Area 4C results in a concentrated fishing effort in a relatively small fishing area. The IPHC also notes that incidental catch of halibut in other fisheries has reduced recruitment and immigration into Area 4C, further exacerbating the localized depletion. The diminished harvests, limited fishing grounds, and reduced recruitment and immigration suggests a decrease in halibut abundance over time in Area 4C which results in a decreased CPUE. The IPHC recommends a reduction in effort in Area 4C to observe how the halibut biomass responds and further determine the productivity of stock.

Current regulations at 50 CFR 679.42(a)(1) prohibit harvesting halibut IFQ or CDQ in a regulatory area other than the area for which the quota is allocated. Halibut IFQ and CDQ allocated in a particular area may be harvested only in that same area, in accordance with biomass-based quotas, except that halibut CDQ allocated for Area 4D may be harvested in Area 4E. One solution for reducing fishing effort in Area 4C while continuing to allow Area 4C fishermen to fully harvest their IFQ or CDQ is to redistribute fishing effort from Area 4C to Area 4D.

The CSP assigns 46.43 percent of the combined 4C-E catch to Area 4D, which is an amount equal to that allocated to Area 4C. However, for the same percentage, Area 4D has approximately ten times more fishing grounds at 5,605 square nautical miles than Area 4C at 561 square nautical miles. Fishermen in Area 4D have harvested an average of 92 percent of the IFQ allocation for Area 4D over the past ten years, achieving 100 percent during 2003 and 2004. Fishermen also harvested an average of 89 percent of the Area 4D CDQ allocation over the past ten years, achieving 80 and 84 percent during 2003 and 2004, respectively. On average, Area 4D conducted only 32 percent of the IFQ landings that Area 4C conducted over the past ten years inferring that less effort was required to achieve the full harvest of the 4D IFQ halibut allocation. Likewise, CDQ landings of halibut from Area 4D were only 19 percent of those from Area 4C over the past ten years inferring that less effort was required to achieve the full harvest of the 4D CDQ harvest. Therefore, less effort was required to harvest the Area 4D IFQ and CDQ halibut allocation in Area 4D, indicating a higher CPUE in Area 4D.

Allowing Area 4C IFQ and CDQ holders to harvest their IFQ and CDQ in Area 4D would provide several benefits to Area 4C IFQ and CDQ holders including: (1) reducing fishing effort within Area 4C, thereby alleviating localized depletion; (2) increasing human health and safety in the small boat fleet that harvests halibut near St. Paul and St. George Islands by reducing competition with larger vessels that may harvest their IFQ in either Area 4C or 4D; and (3) increasing the geographic area available for harvesting Area 4C quota, thereby spreading out the fishing fleet. Furthermore, despite a potential increase in fishing effort in Area 4D resulting from the proposed action, the IPHC notes that the ratio of halibut harvest to available fishing grounds would remain much lower in Area 4D than in Area 4C. Therefore, the likelihood that the localized depletion problem in Area 4C would simply be transposed to Area 4D would remain low.

In December 2004, the Council recommended a regulatory amendment that would allow an Area 4C QS holder to harvest his or her IFQ and CDQ in Area 4D. The Council made its recommendation based on the diminishing harvests and the resulting decline of economic conditions in the Area 4C communities. In January 2005, the IPHC approved a regulatory change to the halibut annual management

measures that would allow the Council's recommendation to take effect in 2005 if it is approved by the Secretary.

This action proposes to change the Area 4 CSP and the IFQ and CDQ regulations to incorporate the Council's recommendation that Area 4C halibut IFQ or CDQ may be harvested either in Area 4C or in Area 4D. No changes are proposed, however, to the existing Area 4 CSP that apportions the combined Area 4C-E annual catch limit among Areas 4C, 4D, and 4E. The authority to allocate the annual Area 4 catch limit according to the Area 4 CSP is specified at 50 CFR 300.65(b) and will continue to be implemented by the IPHC in its annual management measures pursuant to 50 CFR 300.62. The following paragraph would be added to the Area 4 CSP:

An IFQ or CDQ holder with an allocation of Area 4C halibut IFQ and CDQ may harvest all or part of that allocation in Area 4D. This provision is based on the Council's recommendation in December 2004, to allow IFQ and CDQ fishermen in Area 4C additional halibut IFQ and CDQ harvesting opportunities. The framework that allocates the IPHC catch limits among Areas 4C, 4D, and 4E remains unchanged.

This change in the Area 4 CSP will complement regulatory changes at § 679.7(f)(4) and § 679.42(a)(1). If approved and implemented as proposed, fishermen who possess Area 4C IFQ or CDQ would receive a statement in accordance with § 679.40(c)(3) that would specify the maximum amount of Area 4C halibut that may be harvested in Area 4C or 4D. In the first year of implementation, however, this statement will be issued before the effective date of the proposed regulatory change and, therefore, would not include a reference to Area 4D. Therefore, proposed paragraph 679.42(a)(1)(i) would authorize harvest of Area 4C IFQ and CDQ in Area 4D during the 2005 fishing year. In subsequent years, however, the proposed change to the CSP, the proposed minor regulatory changes, and the permit statement would allow Area 4C QS holders to harvest their IFQ and CDQ in Area 4D.

This proposed rule would make a minor change to § 679.7(f)(4) which prohibits retaining IFQ halibut on a vessel in excess of the total amount of unharvested IFQ applicable to the IFQ regulatory area in which the vessel is deploying gear and that is simultaneously held by all IFQ holders on board. The total amount of IFQ or CDQ available to individual Area 4C IFQ or CDQ holders will not change as a result of this action. The proposed change would substitute the word "area(s)" for "area" and add "CDQ" to correspond with IFQ, clarifying that the total amount of unharvested IFQ or CDQ assigned to Area 4C may be harvested in either Area 4C or 4D. Therefore, an Area 4C IFQ or CDQ holder may harvest only the total amount of IFQ or CDQ halibut assigned to Area 4C in either Area 4C or 4D, but may not harvest the total amount assigned in both Areas 4C and 4D.

NMFS proposes to monitor each IFQ or CDQ holder's halibut catch in Areas 4C and 4D. If the catch in Area 4D exceeds the group's initial allocation for Area 4D, then NMFS will subtract this additional catch from the group's Area 4C allocation. Halibut IFQ or CDQ catch from Area 4C also will be subtracted from each IFQ or CDQ holder's Area 4C allocation. Any amount of halibut IFQ or CDQ catch in Area 4D that exceeds the 4D allocation and is subtracted from the Area 4C allocation will no longer be available for harvest in Area 4C. This procedure would allow each IFQ or CDQ holder to decide where to catch their Area 4C halibut IFQ or CDQ allocation without requiring transfers. Each IFQ or CDQ holder would have to monitor the harvest of Area 4C and 4D halibut IFQ or CDQ to ensure that: (1) its total catch in Area 4C does not exceed its Area 4C allocation, minus any portion of its Area 4C quota harvested in Area 4D, (2) its total catch in Area 4D does not exceed the sum of its Area 4C and Area 4D allocations, minus any portion of its Area 4C allocation harvested in Area 4C, and (3) its total catch in Areas 4C and 4D does not exceed the sum of its Area 4C and Area 4D allocations.

Although CDQ assigned to Area 4D QS currently may be harvested in Area 4E, this proposed action would not allow CDQ assigned to Area 4C to be harvested in Area 4E. The current prohibition against harvesting halibut IFQ and CDQ in an area different from the area to which it is assigned will remain effective, except that halibut CDQ assigned to Area 4D may be harvested in Area 4E. If the Secretary approves this action, a second exception to the prohibition would allow Area 4C IFQ or CDQ holders to fish their IFQ and CDQ in Area 4C or 4D, but this action would not authorize Area 4C CDQ holders to fish their CDQ in Area 4E.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council recommended this action to the Secretary for adoption pursuant to its authority under the Halibut Act. An RIR/IRFA for the proposed revisions to the Area 4 CSP and regulatory amendment describes the management background, the purpose and need for action, the management alternatives, and the socioeconomic impacts of the alternatives (see **ADDRESSES**).

The IRFA prepared for this action assesses potential impacts on small entities for purposes of the Regulatory Flexibility Act (RFA). The Council reviewed two alternatives, a "no action" alternative and a preferred alternative to allow Area 4C QS holders to harvest their IFQ and CDQ in Area 4D subject to review after the third year of implementation. The no action alternative limits the opportunities of Area 4C QS holders to harvest their halibut allocations. The preferred alternative would allow an exception for Area 4C to the rule that requires all QS to be harvested in the area to which it is assigned.

The objective of the proposed action is to increase opportunities of Area 4C QS holders to harvest their halibut allocations. The legal basis for the proposed action is explained in the preamble of this proposed rule. In summary; NMFS manages the North Pacific halibut fisheries of the Bering Sea in Convention waters under the authority of the Northern Pacific Halibut Management Act. Regulations at 50 CFR 300.60 through 300.65 govern the Pacific halibut fishery in the waters of the U.S. The annual Pacific halibut management measures for 2005 were published in the **Federal Register** on February 25, 2005 (70 FR 9242).

The proposed action would partially relieve the restriction limiting harvests of Pacific halibut IFQ and CDQ to the IPHC regulatory area to which it is assigned. The entities regulated by this action are those entities that are authorized to harvest halibut in Areas 4C and 4D. These entities include six CDQ groups, and the owners and operators of longline catcher vessels and catcher/processor vessels in these areas who hold halibut IFQ or CDQ.

The alternatives addressed in the IRFA may directly affect all six CDQ groups, which represent 65 western Alaska communities with a total 2000 population of over 27,000, which receive halibut CDQ in halibut Areas 4C and 63 persons who held more than 4 million QS units in Area 4C in 2004. There are 23 Category D vessels fishing halibut IFQs in Area 4C. Some fishermen have expressed interest in purchasing larger vessels to fish their category D QS. Other fishermen may hire Category C or B vessels to fish their Category D QS because of bad weather and safety reason. The halibut fleet in

Area 4C is larger and more diverse than in Area 4D, which is comprised of mostly larger vessels.

Two CDQ groups hold Area 4C QS/CDQ. People in these communities benefit from the halibut CDQ and IFQ fisheries directly and indirectly. Some residents earn income from participating in the CDQ fishery, either by harvesting or processing halibut, which provides a direct effect on both the economic health of the individuals and their communities. Some residents earn income from participating in the CDQ fishery, which economically benefits the individuals and their communities through jobs harvesting and processing halibut.

As of November 2004, there are 63 persons holding QS in Area 4C. In 2002, 24 unique vessels made IFQ halibut landings in Area 4C. Reported ex-vessel price helps describe the small entities regulated by this action. NMFS publishes annually "standard prices" for halibut and sablefish that estimate the ex-vessel prices received by IFQ fishermen for their harvests. NMFS uses these prices for calculating permit holder cost recovery fee liabilities. In 2003, these price data suggest that the price of halibut might have been about $2.92 per pound for headed and gutted halibut (December 22, 2003, 68 FR 71036). This harvest limit and price imply maximum vessel revenues of less than $1,000,000 for halibut. Thus, no vessel subject to these restrictions could have been used to land the maximum gross revenue threshold for a "small" catcher vessel established under RFA rules, which is more than $3,000,000 worth of halibut in 2003. Therefore all halibut vessels may be assumed to be small entities, for purposes of the IRFA. These estimates are likely to overestimate the numbers of small entities because they do not take account of income that might have been earned by the vessel in other fisheries or activities, and they do not take account of vessel affiliations. NMFS has defined all halibut vessels as small businesses for the purpose of regulatory flexibility analysis.

Impacts on regulated small entities resulting from the proposed action appear to be positive. Qualitatively, the preferred alternative is likely to increase the amount of halibut harvested from the recent low levels up to the total catch limit specified for Area 4C. Any increase in harvest would have a positive economic impact on participating small entities. However, it is not possible to quantitatively estimate magnitudes of these impacts at this time.

This proposed action does not impose new recordkeeping or reporting requirements on the regulated small entities. Additionally, this proposed action does not duplicate, overlap, or conflict with any other Federal rules. The alternatives described for this proposed action are not expected to result in adverse impacts on directly regulated small entities.

List of Subjects in 50 CFR Part 679

Alaska, Determinations and appeals, Fisheries, Recordkeeping and reporting requirements.

Dated: April 29, 2005.

John Oliver

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq;* 1851 note; 3631 *et seq.*

2. In § 679.7, paragraph (f)(4) is revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(f) * * *

(4) Except as provided in § 679.40(d), retain IFQ or CDQ halibut or IFQ or CDQ sablefish on a vessel in excess of the total amount of unharvested IFQ or CDQ, applicable to the vessel category and IFQ or CDQ regulatory area(s) in which the vessel is deploying fixed gear, and that is currently held by all IFQ or CDQ card holders aboard the vessel, unless the vessel has an observer aboard under subpart E of this part and maintains the applicable daily fishing log prescribed in the annual management measures published in the **Federal Register** pursuant to 50 CFR 300.62 and § 679.5.

* * * * *

3. In § 679.42, paragraph (a)(1) is revised to read as follows:

§ 679.42 Limitations on use of QS and IFQ.

(a) * * *

(1) The QS or IFQ specified for one IFQ regulatory area must not be used in a different IFQ regulatory area, except:

(i) Notwithstanding § 679.4(d)(1), §§ 679.7(f)(4) and (f)(11), §§ 679.40(b)(1), (c)(3), and (e), from [EFFECTIVE DATE OF FINAL RULE] to November 15, 2005, all or part of the QS and IFQ specified for regulatory area 4C may be harvested in either Area 4C or Area 4D.

(ii) For the year 2006 and subsequent annual IFQ fishing seasons, all or part of the QS and IFQ specified for regulatory area 4C may be harvested in either Area 4C or Area 4D.

* * * * *

[FR Doc. 05–9003 Filed 5–4–05; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 70, No. 86
Thursday, May 5, 2005

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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Board for International Food and Agricultural Development; One Hundred and Forty-Fourth Meeting; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the one hundred and forty-fourth meeting of the Board for International Food and Agricultural Development (BIFAD). The meeting will be held from 8:30 a.m. to 1 p.m. on May 19th, 2005 at the National Association of State Universities and Land Grant Colleges (NASULGC), 1307 New York Avenue, NW., Washington, DC (13th & H St.)

The BIFAD will address an agenda focusing on Agriculture Development in Afghanistan, including poppy control initiatives, a progress report on horticultural assessments recently held in Africa, Latin America and the Middle East, discussion of the merits of establishing a CRSP Board, issues of visa issuance for international trainees, long term training, and other items of general interest.

The meeting is free and open to the public. Those wishing to attend the meeting or obtain additional information about BIFAD should contact John Swanson, the Designated Federal Officer for BIFAD. Write him in care of the U.S. Agency for International Development, Ronald Reagan Building, Office of Agriculture and Food Security, 1300 Pennsylvania Avenue, NW., Room 2.11–06, Washington DC, 20523–2110 or telephone him at (202) 712–5602 or fax (202) 216–3010.

John Swanson,

USAID Designated Federal Officer for BIFAD, Office of Agriculture and Food Security, Bureau for Economic Growth, Agriculture & Trade.

[FR Doc. 05–8943 Filed 5–4–05; 8:45 am]

BILLING CODE 6116–01–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Advisory Committee on Voluntary Foreign Aid; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: Wednesday, May 25, 2005 (9 a.m. to 4:30 p.m.).

Location: The National Press Club, 529 14th Street, NW., Washington, DC 20045.

The meeting will open with a keynote address by USAID Administrator Andrew Natsios. He will discuss democratic governance and civil society.

Following the Administrator's presentation, James Smith, Acting Assistant Administrator for USAID's Bureau for Economic Growth, Agriculture and Trade will present the agency's new education strategy followed by a panel discussion with Stephen Moseley, President of the Academy for Educational Development and John Grayzel, Director of the Office of Education in USAID's Bureau for Economic Growth, Agriculture and Trade.

Following lunch, participants will be invited to attend concurrent panel sessions on either USAID's Arab and Muslim outreach strategy or tsunami relief and reconstruction. Panelists include Samah Alrayyes with USAID's Bureau for Legislative and Public Affairs, Nancy Aossey, President and CEO of International Medical Corps, Ken Isaacs, Director of USAID's Office of Foreign Disaster Assistance, Iqbal Noor Ali, CEO of the Aga Khan Foundation USA, Michael Nyenhuis, President of MAP International, Ann Phillips with USAID's Bureau for Policy and Program Coordination and Mark Ward, Deputy Assistant Administrator for the Bureau for Asia and the Near East. Following the panel sessions, participants will reconvene for recommendations and a final wrap-up. Participants will have an opportunity to ask questions of the speakers and participate in the discussion.

The meeting is free and open to the public. Persons wishing to attend the meeting can register online at *http://www.usaid.gov/about_usaid/acvfa* or e-mail their name to Barbara Underwood at *barbara@websterconsulting.com* or Jocelyn Rowe at *jrowe@usaid.gov.*

Dated: April 29, 2005.

Jocelyn M. Rowe,

Executive Director, Advisory Committee on Voluntary Foreign Aid (ACVFA), U.S. Agency for International Development.

[FR Doc. 05–8942 Filed 5–4–05; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of Appointment to the Advisory Committee on Biotechnology and 21st Century Agriculture

AGENCY: Agricultural Research Service.

ACTION: Notice of appointment to the Advisory Committee on Biotechnology and 21st Century Agriculture.

SUMMARY: The Office of the Secretary of Agriculture announces members appointed to fill 9 vacancies on the Advisory Committee on Biotechnology and 21st Century Agriculture (AC21), in accordance with the Federal Advisory Committee Act. Those appointed are as follows: Richard Crowder, President and Chief Executive Officer, American Seed Trade Association, in Alexandria, Virginia; Duane Grant, Farmer, in Rupert, Idaho; Robert Herdt, Adjunct International Professor of Applied Economics and Management, Cornell University, in Ithaca, New York; Josephine Hunt, Program Manager, Global Science and Regulatory Affairs, Kraft Foods, in Glenview, Illinois; Gregory Jaffe, Director, Biotechnology Project, Center for Science in the Public Interest, in Washington, DC; Patricia Layton, Professor, Department of Forestry and Natural Resources, Clemson University, in Clemson, South Carolina (AC21 Chair); Bradley Shurdut, Global Leader, Government Relations, Regulatory Affairs, and Science Policy, Dow AgroSciences LLC, in Washington, DC; Alison Van Eenennaam, Cooperative Extension Specialist, Department of Animal Science, University of California in Davis, California; and Lisa Zannoni, Director, Global Regulatory Affairs and Government Relations, BASF Corporation, in Research Triangle Park, North Carolina.

DATES: Appointments by the Secretary are for a two-year term, effective April 12, 2005 until April 11, 2007.

FOR FURTHER INFORMATION CONTACT: Michael Schechtman, Designated Federal Official, Office of the Deputy Secretary, USDA, Telephone (202) 720–3817; Fax (202) 690–4265; E-mail *mschechtman@ars.usda.gov*.

SUPPLEMENTARY INFORMATION: The members of the committee cover a broad range of agricultural disciplines and interests. The duties of the committee are solely advisory. The AC21 is charged with examining the long-term impacts of biotechnology on the U.S. food and agriculture system and USDA, and providing guidance to USDA on pressing individual issues, identified by the Office of the Secretary, related to the application of biotechnology in agriculture.

The AC21 was first appointed in February 2003 and at the time half of the appointments were for a one-year term and half for a two-year term. Due to the staggered appointments, the terms for 9 of the 18 members expired on February 12, 2005. Members of the AC21 may be reappointed by the Secretary of Agriculture but no member may serve more than six consecutive years. Members serve without pay, but with reimbursement of travel expenses and per diem for attendance at AC21 and subcommittee functions for those committee members who require assistance in order to attend the meetings.

Dated: April 29, 2005.

Bernice Slutsky,

Special Assistant to the Secretary for Biotechnology.

[FR Doc. 05–8978 Filed 5–4–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service (ARS), intends to grant to CoBatCo Inc. of Peoria, Illinois, an exclusive license to U.S. Patent No. 5,676,994, "Non-Separable Starch-Oil Compositions," issued on October 14, 1997 and to U.S. Patent No. 5,882,713, "Non-Separable Compositions of Starch and Water-Immiscible Organic Materials," issued on March 16, 1999, for all animal food and feed applications, including but not limited to livestock feed and pet food. ARS also intends to grant to CoBatCo Inc. a license for all human food ingredient and food product applications. This is the third license granted by ARS for these inventions in this field of use. ARS intends to grant no additional licenses in this field of use. U.S. Patent No. 5,676,994 is a continuation of U.S. Patent Application Serial No. 08/233,173, and U.S. Patent No. 5,882,713 is a continuation-in-part of U.S. Patent Application Serial No. 08/233,173. Notice of Availability for U.S. Patent Application Serial No. 08/233,173 was published in the **Federal Register** on October 24, 1994.

DATES: Comments must be received within thirty (30) calendar days of the date of publication of this notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention since CoBatCo Inc. has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Martha Steinbock,

Deputy Assistant Administrator.

[FR Doc. 05–8985 Filed 5–4–05; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Child and Adult Care Food Program: Permanent Agreements for Day Care Home Providers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Nutrition Service (FNS) intention to request Office of Management and Budget (OMB) review of the information collection related to the Child and Adult Care Food Program, including adjustments to be made as a result of the final rule entitled Child and Adult Care Food Program: Permanent Agreements for Day Care Home Providers.

DATES: To be assured of consideration, comments must be received by July 5, 2005.

ADDRESSES: Send comments and requests for copies of this information collection to: Mr. Keith Churchill, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 636, Alexandria, Virginia 22302. Comments will also be accepted via E-Mail submission if sent to *cndproposal@fns.usda.gov*.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of 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.

All responses to this Notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Mr. Keith Churchill, (703) 305–2590.

SUPPLEMENTARY INFORMATION:

Title: Child and Adult Care Food Program Regulations.

OMB Number: 0584–0055.

Expiration Date: June 30, 2007.

Type of Request: Revision of a currently approved collection.

Abstract: The Rule amends the Child and Adult Care Food Program (CACFP) regulations to implement section 119(d)(1) of the Child Nutrition and WIC Reauthorization Act of 2004, Public Law 108–265, which stipulates that the agreement between a sponsoring organization and family or group day care home participating in the CACFP is permanent and remains in effect until terminated by either party. This change, which was effective on June 30, 2004, will reduce the administrative workload and paperwork burden of sponsoring organizations, by eliminating the periodic renewal of agreements with their family or group day care homes.

Estimate of Burden: There are currently 966 day care home sponsors in CACFP affected by this .083 reduction in burden hours. The provisions of 7 CFR 226.15(e) reduces the burden for the 966 sponsors of family day care homes. However, the provisions of 7 CFR 226.15(e) do not apply to the remaining 19,615 independent centers and sponsors of day care centers. Those 19,615 centers and sponsors still incur 6.083 hours of burden. Therefore, there is a decrease of 80 hours in the annual burden.

Number of Respondents: 2,980,467 respondents.

Average Number of Responses per Respondent: 2.21 response/respondent.

Total Annual Responses: 6,614,371 responses.

Estimated Time per Response: .87 hour.

Total Annual Burden on Respondents: 5,781,950 burden hours.

Dated: April 26, 2005.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 05–8909 Filed 5–4–05; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Mills Creek—Iditarod Trail Hut-to-Hut System Project on the Chugach National Forest, Kenai Peninsula Borough, AK

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service will prepare an Environmental Impact Statement (EIS) on a proposal from the Alaska Mountain and Wilderness Alaska Huts (Alaska Huts) to construct a backcountry hut-to-hut system traversing over 28 miles of trail and existing road. Approximately 16 new miles of trail would be constructed with this project. The majority of all components of this project will occur on Chugach National Forest land in the Kenai Peninsula Borough.

DATES: Comments concerning the scope of the analysis must be received by June 6, 2005.

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review during the winter of 2005/2006. At that time, EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. The Final EIS is scheduled to be completed in the summer of 2006.

ADDRESSES: Address all comments concerning this notice to the Chugach National Forest, ATTN: Hut-to-Hut, PO Box 390, Seward, AK 99664. E-mail comments may be sent to: *comments-alaska-chugach@fs.fed.us* [Subject: Hut-to-Hut].

FOR FURTHER INFORMATION CONTACT: Karen Kromrey, Seward Ranger District Public Services Staff, Chugach National Forest, (907) 224–4105.

SUPPLEMENTARY INFORMATION: The information presented in this notice is included to help the reviewer determine if they are interested in or potentially affected by the proposed action.

Background

Over the past seven years the Alaska Mountain and Wilderness Huts Association, a non profit organization, has expressed interest to the Chugach National Forest to establish a remote system of huts for skiing and hiking in the backcountry. Through the development of the Forest Plan a hut-to-hut system was determined to be desirable and incorporated into management area direction. In June 2002 the Chugach National Forest received a formal proposal from the Alaska Mountain and Wilderness Huts Association (Alaska Huts) requesting the issuance of a long term special use permit authorizing them to construct and operate four backcountry huts in the Ptarmigan Lake and Snow River drainage areas on the Kenai Peninsula. The Forest Service reviewed their proposal and through public involvement and the special uses screening process their proposed areas were eliminated from consideration. The Alaska Huts submitted a revised proposal for a hut-to-hut system in the Mills Creek-Johnson Pass Trail-Center Creek areas, also on the Kenai Peninsula. The Forest accepted this proposal in November 2004.

Purpose and Need for Action

The Chugach National Forest Revised Land and Resource Management Plan (RFP) identified Recreational Opportunities, Access and Facilities as one of the major areas of emphasis to be accomplished through implementation of the RFP (RFP pgs 3–1, 3–7 to 3–9). This includes a wide range of diverse, quality, recreational opportunities including the need to better disperse recreational capacity be developing new facilities and trails in response to user demands. In addition, the RFP identified the need to provide recreation opportunities for interpretation and education through a variety of means both on and off the Forest (RFP pgs 3–8 to 3–9).

The purpose and need for this project is to:

1. *Provide additional remote recreational use facilities (huts) and trails that would extend the ability of the Kenai Peninsula to accommodate increased recreation use by drawing users away from the established road system, without diminishing the area's natural quality.* There is a need to provide more recreational capacity to meet the increase demand for developed recreational facilitates for both summer and winter uses; provide new trails into undeveloped areas on the Kenai Peninsula to encourage recreation use away from the heavy concentrated use areas; and allow longer winter recreation trips to occur.

2. *Provide opportunities for interpretation and education as related to forest resources in the Mills Creek, Stormy Pass, Ohio Creek, and Center Creek areas.* There is a need to provide backcountry recreation users information, resource interpretation, and education about the histories about the Mills Creek, Stormy Pass, and Center Creek areas. Having overnight campers concentrated at designated huts provides the opportunity to reach users with interpretative and educational messages. In addition, Outfitted and Guided hikes into the huts would provide additional education about the natural resources of the area.

3. *Provide a viable, high quality and unique recreation experience.* There is a need to provide the permitted operator with a long-term (20-year) permit so the proponent can make the investment and business decisions needed to provide a

viable, high quality, and unique recreation experience.

Proposed Action

The Chugach National Forest proposes to allow a permitee to construct a backcountry hut-to-hut system traversing over 28 miles of trail and roads between Mills Creek via Stormy Pass to Johnson Pass to Center Creek and east to Center Creek Pass. There would be approximately 16 miles of new trail constructed with this project. The new trails would be designated non-motorized use year-round. The portion of Johnson Pass Trail that is within the project boundary would remain open to motorized use during the winter season. The four backcountry huts would be strategically placed 5–8 miles apart allowing visitors to travel between huts at a comfortable pace, even in unfavorable weather conditions. Where feasible, each hut would be placed off the main trail system via a spur trail. An emergency shelter is also proposed on Stormy Creek Pass to provide shelter during inclement weather.

The hut facilities would be owned and operated by a third party under special use authorization. Each hut would accommodate a maximum of 20 guests per night. Other facilities associated with each hut would include a heating source for warmth (combination of wood, heating oil or propane); propane for cooking and some lights; solar panel for lighting; toilet facilities (composting and/or pit/vault); communal fire ring; water; grey water system; foot paths; and up to four outbuildings to provide storage for firewood, propane, heating oil, food; sauna; and toilet facilities. In addition, there maybe up to four tent platforms located near the hut to allow outdoor sleeping.

The area immediately surrounding each hut, other facilities, and associated activities is called the Concentrated Use Area (CUA). Each CUA would impact an area approximately 1.5 acres. Efforts would be made to minimize the removal of trees and other vegetation. In addition to the hut related facilities, a helicopter landing site would be needed solely for supply restocking purposes and may affect up to 0.2 acres of vegetation. The helicopter landing site may not be within the CUA.

Operations of all the huts would offer a combination of both full service and self-service accommodations. Full service accommodations include hut keepers on site answering questions and preparing meals at breakfast and dinner times. In addition, beverages and trail lunches would also be provided. Self-service would provide accommodations for hikers to use sleeping areas, pots and pans, cooking utensils, etc. Hikers would be expected to bring their own food and beverages with them. Both systems would require reservations.

All four huts would be re-stocked using a combination of fixed wing and helicopters. The major re-supply events would occur during February, April/May, and October. A maximum of 15 round trip flights per year per hut for re-supply would occur. Each re-supply event would occur over a period of one–two days. Depending on maintenance requirements, an additional six flights per year may be necessary. These flights would need to be approved in advance. Staging areas for re-supply would be Seward Highway milepost 48.8 gravel pit, the Granite Creek gravel pit (MP 62), the Spencer gravel pit along the railroad, and possibly a site near the intersection of Portage Glacier Hwy. and Seward Hwy. Summer supply needs would be hiked, biked, or flown in via fixed wing. Fixed wing flights (using tundra tires or floats) are unrestricted by the RFP and would not entail or necessitate airstrip development.

To protect resources near each hut a Resource Protection Area (RPA) would be identified based on topography and or trail location. The PRA's are designed to protect resources that surround the huts from over use, possible contamination of the water sources, hut user safety, and the back country hut recreation experience. The RPA's also make the management of the area easier for the special use permittee to maintain the area and manage the facilities. Within the RPA's there would be some restrictions that may include the discharge of firearms, use of pack animals, hunting, motorized use, dogs, etc.

Construction of each hut would occur off-site on non-National Forest System lands closer to population centers. One or more of the huts would be constructed from timber harvested off-site from the Forest. Additional helicopter flights of 2–3 days would occur to transport all building materials to each hut site. Up to a 30 foot diameter yurt would be placed at each hut to provide shelter for construction workers. The yurts would be removed once the huts and associated facilities are operational.

Five to six new bridges would be needed on the new trail segments. Each bridge would be approximately 40–60 feet long crossing various streams. This would result in two helicopter trips per bridge to deliver building materials. New trail and bridge construction would be phased in with the construction of the applicable hut the trail is accessing.

Preliminary Issues

Listed below are possible issues that may be related to this project, but are not limited to:

- Impacts to the natural processes of the Mills Creek, Stormy Pass, Ohio Creek, and Center Creek areas (Center Creek Valley and Pass).
- Impacts to the mountain goats and Dall sheep.
- Avalanche dangers to winter recreation users and hut facilities.
- Impacts to anadromous streams in the project area.
- Impacts to visual due to placement of developed facilities in the backcountry.
- Conflicts with other recreation users and changes in recreation experience at hut locations.

Responsible Official

The Forest Supervisor, Chugach National Forest, is the Responsible Official. The address is Chugach National Forest Supervisor's Office, 3301 C Street, Anchorage, AK 99503.

Nature of Decision To Be Made

The Forest Supervisor, as Responsible Official, may decide to: (1) Select the proposed action, (2) select one of the alternatives, (3) select one of the alternatives after modifying the alternative with additional mitigating measures or combinations of activities from other alternatives, or (4) select the no action alternative and take no action at this time.

Comment Requested

The Forest Service would like to know of any issues, concerns, and suggestions you may have about this proposal. Comments should be as fully formed as possible to assist us in the analysis. If you have any questions, or if something is unclear, contact Karen Kromrey at 907.224.4105 before submitting your comments. Although comments are welcome at any time, they will be most effective if received by June 6, 2005.

Send comments to: Chugach National Forest, ATTN: Hut-to-Hut, 344 4th Ave., P.O. Box 390, Seward, AK 99664.

Alternately, e-mail your comments to: *comments-alaska-chugach@fs.fed.us* [Subject: Hut-to-Hut].

Public Meetings

Below are the public meeting dates and locations for our scoping meetings:

May 23, 2005

5 p.m.–8 p.m. UAA-Commons Room 106, Anchorage, AK.

5 p.m.–8 p.m. Edgewater Hotel, 5th & Railroad Ave., Seward, AK 99664.

May 24, 2005

6 p.m.–8 p.m. Moose Pass School, Moose Pass, AK 99631.
7 p.m.–9 p.m. Community Hall, Girdwood, AK 99587.

May 25, 2005

5 p.m.–8 p.m. Community Hall, Cooper Landing, AK 99572.

June 1, 2005

5 p.m.–8 p.m. Soldotna Sports Center, Soldotna, AK 99669.

Authorization: National Environmental Policy Act of 1969 as amended (42 U.S.C. 4321–4346); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); U.S. Department of Agriculture NEPA Policies and Procedures (7 CFR part 1b).

Reviewer's Obligation: The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wisc. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at the time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21).

Dated: April 27, 2005.

Joe L. Meade,

Forest Supervisor, Chugach National Forest.

[FR Doc. 05–8880 Filed 5–4–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Tehama County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tehama County Resource Advisory Committee (RAC) will meet in Red Bluff, California. Agenda items to be covered include: (1) Introductions, (2) Approval of Minutes, (3) Public Comment, (4) Status of Funded Projects, (5) Report on Reno Trip, (6) General Discussion, (7) County Update, (8) Next Agenda.

DATES: The meeting will be held on May 12, 2005 from 9 a.m. and end at approximately 12 p.m.

ADDRESSES: The meeting will be held at the Lincoln Street School, Conference Room A, 1135 Lincoln Street, Red Bluff, CA. Individuals wishing to speak or propose agenda items must send their names and proposals to Jim Giachino, DFO, 825 N. Humboldt Ave., Willows, CA 95988.

FOR FURTHER INFORMATION CONTACT: Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, PO Box 164, Elk Creek, CA 95939. (530) 968–5329; e-mail *ggaddini@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by May 10, 2005 will have the opportunity to address the committee at those sessions.

Dated: April 28, 2005.

Jim Barry,

Acting Designated Federal Official.

[FR Doc. 05–8914 Filed 5–4–05; 8:45 am]

BILLING CODE 3410–4–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Seek Approval To Revise and Extend an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intention of the National Agricultural Statistics Service (NASS) to seek approval to revise and extend a currently approved information collection, the Field Crops Objective Yield Surveys.

DATES: Comments on this notice must be received by July 5, 2005, to be assured of consideration.

ADDRESSES: Comments may be mailed to Ginny McBride, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250 or sent electronically to *gmcbride@nass.usda.gov* or faxed to (202) 720–6396.

FOR FURTHER INFORMATION CONTACT: Carol House, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Field Crops Objective Yield.

OMB Control Number: 0535–0088.

Expiration Date of Approval: October 31, 2005.

Type of Request: Intent to revise and extend a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition. The Field Crops Objective Yield Surveys objectively predict yields for corn, cotton, potatoes, soybeans, and wheat. Sample fields are randomly selected for these crops, plots are laid out, and

periodic counts and measurements are taken and then used to forecast production during the growing season. Production forecasts are published in USDA Crop Production reports. The Field Crops Objective Yield Surveys have approval from OMB for a 3-year period; NASS intends to request that the surveys be approved for another 3 years.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 24 minutes.

Respondents: Farms.

Estimated Number of Respondents: 8,555.

Estimated Total Annual Burden on Respondents: 3,422 hours.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of 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.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, March 24, 2005.

Carol House,

Associate Administrator.

[FR Doc. 05–8979 Filed 5–2–05; 2:34 pm]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Seek Approval To Revise and Extend an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intention of the National Agricultural Statistics Service (NASS) to seek approval to revise and extend a currently approved information collection, the Egg, Chicken, and Turkey Surveys.

DATES: Comments on this notice must be received by July 11, 2005, to be assured of consideration.

ADDRESSES: Comments may be mailed to Ginny McBride, NASS OMB Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250 or sent electronically to *gmcbride@nass.usda.gov*, or faxed to (202) 720–6396.

FOR FURTHER INFORMATION CONTACT: Carol House, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Egg, Chicken, and Turkey Surveys.

OMB Number: 0535–0004.

Expiration Date of Approval: October 31, 2005.

Type of Request: Intent to revise and extend a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, disposition, and prices. The Egg, Chicken, and Turkey Program obtains basic poultry statistics from voluntary cooperators throughout the Nation. Statistics are published on placement of pullet chicks for hatchery supply flocks; hatching reports for broiler-type, egg-type, and turkey eggs; number of layers on hand; total table egg production; and production and value estimates for eggs, chickens, and turkeys. This information is used by producers, processors, feed dealers, and others in the marketing and supply channels as a basis for production and marketing decisions. Government agencies use these estimates to evaluate poultry product supplies. The information is an important consideration in government purchases for the school lunch program and in formulation of export-import policy. NASS intends to request that the surveys be approved for another 3 years. These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 12 minutes per response.

Respondents: Farms.

Estimated Number of Respondents: 3,200.

Estimated Total Annual Burden on Respondents: 3,300 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of 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.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, March 24, 2005.

Carol House,

Associate Administrator.

[FR Doc. 05–8980 Filed 5–2–05; 2:34 pm]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Seek Approval To Revise and Extend an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intent of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Mink Survey.

DATES: Comments on this notice must be received by June 6, 2005, to be assured of consideration.

ADDRESSES: Comments may be sent to Ginny McBride, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024 or to *gmcbride@nass.usda.gov* or faxed to (202) 720–6396.

FOR FURTHER INFORMATION CONTACT: Carol House, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Mink Survey.

OMB Control Number: 0535–0212.

Approval Expires: June 30, 2005.

Type of Request: Intent to revise and extend a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition. The Mink Survey collects data on the number of mink pelts produced, the number of females bred, and the number of mink farms. Mink estimates are used by the federal government to calculate total value of sales and total cash receipts, by State governments to administer fur farm programs and health regulations, and by universities in research projects. In the new collection, color classes will be expanded. The Mink Survey was approved by OMB for a 3-year period in 2002; NASS intends to request that the survey be approved for another 3 years.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10 minutes per response.

Respondents: Farmers and ranchers.

Estimated Number of Respondents: 375.

Estimated Total Annual Burden on Respondents: 63 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS Clearance Officer, at (202) 720–5778. 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 collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of 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.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, March 24, 2005.

Carol House,

Associate Administrator.

[FR Doc. 05–8981 Filed 5–2–05; 2:35 pm]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Seek Approval To Revise and Extend an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intention of the National Agricultural Statistics Service (NASS) to seek approval to revise and extend a currently approved information collection, the Livestock Slaughter Survey.

DATES: Comments on this notice must be received by June 6, 2005 to be assured of consideration.

ADDRESSES: Comments may be sent to Ginny McBride, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024 or to *gmcbride@nass.usda.gov* or faxed to (202) 720–6396.

FOR FURTHER INFORMATION CONTACT: Carol House, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Livestock Slaughter Survey.

OMB Control Number: 0535–0005.

Approval Expires: July 31, 2005.

Type of Request: Intent to revise and extend a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition. The livestock survey program collects information on livestock slaughter. Slaughter data are used to estimate U.S. red meat production and reconcile inventory estimates which provide producers and the rest of the industry with current and future information on market supplies. This data is also used in preparing production, disposition, and income statistics which facilitate more orderly production, marketing, and processing of livestock and livestock products. The livestock program was approved by OMB for a 3-year period in 2002; NASS intends to request that the survey be approved for another 3 years.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 440 minutes.

Respondents: Farmers, USDA inspectors, and custom/state inspected slaughter plants.

Estimated Number of Respondents: 1,700.

Estimated Total Annual Burden on Respondents: 12,500 hours.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires

USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS Clearance Officer, at (202) 720–5778.

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 collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of 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.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, March 24, 2005.

Carol House,

Associate Administrator.

[FR Doc. 05–8982 Filed 5–2–05; 2:34 pm]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Seek Approval To Revise and Extend an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intention of the National Agricultural Statistics Service (NASS) to seek approval to revise and extend a currently approved information collection, the Agricultural Resources Management Survey and Chemical Use Surveys.

DATES: Comments on this notice must be received by July 11, 2005 to be assured of consideration.

ADDRESSES: Comments may be mailed to Ginny McBride, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250 or sent electronically to *gmcbride@nass.usda.gov.*, or faxed to (202) 720–6396.

FOR FURTHER INFORMATION CONTACT: Carol House, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Agricultural Resources Management Survey and Chemical Use Surveys.

OMB Control Number: 0535–0218.

Expiration Date of Approval: August 31, 2007.

Type of Request: Intent to revise and extend a currently approved information collection.

Abstract: One of the primary objectives of the National Agricultural Statistics Service is to provide high quality and timely estimates about the nation's food supply and environment. In the Agricultural Resources Management Survey, Chemical Use Survey, and Post-harvest Chemical Use Survey, data are collected regarding chemical uses on field crops, fruit, and vegetable crops; the types and amounts of pesticides used on selected commodities after harvest and before being shipped to the consumer; and production expenses and income sources for farm operations. Information from these data collection efforts is used extensively by government agencies in planning, farm policy analysis, scientific research, and program administration.

Data collection will be extended in 2005 to enable side-by-side comparison of the characteristics of traditional and organic dairy operations. The intent is to rotate the commodity of interest in future years to collect a comparable set of objective information on the economic, structural, and production characteristics of organic vs conventional operations. Organic soybeans will be targeted in 2006.

NASS intends to request approval to continue a study integrating the Agricultural Resources Management Survey (ARMS) with the Conservation Effects Assessment Program (CEAP) Survey, OMB Control No. 0535–0245. An integrated questionnaire will be used to collect data for the two surveys sponsored by USDA's Economic Research Service and National Agricultural Statistics Service, and National Resources Conservation Service, respectively. For 2005 surveys, four States will be involved in the study: Illinois, Indiana, Iowa, and Nebraska. The ARMS list samples for corn will be reduced allowing for replacement by CEAP survey samples planted with corn in 2005. The resulting overlap between the two surveys provides multiple-year data to study combining ARMS agricultural practices and farm cost and returns data with CEAP conservation effects data. Multiple year studies add value by directly linking environmental data with farm production practice, resource, economic, and farm household characteristics. CEAP–ARMS (1) serves an expanded set of interests across a broader set of multiple USDA users, (2) reduces respondent burden by eliminating survey overlap, and (3) enhances USDA's ability to evaluate the true impacts of conservation programs by isolating program incentive impacts from impacts due to other farm programs and to non-conservation program factors, such as farm household and financial constraints, technology changes, market conditions, farm size, and weather conditions (Amber Waves, September 2004). CEAP–ARMS also allows USDA to maximize the use of its data across USDA programs, and thereby, enhance its ability to design and implement programs consistent with USDA resource and conservation policy goals. CEAP–ARMS will help address such questions as the differences in characteristics between conservation program participants and non-participants; how producer-based environmental stewardship affects program participation; what is its impact on program costs and benefits; and how and to what extent should incentive structures differ across types of participants, farm size, and environmental and conservation policy goals. Integration of the CEAP–ARMS surveys will be further evaluated by obtaining the unique identifier of the Common Land Unit as identified by the Farm Services Agency in one State. This additional effort to link environmental data with practice, economic, and household characteristics has the potential to reduce collection burden by enabling the use of existing biophysical information.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 43 minutes.

Respondents: Farms, Packers, Shippers, and Warehouses.

Estimated Number of Respondents: 81,000.

Estimated Total Annual Burden on Respondents: 58,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, March 24, 2005.

Carol House,

Associate Administrator.

[FR Doc. 05–8983 Filed 5–2–05; 2:35 pm]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Seek Reinstatement of an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intention of the National Agricultural Statistics Service (NASS) to seek approval to revise and reinstate an information collection, the Census of Aquaculture.

DATES: Comments on this notice must be received by July 11, 2005 to be assured of consideration.

ADDRESSES: Comments may be sent to Ginny McBride, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024 or to *gmcbride@nass.usda.gov* or faxed to (202) 720–6396.

FOR FURTHER INFORMATION CONTACT: Carol House, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Census of Aquaculture.

OMB Control Number: 0535–0237.

Type of Request: Intent to revise and reinstate an information collection.

Abstract: The 2005 Census of Aquaculture will encompass all operations in each State that produced and sold $1,000 or more of aquaculture or aquaculture products during 2005. The census will provide a comprehensive inventory of aquaculture farms and their production: Data on the number of farms, acreage, method of production, production and sales by aquaculture species, and sales outlets. Census data are used by farmers, their representatives, the government, and many other groups concerned with the aquaculture industry to evaluate new programs, disburse Federal funds, analyze market trends, and help determine the economic impact aquaculture has on the economy. The aquaculture census provides the only source of dependable, comparable data by State. Response to the census is mandatory. The National Agricultural Statistics Service will use the information collected only for statistical purposes and will publish the data only as tabulated totals.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per positive response, 10 minutes per screen-out, and 2 minutes per refusal.

Respondents: Farms.

Estimated Number of Respondents: 9,000.

Estimated Total Annual Burden on Respondents: 4,500 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of 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.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, March 24, 2005.

Carol House,

Associate Administrator.

[FR Doc. 05–8984 Filed 5–2–05; 2:35 pm]

BILLING CODE 3410–20–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, May 13, 2005, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 9th Street, NW., Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda

II. Approval of Minutes of April 8, 2005 Meeting

III. Announcements

IV. Staff Director's Report

V. Report of the Working Group on Reform

VI. Program Planning

- Consideration of proposals for projects to be undertaken by the Commission during FY 2005, 2006 and 2007

VII. Proposed Future Briefings

- Campus Anti-Semitism
- Minorities in Special Education
- Stagnation of the Black Middle Class
- Patriot Act

VIII. Future Agenda Items

FOR FURTHER INFORMATION CONTACT: Kenneth L. Marcus, Press and Communications (202) 376–7700.

Kennth L. Marcus,

Staff Director.

[FR Doc. 05–9144 Filed 5–3–05; 3:12 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 17–2005]

Foreign-Trade Zone 17—Kansas City, MO; Application for Export - Manufacturing Authority; Cereal Ingredients, Inc. (Food Flavoring Particulates and Mixes); Leavenworth, KS

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Kansas City Foreign Trade Zone, Inc., grantee of FTZ 17, pursuant to § 400.32(b)(1) of the Board's regulations (15 CFR part 400), on behalf of Cereal Ingredients, Inc. (CII), for authority to manufacture food flavoring particulates and mixes for export under FTZ procedures within FTZ 17. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 26, 2005.

The proposed activity would occur at CII's manufacturing facility located at 4720 South 13th Street within the Leavenworth Area Business Center (Site 5) in Leavenworth, Kansas. The facility (32 employees/8 acres/40,000 sq. ft., plus 40,000 sq. ft. expansion area) is used to produce flavoring particulates and swirl mixes (HTSUS 1901.90) for food products, dairy products and baked goods. The food particulates add flavor, texture and color to baked goods, breakfast cereals, ice cream, and nutritional foods. The activity conducted under FTZ procedures would involve manufacturing of food particulates and swirl mixes using domestic and foreign ingredients for export only. Ingredients purchased from abroad would include: Cane sugar, beet sugar, cocoa, cinnamon soy protein concentrate and isolate, milk protein concentrate and isolate, and textured protein concentrate. None of the foreign-origin sugar and dairy products which are subject to U.S. import quotas would be entered for domestic consumption, and all such products would be re-exported from the zone.

FTZ procedures would exempt CII from quota requirements and Customs duty payments on the foreign ingredients used in the proposed export FTZ production. Duties would be deferred or reduced on foreign production equipment admitted to FTZ 17 until which time it becomes operational. The application indicates that FTZ manufacturing authority for export production would help improve the facility's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building–4100W, 1099 14th Street, NW., Washington, DC 20005; or,

2. Submissions via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB–4100W, 1401 Constitution Ave., NW., Washington, DC 20230.

The closing period for their receipt is July 5, 2005. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 19, 2005).

A copy of the application will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address No. 1 above.

Dated: April 26, 2005.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–8991 Filed 5–4–05; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 18–2005]

Foreign-Trade Zone 183—Austin, TX, Application for Subzone, Samsung Austin Semiconductor, LP (Semiconductor Memory Devices), Austin, TX

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign-Trade Zone of Central Texas, Inc., grantee of FTZ 183, requesting special-purpose subzone status with export-only manufacturing authority (semiconductor memory devices) for the facilities of Samsung Austin Semiconductor, LP (Samsung), located in Austin, Texas. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 28, 2005.

The facilities for which subzone status is proposed are located at three sites (192.1 acres total; 876,453 sq. ft. of enclosed space): Site #1—Samsung Austin Semiconductor facilities (186.1 acres; 764,453 sq. ft.)—located at 12100 Samsung Boulevard in Austin, Texas; Site #2—HISCO facilities (4.1 acres; 62,000 sq. ft.)—located at 8330 Cross Park Drive in Austin; and Site #3—Three Way Inc. facilities (1.9 acres; 50,000 sq. ft.)—located at 4009 Commercial Center Drive in Austin.

The facilities (approximately 950 employees) may be used under FTZ procedures for manufacturing, processing, warehousing, and distributing for export purposes only semiconductors and related devices. For Samsung's current manufacturing, foreign-sourced materials account for approximately 26 percent of finished-product value. The application lists the categories of material inputs which may be sourced from abroad, including wafers (HTSUS category 3818.00), chemicals (2809.20, 2826.11, 2846.10, 3814.00) and photo resist (3707.90).

Zone procedures would exempt Samsung from Customs duty payments on foreign components used in export production. Samsung would also be able to avoid duty on foreign inputs which become scrap/waste, estimated at no more than five percent of imported inputs. Samsung may also realize logistical/procedural and other benefits from subzone status. All of the above-cited savings from zone procedures could help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St., NW., Washington, DC 20005; or
2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board,

U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave., NW., Washington, DC 20230.

The closing period for their receipt is June 20, 2005. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 6, 2005.

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address Number 1 listed above and at the Austin U.S. Export Assistance Center, 211 E. 11th St., 4th Floor, Austin, TX 78701.

Dated: April 28, 2005.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–8993 Filed 5–4–05; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–835]

Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Oil Country Tubular Goods from Japan

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

EFFECTIVE DATE: May 5, 2005.

FOR FURTHER INFORMATION CONTACT: Kimberley Hunt or Mark Hoadley, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1272 or (202) 482–3148, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published an antidumping duty order on oil country tubular goods (OCTG) from Japan on August 11, 1995 (*see Antidumping Duty Order: Oil Country Tubular Goods from Japan*, 60 FR 155 (August 11, 1995)). On August 31, 2004, United States Steel Corporation, a petitioner in the original investigation, requested that the Department conduct an administrative review of four companies. On September 22, 2004, the Department published a notice of initiation of an administrative review for JFE Steel Corporation, Nippon Steel Corporation, NKK Tubes, and Sumitomo Metal Industries, Ltd., for the period August 1, 2003, through July 31, 2004 (*see Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 56745 (September 22, 2004)). The preliminary results of this administrative review are currently due no later than May 3, 2005.

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended, (the Act), the Department shall issue preliminary results in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend the deadline for completion of the preliminary results of a review from 245 to 365 days if it determines that it is not practicable to complete the preliminary results within the 245-day period. *See also* section 351.213(h)(2) of the Department's regulations.

In this administrative review, the Department finds that additional time is required to collect the necessary information to corroborate the statements of two respondents who reported that they did not have any shipments of the subject merchandise during the period of review. Following our normal practice, the Department has requested entry information from U.S. Customs and Border Protection (CBP). We have also asked both respondents to answer questions concerning their shipments during the period of review. Recently, we have also requested additional, more detailed information from CBP, which is not immediately available. After we receive the information from the respondents and CBP, the Department will need time to analyze it and reach a decision.

For these reasons, the Department has determined that is it is not practicable to complete the preliminary results of this review within the original time period. Consequently, we are extending the time for the completion of the preliminary results of this review until no later than August 31, 2005, which is 365 days from the last day of the anniversary month of the date of publication of the order. The deadline for the final results of this administrative review continues to be 120 days after the publication of the preliminary results.

This notice is issued and published in accordance with section 751(a)(3)(A) of the Act.

Dated: April 28, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–2195 Filed 5–4–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

The Manufacturing Council: Meeting of The Manufacturing Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of change of location for public meeting.

SUMMARY: The Manufacturing Council will hold a full Council meeting to discuss topics related to the state of manufacturing. The location within the Cannon House Office Building has been changed to Room 210. The Manufacturing Council is a Secretarial Board at the Department of Commerce, established to ensure regular communication between Government and the manufacturing sector. This will be the fourth meeting of The Manufacturing Council and will include updates by the Council's three subcommittees. For information about the Council, please visit the Manufacturing Council Web site at: *http://www.manufacturing.gov/council.htm.*

DATES: May 11, 2005.

TIME: 10:15 a.m.

ADDRESSES: 210 Cannon House Office Building, Washington, DC 20515.

This program is physically accessible to people with disabilities.

FOR FURTHER INFORMATION CONTACT: The Manufacturing Council Executive Secretariat, Room 4043, Washington, DC 20230 (Phone: 202–482–1369). The Executive Secretariat encourages interested parties to refer to The Manufacturing Council Web site (*http://www.manufacturing.gov/council/*) for the most up-to-date information about the meeting and the Council.

Dated: May 2, 2005.

Sam Giller,

Executive Secretary, The Manufacturing Council.

[FR Doc. 05–9093 Filed 5–4–05; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of panel.

SUMMARY: On April 29, 2005 the binational panel issued its decision in the review of the determination on remand made by the International Trade Commission, respecting Certain Corrosion-Resistant Carbon Steel Flat Products from Canada Final Injury Determination, Secretariat File No. USA–CDA–2000–1904–11. The binational panel affirmed the International Trade Commission's determination on remand with one dissenting opinion. Copies of the panel decision are available from the U.S. Section of the NAFTA Secretariat.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, NW., Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter has been conducted in accordance with these Rules.

Panel Decision: The panel affirmed the International Trade Commission's determination on remand respecting Certain Corrosion-Resistant Carbon Steel Flat Products from Canada with one dissenting opinion. The panel has directed the Secretary to issue a Notice of Final Panel Action on the 11th day following the issuance of the decision.

Dated: May 2, 2005.

Caratina L. Alston,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. E5–2196 Filed 5–4–05; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042205B]

Endangered Species; File No. 1409

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Karen Holloway-Adkins has been issued a modification to scientific research Permit No. 1409.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521;

Southeast Region, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5517.

FOR FURTHER INFORMATION CONTACT: Patrick Opay or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: On March 23, 2005, notice was published in the **Federal Register** (70 FR 14657) that a modification of Permit No. 1409, issued July 28, 2003 (68 FR 44297), had been requested by the above-named individual. The requested modification has been granted under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).The modification authorizes Ms. Holloway-Adkins to extend her research area by an additional 3.4 miles (5.5 kilometers) to the south. No increase in take or additional research activities are requested.

Issuance of this modification, as required by the ESA was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of any endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 29, 2005.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–9002 Filed 5–4–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

RIN 1820 ZA36

National Institute on Disability and Rehabilitation Research

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of final priorities for knowledge dissemination and utilization projects.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces two knowledge dissemination and utilization (KDU) priorities under the National Institute on Disability and Rehabilitation Research (NIDRR) Disability and Rehabilitation Research Projects (DRRP) program. The Assistant Secretary may use these priorities for competitions in fiscal year (FY) 2005 and later years. We take this action to focus attention on an identified national need. We intend these priorities to improve rehabilitation outcomes for individuals with disabilities.

EFFECTIVE DATE: These priorities are effective June 6, 2005.

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 6030, Potomac Center Plaza, Washington, DC 20202–2700. Telephone: (202) 245–7462 or via Internet: *donna.nangle@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Disability and Rehabilitation Research Projects (DRRP) Program

The purpose of the DRRP program is to plan and conduct research,

demonstration projects, training, and related activities that help to maximize the full inclusion and integration of individuals with disabilities into society and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Act).

Under the DRRP program, we define a development activity as using knowledge and understanding gained from research to create materials, devices, systems, or methods beneficial to the target population, including design and development of prototypes and processes (34 CFR 350.16). We define a dissemination activity as the systematic distribution of information or knowledge through a variety of ways to potential users or beneficiaries (34 CFR 350.18). We define a technical assistance activity as the provision of expertise or information for use in problem-solving (34 CFR 350.19).

Background

KDU projects ensure widespread distribution, in usable formats, of practical scientific and technological information generated by research, development, and demonstration projects. The effective dissemination and utilization of disability and rehabilitation research results are critical to achieving NIDRR's mission. Research findings can improve the quality of life of people with disabilities and further their full inclusion into society. These benefits are feasible only if the findings and technologies are available to, known by, and accessible to potential users.

NIDRR is particularly interested in ensuring that information to be disseminated is of high quality and is based on scientifically rigorous research and development and that potential users have the information they need to judge the quality of research and development findings and products and the relevance of these findings and products to their particular needs. End-users with limited scientific training, in particular, may need assistance in order to understand competing research claims or determine the relevance of particular findings to their individual situations. In addition, given the nature of scientific study, practical information often is based on cumulative knowledge, not upon the results of any one study. Therefore, we encourage potential applicants to examine procedures used by such organizations as the Campbell Collaboration (*http://www.campbellcollaboration.org/*), the Cochrane Collaboration (*http://www.cochrane.org/*), and the Department of Education What Works Clearinghouse (*http://www.w-w-c.org/*) when designing synthesis and dissemination activities. NIDRR is committed to establishing high-quality procedures for the dissemination of information from rehabilitation and disability research and development projects and will be working, together with its grantees, to identify standards to guide its work in this area.

Analysis of Comments and Changes

We published a notice of proposed priorities (NPP) for this program in the **Federal Register** on August 27, 2004 (69 FR 52651). This notice of final priorities (NFP) contains a number of substantive differences from the NPP. We discuss these changes in the *Analysis of Comments and Changes* section published as an appendix to this notice. After further review of the structure of the priority language in the NPP, we believe that it would be clearer to characterize the requirements under the topic areas as separate priorities rather than topic areas. This change in the structure of the priority language does not substantively change the requirements proposed in the NPP.

Note: This notice does *not* solicit applications. In any year in which we choose to use either of these final priorities, we invite applications through a notice in the **Federal Register**. When inviting applications we designate each priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Note: NIDRR supports the goals of President Bush's New Freedom Initiative (NFI). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/infocus/newfreedom/*.

These final priorities are in concert with NIDRR's 1999–2003 Long-Range Plan (Plan). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research topics. While applicants will find many sections throughout the Plan that support the activities to be conducted under these final priorities, specific references to the topics of the priorities are included elsewhere in this notice. The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/rschstat/research/pubs/index.html*.

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

Priorities

The Assistant Secretary for Special Education and Rehabilitative Services will use two priorities, *Priority #1—International Exchange of Information and Experts in Disability and Rehabilitation Research* and *Priority #2—Innovative KDU for Disability and Professional Organizations and Stakeholders*, to fund up to two DRRPs to identify or develop dissemination methods and provide technical assistance that focus on innovative knowledge sharing solutions to improve the lives of persons with disabilities. The goal of the KDU projects is to provide end-users with the information they need to make choices based on high-quality scientific research and development. Under each of these priorities, the KDU project, in consultation with the NIDRR project officer, must:

(1) Identify topic areas and target audiences, which must include people with disabilities and their families;

(2) Help NIDRR identify standards to guide the systematic review and synthesis of disability and rehabilitation research and development studies;

(3) Help NIDRR identify research syntheses in selected topic areas and make this information available, in preferred formats, to the target audiences; and

(4) Help NIDRR identify or develop effective and cost-effective outreach strategies to provide target audiences with evidence-based information, and determine whether and how the information is used.

In carrying out these requirements within either priority, each KDU project also must:

• Involve, as appropriate, individuals with disabilities or their family members, or both, in all aspects of the design and development of dissemination activities;

• Demonstrate how the project will yield measurable results for people with disabilities;

• Identify specific performance targets and propose outcome indicators, along with timelines to reach these targets; and

• Coordinate with other NIDRR-funded KDU projects as identified through consultation with the NIDRR project officer.

A project must focus on one of the following priority areas:

Priority 1—International Exchange of Information and Experts in Disability and Rehabilitation Research: The purpose of a project under this priority is to improve the exchange of disability and rehabilitation research and development information between the United States and other countries in order to develop new knowledge and methods in the rehabilitation of individuals with disabilities in the United States, share information found useful in other nations, and increase the skill levels of rehabilitation personnel. Under this priority, the KDU project must:

• Develop innovative methods for compiling and exchanging information between the United States and other nations on rehabilitation research and development, as well as information on disability policies that maximize the full inclusion, social integration, employment, and independent living of individuals of all ages with disabilities.

• Provide targeted outreach to and obtain insight from sources such as researchers; consumers; and voluntary, non-profit, and philanthropic organizations that are operating programs related to disability and rehabilitation research in other nations.

• Conduct at least one rehabilitation research information conference per funding cycle involving participants from the United States and other countries to provide state-of-the-art information on international rehabilitation research efforts and policies that affect people with disabilities.

• Conduct an international exchange of researchers and technical assistance experts between other countries and the United States to provide firsthand experiences in cross-cultural communication and to form alliances for collaborative research or information sharing.

The reference to the topic of this priority may be found in the Plan, Chapter 10, Enhancing NIDRR's Management of Research.

Priority 2—Innovative KDU for Disability and Professional Organizations and Stakeholders: The purpose of a project under this priority is to disseminate information on disability and rehabilitation research and development findings to a particular constituency by using organizations that serve that constituency as intermediaries. Such organizations, because they have established strategies for providing information to their constituencies—*e.g.*, conferences, newsletters, and workshops—may represent an effective means of dissemination. Under this priority, the KDU project must:

• Produce information digests that will be suitable for further dissemination through the partner organizations.

• Be knowledgeable about the target audiences represented by the organizations.

• Develop innovative means of communication with the community served by the organizations.

• Serve as an information conduit for interactive discussions with the organizations that will help inform future NIDRR research priorities and disseminate the findings of NIDRR-sponsored research.

The reference to the topic of this priority may be found in the Plan, Chapter 8, Knowledge Dissemination and Utilization, and Chapter 10, Enhancing NIDRR's Management of Research.

Executive Order 12866

This NFP has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the NFP are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this NFP, we have determined that the benefits of the final priorities justify the costs.

Summary of potential costs and benefits: The potential costs associated with these final priorities are minimal, while the benefits are significant. Grantees may incur some costs associated with completing the application process in terms of staff time, copying, and mailing or delivery. The use of e-Application technology reduces mailing and copying costs significantly.

The benefits of the DRRP Program have been well established over the years. Similar projects have been completed successfully and have produced findings that help improve the lives of individuals with disabilities. These final priorities will generate new strategies for disseminating findings from disability and rehabilitation research and development that will improve the full integration of individuals with disabilities into society.

Applicable Program Regulations: 34 CFR part 350.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Number 84.133A, Disability Rehabilitation Research Projects Program)

Program Authority: 29 U.S.C. 762(g) and 764(a).

Dated: April 29, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

Appendix—Analysis of Comments and Changes

In response to our invitation in the NPP, we received nine comments. An analysis of the comments and of the changes in the priorities since publication of the NPP follows. We discuss substantive issues that apply to both priorities under the heading General and other substantive issues under the title of the priority to which they pertain.

Generally, we do not address technical and other minor changes and suggested changes we are not authorized to make under the applicable statutory authority.

General

Comment: Four commenters suggested that combining the requirements for drafting standards and conducting research syntheses would be problematic because it could lead

to the development of conflicting standards and dissemination of conflicting information through different forms of media.

Discussion: NIDRR agrees that coordinated efforts among relevant agencies, groups, and organizations are needed. NIDRR also believes that it is appropriate to add the term "identify" to the priority requirements in recognition of the many effective KDU strategies in use for research and development products.

Change: The third activity has been deleted and the second, fourth, and fifth activities, which are now the second, third, and fourth activities, have been changed so they read: "Help NIDRR identify standards", "Help NIDRR identify research syntheses" and, "Help NIDRR identify or develop effective and cost-effective outreach strategies." In addition, a bullet has been added to the additional requirements to "Coordinate with other NIDRR funded KDU projects." NIDRR anticipates that a national KDU technical assistance project (which it plans to fund under a separate priority that is being proposed in a notice of proposed priority published elsewhere in this issue of the **Federal Register**) will help projects with the tasks outlined in these priorities and lessen the possibility of conflicting evidence grading methods or duplication of efforts.

Comment: One commenter believes that a three-year project period for a funded KDU project under one of these priorities would be too short to accomplish the tasks outlined in the proposed priorities.

Discussion: The length of the project period is not part of the NPP and therefore is not subject to public comment.

Change: None.

Comment: One commenter suggested that the KDU projects funded under these priorities should be required to coordinate standards development and topic selection, along with a steering committee not associated with a particular discipline. The commenter also suggested that an outside committee be a part of the coordination of standards development and topic selection process to avoid the appearance of bias.

Discussion: As revised, these priorities now require applicants to help NIDRR identify standards and develop technical assistance in the use of the standards. NIDRR anticipates that the national KDU technical assistance project, which NIDRR intends to fund under a separate priority that is being proposed in a notice of proposed priority published elsewhere in this issue of the **Federal Register**, will help projects with the tasks outlined in these priorities and improve coordination of NIDRR KDU activities. Applicants can propose coordinated efforts. The peer review process will evaluate the merits of the activities proposed.

Change: None.

Comment: One commenter proposed that there be only one center for standards development, coordination, and technical evidence synthesis products and that this one center should involve a range of stakeholders.

Discussion: NIDRR anticipates that the national KDU technical assistance project, which it intends to fund under a separate priority that is being proposed in a notice of proposed priority published elsewhere in this issue of the **Federal Register**, will help NIDRR and its grantees address issues relating to the identification of standards, and the development of evidence-based synthesis products.

Change: None.

Comment: None.

Discussion: The term "evidence-based" is a generally accepted technical term that is widely used in the field of disability and rehabilitation research in reference to the assessment of the quality of research findings. Information for readers who are interested in this topic may be found on numerous internet sites including: *http://www.excelgov.org/displaycontent.asp?keyword=prppc HomePage* and *http://www.ncddr.org/du/ researchexchange/v08n02/.*

Change: In order to make the goals of these priorities to provide end-users with high-quality scientific research and development more understandable, the term "evidence-based" has been substituted for the term "research-based" in #4 of the general requirements.

Comment: Commenters expressed concern that the priority areas emphasized by NIDRR in the NPP are really means of dissemination rather than areas of focus. In addition, one commenter felt that it would better serve NIDRR's purpose to have each KDU project include all methods of dissemination established under the priorities.

Discussion: NIDRR's KDU projects and activities address a wide range of topics and methods. The priorities in this notice as well as ongoing and possible future activities reflect this range. This notice includes both general requirements common to all projects applying for funding under one of the priorities as well as specific methods and target audiences required under each individual priority. The peer review process will evaluate the merits of the approaches proposed.

Change: None.

Comment: One commenter felt that it is not beneficial to "serve only one particular constituency and one organization." Due to the multi-disciplinary nature of rehabilitation research and the type of expertise resident in NIDRR's large centers, such as Rehabilitation Research and Training Centers and Rehabilitation Engineering Research Centers, this would be detrimental.

Discussion: Nothing in these priorities requires a KDU project to serve a single constituency and organization. Applicants can propose working with certain disability organizations or groups of organizations. The peer review will evaluate the merits of the approaches proposed in each application.

Change: None.

Comment: One commenter suggested that the priority for the professional organization and stakeholder group should take the lead in coordinating activities among the priorities.

Discussion: NIDRR believes that there is no basis for giving one project funded under these priorities a special role in coordination. The national KDU project, which NIDRR intends to fund under a separate priority that is being proposed in a notice of proposed priority published elsewhere in this issue of the **Federal Register**, will provide needed coordination among these and other NIDRR grantees.

Change: None.

Dissemination Using the Mainstream Media

Comment: Three commenters expressed support for this priority and strongly urged NIDRR to fund a priority to increase the use of the mainstream media for dissemination.

Discussion: NIDRR takes note of the support for this priority, but has decided not to finalize the *Dissemination Using the Mainstream Media* priority in this notice.

Change: We are not including the *Dissemination Using the Mainstream Media* priority in this notice.

International Exchange of Information and Experts in Rehabilitation and Independent Living

Comment: One commenter stressed the need for the proposed international exchange activity to benefit the field of rehabilitation in the United States.

Discussion: We agree with the commenter that the proposed international exchange activity must benefit the field of rehabilitation in the United States. However, no change is necessary because we believe the wording of the priority already clearly states this requirement.

Change: None.

Comment: One commenter suggested that rather than name the types of organizations that might be involved in international exchanges, more general language should be used.

Discussion: The language was not meant to restrict the individuals, agencies, or organizations with which the applicant might propose to work.

Change: The second activity bullet under this priority has been changed to include the words "sources such as" before the illustrative list of individuals and organizations with which applicants may work.

Comment: One commenter suggested that the title of the proposed priority not use the term "independent living" which may have different meanings in other cultures. In addition, the commenter suggested that the use of this term may limit information from other areas of the Plan, such as Health and Function, Employment, Technology, etc.

Discussion: NIDRR believes independent living is an important area for inclusion in international literature. In including independent living in the title of the priority, NIDRR did not intend to limit the areas of research or exchange that might be proposed. The applicant can propose a project relating to any of the areas in the Plan. To address the concern expressed in comments that specifying independent living in the priority title may give disproportionate attention to that topic, a more general title will be used. The peer review process will evaluate the merits of the approaches proposed in each application.

Changes: The title of this priority has been changed to read "International Exchange of Information and Experts in Disability and Rehabilitation Research."

Innovative KDU for Disability and Professional Organizations and Stakeholders

Comment: One commenter expressed strong support for the proposed priority on "Innovative KDU for Disability and Professional Organizations and Stakeholders."

Discussion: NIDRR takes note of this support.

Change: None.

Comment: One commenter suggested that evidence-based products developed by and for a single professional or consumer organization might be considered biased. It was suggested that the language be changed from "particular constituency" to "relevant constituency" or "stakeholder constituencies."

Discussion: NIDRR believes that the word "particular adequately describes the intent of this priority. The peer review process will evaluate the merits of the approaches proposed.

Change: None.

[FR Doc. 05–8997 Filed 5–4–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services Overview Information; National Institute on Disability and Rehabilitation Research (NIDRR)—Disability Rehabilitation Research Projects (DRRP); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.133A–4.

Dates: Applications Available: May 5, 2005. Deadline for Transmittal of Applications: July 5, 2005.

Eligible Applicants: States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; institutions of higher education; and Indian tribes and tribal organizations.

Estimated Available Funds: $1,000,000.

Estimated Range of Awards: $475,000–$500,000.

Estimated Average Size of Awards: $487,500.

Maximum Award: We will reject any application that proposes a budget exceeding $500,000 for a single budget period of 12 months.

Note: The maximum amount includes direct and indirect costs.

Estimated Number of Awards: 2.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to plan and conduct research, demonstration projects, training, and related activities that help to maximize the full inclusion and integration of individuals with disabilities into society and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Act).

Under the DRRP program, we define a development activity as using knowledge and understanding gained from research to create materials, devices, systems, or methods beneficial to the target population, including design and development of prototypes and processes (34 CFR 350.16). We define a dissemination activity as the systematic distribution of information or knowledge through a variety of ways to potential users or beneficiaries (34 CFR 350.18). We define a technical assistance activity as the provision of expertise or information for use in problem-solving (34 CFR 350.19).

Priorities: These priorities are from the notice of final priorities for this program published elsewhere in this issue of the **Federal Register**.

These priorities are:

Priority 1—International Exchange of Information and Experts on Disability and Rehabilitation Research; and

Priority 2—Innovative Knowledge Dissemination (KDU) for Disability and Professional Organizations and Stakeholders.

General requirements for all projects funded under one of these priorities and specific requirements for each priority are in the notice of final priorities for this program, published elsewhere in this issue of the **Federal Register**. Applicants must select and focus research on one of these priorities. Applicants are allowed to submit more than one application as long as each application addresses only one priority.

Absolute Priorities: For FY 2005 these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet one of these priorities.

Program Authority: 29 U.S.C. 762(g) and 764(a).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86, and 97; (b) the regulations for this program in 34 CFR part 350; and (c) the notice of final priorities for this program, published elsewhere in this issue of the **Federal Register**.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $1,000,000.

Estimated Range of Awards: $475,000–$500,000.

Estimated Average Size of Awards: $487,500.

Maximum Award: We will reject any application that proposes a budget exceeding $500,000 for a single budget period of 12 months.

Note: The maximum amount includes direct and indirect costs.

Estimated Number of Awards: 2.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; institutions of higher education; and Indian tribes and tribal organizations.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You may obtain an application package via Internet or from the Education Publications Center (ED Pubs). To obtain a copy via Internet use the following address: *http://www.ed.gov/fund/grant/apply/grantapps/index.html.*

To obtain a copy from ED Pubs, write or call the following: Education Publications Center, P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA Number 84.133A–4.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program

contact person listed under *For Further Information Contact* section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 75 pages, using the following standards:

- A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

The application package will provide instructions for completing all components to be included in the application. Each application must include a cover sheet (ED Standard Form 424); budget requirements (ED Form 524) and narrative justification; other required forms; an abstract, Human Subjects narrative, Part III narrative; resumes of staff; and other related materials, if applicable.

3. *Submission Dates and Times*:

Applications Available: May 5, 2005.

Deadline for Transmittal of Applications: July 5, 2005.

Applications for grants under this competition may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

We have been accepting applications electronically through the Department's e-Application system since FY 2000. In order to expand on those efforts and comply with the President's Management Agenda, we are continuing to participate as a partner in the new government wide Grants.gov Apply site in FY 2005. Disability Rehabilitation Research Projects—CFDA Number 84.133A–4 is one of the programs included in this project.

If you choose to submit your application electronically, you must use the Grants.gov Apply site (Grants.gov). Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us. We request your participation in Grants.gov.

You may access the electronic grant application for Disability Rehabilitation Research Projects at: *http://www.grants.gov*. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted with a date/time received by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. We will not consider your application if it was received by the Grants.gov system later than 4:30 p.m. on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was submitted after 4:30 p.m. on the application deadline date.
- If you experience technical difficulties on the application deadline date and are unable to meet the 4:30 p.m., Washington, DC time, deadline, print out your application and follow the instructions in this notice for the submission of paper applications by mail or hand delivery.
- The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that your application is submitted timely to the Grants.gov system.
- To use Grants.gov, you, as the applicant, must have a D–U–N–S Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five business days to complete the CCR registration.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- You may submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Any narrative sections of your application should be attached as files in a .DOC (document), .RTF (rich text) or .PDF (Portable Document) format.
- Your electronic application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier),

you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133A–4), 400 Maryland Avenue, SW., Washington, DC 20202–4260 or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.133A–4), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133A–4), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the ED 424 the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 of EDGAR and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

Note: NIDRR will provide information by letter to grantees on how and when to submit the report.

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through review of grantee performance and products. Each year, NIDRR examines, through expert peer review, a portion of its grantees to determine:

- The extent to which they promote the effective use of scientific-based knowledge, technologies, and applications to inform disability and rehabilitation policy, improve practice, and enhance the lives of individuals with disabilities; and
- The percentage of non-academic and consumer-oriented dissemination products and services, nominated by grantees to be their best outputs based on NIDRR-funded research and related activities, that are judged by an expert panel to demonstrate "good to excellent" utility and have potential to advance knowledge, change/improve policy or practice, and enhance choice and self-determination for individuals with disabilities.

NIDRR uses information submitted by grantees as part of their Annual Performance Reports (APRs) for these reviews. NIDRR also determines, using information submitted as part of the APR, the number of publications in refereed journals that are based on NIDRR-funded research and development activities.

Department of Education program performance reports, which include information on NIDRR programs, are available on the Department of Education Web site: *http://www.ed.gov/offices/OUS/PES/planning.html.*

Updates on the Government Performance and Results Act of 1993 (GPRA) indicators, revisions and methods appear in the NIDRR Program Review Web site: *http://www.neweditions.net/pr/commonfiles/pmconcepts.htm.*

Grantees should consult these sites, on a regular basis, to obtain details and explanations on how NIDRR programs contribute to the advancement of the Department's long-term and annual performance goals.

VII. Agency Contact

For Further Information Contact: Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 6030, Potomac Center Plaza, Washington, DC 20202. Telephone: (202) 245–7462 or by e-mail: *donna.nangle@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in

text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: April 29, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–8998 Filed 5–4–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Disability and Rehabilitation Research Projects

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priority for a National Center for the Dissemination of Disability Research (NCDDR).

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes one funding priority for the National Institute on Disability and Rehabilitation Research's (NIDRR) Disability and Rehabilitation Research Projects and Centers Program, Disability and Rehabilitation Research Projects (DRRP). The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2005 and later years. We take this action to focus research attention on areas of national need. We intend this priority to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: We must receive your comments on or before June 6, 2005.

ADDRESSES: Address all comments about this proposed priority to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 6030, Potomac Center Plaza, Washington, DC 20204–2700. If you prefer to send your comments through the Internet, use the following address: *donna.nangle@ed.gov.*

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 245–7462.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding this proposed priority.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in room 6030, 550 12th Street, SW., Potomac Center Plaza, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed priority. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or using additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this proposed priority, we invite applications through a notice in the **Federal Register.** When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Note: NIDRR supports the goals of President Bush's New Freedom Initiative (NFI). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/infocus/newfreedom/.*

The proposed priority is in concert with NIDRR's Long-Range Plan (Plan). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research topics. While applicants will find many sections throughout the Plan that support potential research and dissemination to be conducted under the proposed priority, a specific reference is included for the priority presented in this notice. The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/rschstat/research/pubs/index.html.*

Through the implementation of the NFI and the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

Disability and Rehabilitation Research Projects (DRRP) Program

The purpose of the DRRP Program is to plan and conduct research, demonstration projects, training, and related activities to develop methods,

procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (the Act). DRRPs carry out one or more of the following types of activities, as specified in 34 CFR 350.13 through 350.19: research, development, demonstration, training, dissemination, utilization, and technical assistance.

An applicant for assistance under this program must demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds (34 CFR 350.40(a)). The approaches an applicant may take to meet this requirement are found in 34 CFR 350.40(b).

Under the DRRP program, we define a utilization activity as relating the research findings to practical applications in planning, policy making, program administration, and delivery of services to individuals with disabilities (34 CFR 350.17). We define a dissemination activity as the systematic distribution of information or knowledge through a variety of ways to potential users or beneficiaries (34 CFR 350.18). Additional information on the DRRP program can be found at: *http://www.ed.gov/rschstat/research/pubs/resprogram.html#DRRP.*

Priority

Background

With this priority, NIDRR plans to fund a National Center for the Dissemination of Disability Research (NCDDR) to serve as the cornerstone for Knowledge Dissemination and Utilization (KDU) and Knowledge Translation (KT) efforts. KDU projects ensure widespread distribution, in usable formats, of practical scientific and technological information generated by research, development, and demonstration projects. KT projects encompass the exchange, synthesis, and ethically sound application of knowledge within a complex system of relationships among researchers and users. (*http://www.cihr-irsc.gc.ca/e/7518.html*) NIDRR expects KT concepts and activities to increasingly shape the effective dissemination and utilization of disability and rehabilitation research results critical to achieving NIDRR's mission.

Research findings can improve the quality of life of people with disabilities and further their full inclusion into society. These benefits are feasible only if the findings and technologies are available to, known by, and accessible to potential users.

NIDRR is particularly interested in ensuring that information to be disseminated is of high quality and is based on scientifically rigorous research and development. Potential users need to be able to assess the quality of research and development findings and products and the relevance of these findings and products to their particular needs. End-users with limited scientific training, in particular, may need assistance in order to understand competing research claims or to determine the relevance of particular findings to their individual situations. In addition, given the nature of scientific study, practical information often is based on cumulative knowledge, not upon the results of any one study. We encourage potential applicants, when identifying standards and procedures for systematic review of evidence, to examine the work of such organizations as the Campbell Collaboration (*http://www.campbellcollaboration.org/*), the Cochrane Collaboration (*http://www.cochrane.org/*), and the Department of Education What Works Clearinghouse (*http://www.w-w-c.org/*).

NIDRR supports a variety of projects designed to help channel the flow of knowledge gained from rehabilitation research to specific uses. The National Rehabilitation Information Center (NARIC) serves as a clearinghouse or gateway to disability and rehabilitation oriented information organized in a variety of formats for the public, researchers, and NIDRR. NARIC provides interactive information to users through online publications, searchable databases, and timely reference and referral data. ABLEDATA provides information on assistive technology products and rehabilitation equipment available from domestic and international sources. Other NIDRR projects, including Rehabilitation Research and Training Centers, Rehabilitation Engineering Research Centers, Model Burn Injury, Spinal Cord Injury, and Traumatic Brain Injury Systems, and Disability and Rehabilitation Research Projects provide information on a wide range of topics for specific target populations.

NIDRR funds more than 300 centers and projects annually. The NCDDR will serve as the nexus between NIDRR and its grantees. Key activities will include identifying standards and criteria for conducting research syntheses and to guide the dissemination of research and development information and findings; developing partnerships and collaborating with key constituencies and with groups conducting similar work; identifying effective dissemination strategies; and serving as a resource for NIDRR grantees. As the lead project for NIDRR KDU and KT activities, the Center will provide technical assistance to grantees to help them plan and carry out dissemination activities that meet high standards and to help NIDRR move the results of research to the utilization stage. The center will help NIDRR projects prepare, maintain, and communicate evidence-based reports and syntheses in topic areas identified in conjunction with NIDRR.

This project will work closely with NIDRR through a cooperative agreement.

Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes to fund a National Center for the Dissemination of Disability Research to serve as a lead center in the area of Knowledge Translation/Knowledge Dissemination and Utilization. This center will ensure that NIDRR constituencies have ready access to high-quality, research-based information that has the potential to improve the lives of individuals with disabilities. The reference to this priority may be found in the Plan, Chapter 8, Knowledge Dissemination. The center must—

(1) Identify standards, guidelines, and methods appropriate for developing evidence-based systematic reviews of disability and rehabilitation research;

(2) Serve as a technical assistance resource to NIDRR grantees to ensure that research studies will meet standards for inclusion in evidence-based systematic reviews;

(3) Develop partnerships with existing collaborations and registries to identify gaps and opportunities and to facilitate the systematic review of disability and rehabilitation research;

(4) Identify and promote the use of evidence-based reviews in topic areas developed in collaboration with NIDRR and its grantees;

(5) Identify, develop, and assess the effectiveness of strategies for dissemination of high quality information to diverse target populations; and

(6) Serve as a technical assistance resource to NIDRR grantees to ensure the use of effective strategies for dissemination of high quality

information to diverse target populations.

Executive Order 12866

This NPP has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the NPP are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this NPP, we have determined that the benefits of the proposed priority justify the costs.

Applicable Program Regulations: 34 CFR part 350.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Number 84.133A, Disability Rehabilitation Research Project)

Program Authority: 29 U.S.C. 762(g) and 764(a).

Dated: April 29, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–9000 Filed 5–4–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Savannah River. 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: Monday, May 23, 2005, 1 p.m.–6 p.m.

Tuesday, May 24, 2005, 8:30 a.m.–4 p.m.

ADDRESSES: Hyatt Regency Hotel, #2 West Bay Street, Savannah, Georgia 31401.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Closure Project Office, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952–7886.

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:

Monday, May 23, 2005

1 p.m. Combined Committee Session
5:30 p.m. Adjourn
5:30 p.m. Executive Committee Meeting
6 p.m. Adjourn

Tuesday, May 24, 2005

8:30 a.m. Approval of Minutes, Agency Updates
9 a.m. Public Comment Session
9:10 a.m. Chair and Facilitator Update
9:40 a.m. Waste Management Committee
10:50 a.m. Nuclear Materials Committee Report
11:40 a.m. Public Comments
12 p.m. Lunch Break
1 p.m. Facilities Disposition & Site Remediation Committee Report
2:30 p.m. Strategic and Legacy Management Committee Report
3:50 p.m. Public Comments
4 p.m. Adjourn

If needed, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting Monday, May 23, 2005.

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 Gerri Flemming's office at the address or telephone 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 Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, PO Box A, Aiken, SC 29802, or by calling her at (803) 952–7886.

Issued at Washington, DC on April 29, 2005.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 05–8974 Filed 5–4–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy; National Coal Council

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the National Coal Council (NCC). Federal Advisory Committee. Federal Advisory Committee Act (Pub. L. 92–463,86 Stat. 770) requires notice of meetings to be announced in the **Federal Register**.

DATES: Tuesday, June 9, 2005, 9 a.m.–12 p.m.

ADDRESSES: Wyndham Washington Hotel, 1400 M Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Kane, Phone: (202) 586–4753, or Estelle W. Hebron, Phone: (202) 586–6837, U.S. Department of Energy, Office of Fossil Energy, Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The purpose of the National Coal Council is to provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues:

Tentative Agenda:

- Call to Order by Mr. Thomas G. Kraemer, Chairman
- Council Business

Communications Committee Report—Mr. David Surber, Chairman

Finance Committee Report—Mr. Rich Eimer, Chairman

- Remarks by Honorable Samuel W. Bodman, Secretary of Energy
- Presentation re: Clear Skies Initiative (TBA)
- Presentation re: Natural Gas Availability (TBA)
- Presentation re: National Energy Legislation (TBA)
- Other Business
- Adjourn

Public Participation: The meeting is open to the public. The Chairman of the NCC will conduct the meeting to facilitate orderly business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Mr. Robert Kane or Ms. Estelle Hebron at the address and telephone numbers listed above. You must make your request for an oral statement at least five business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Public comment will follow the 10 minute rule.

Minutes: The minutes will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on April 29, 2005.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 05–8975 Filed 5–4–05; 8:45 am]

BILLING CODE 6450–10–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Office of Electricity and Energy Assurance; Port Angeles—Juan de Fuca High Voltage Direct Current Transmission Project

AGENCIES: Bonneville Power Administration (BPA) and Office of Electricity and Energy Assurance (OEEA), Department of Energy (DOE).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: This notice announces the Department of Energy's (DOE) intent to prepare an EIS (DOE/EIS–0378) and to conduct a public scoping meeting under the National Environmental Policy Act (NEPA) for the proposed Port Angeles Juan de Fuca HVDC Transmission Project (Project). This Project, proposed by Olympic Converter, LP (OC), involves constructing a proposed electric power transmission line that would extend from the greater Victoria area, British Columbia, in Canada, to Port Angeles, Washington, in the United States. Sea Breeze Pacific Juan de Fuca Cable, LP (Sea Breeze Pacific) is carrying out the planning and permitting for the Project. The Project would be constructed as a 550-megawatt (MW) High Voltage Direct Current (HVDC) transmission line using underground cables, as well as submarine cables under the Strait of Juan de Fuca, an international waterway. Implementation of the Project would require that certain actions be taken by BPA and OEEA, which are separate organizational units within DOE. BPA's proposed action would be to offer a transmission interconnection agreement to OC, and OEEA's proposed action would be to issue a Presidential permit that would allow construction, operation, maintenance, and interconnection of the Project at the United States International Border.

DATES: Comments will be accepted at a public scoping meeting that will be held on Tuesday, May 24, 2005, 4 p.m. to 7 p.m. Written comments are due to the address below no later than June 6, 2005.

ADDRESSES: The public meeting on May 24, 2005, will be held at Peninsula College, Room J47, 1502 E. Lauridsen Blvd., Port Angeles, Washington 98362–6698. The purpose of the public meeting is to invite public participation in the scoping process, and to solicit public comments for consideration in establishing the scope and content of the EIS. DOE and OC representatives will be available to discuss the proposed Project and respond to any questions you may have. Representatives from the City of Port Angeles are also expected to attend to answer questions about the Washington State Environmental Policy Act.

Send letters with comments and suggestions on the proposed scope of the EIS, and requests to be placed on the Project mailing list, to Bonneville Power Administration, Communications—DM–7, P.O. Box 12999, Portland, Oregon, 97212; FAX them to 503–230–3285; or submit your comments on line at *http://www.bpa.gov/comment/*. Please include the name of this Project with your comments.

FOR FURTHER INFORMATION CONTACT: Rick Yarde, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621, toll-free telephone 1–800–282–3713; direct phone number 503–230–3769, fax number 503–230–5699, e-mail *rryarde@bpa.gov*. Additional information can be found at BPA's Web site: *http://www.transmission.bpa.gov/PlanProj/Transmission_Projects/*.

For inquiries regarding the Presidential permit process, contact Dr. Jerry Pell, Office of Electricity and Energy Assurance, U.S. Department of Energy, Washington, DC 20585, phone number 202–586–3362, fax number 202–318–7761, e-mail *jerry.pell@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: OC has proposed to construct and own an international transmission line between the greater Victoria area, British Columbia, in Canada and Clallam County, Washington, in the United States. The proposed facilities would provide transmission interconnection between the bulk power transmission systems of Canada and the United States. The Project would interconnect with the Federal Columbia River Transmission System (FCRTS), which is owned and operated by BPA in the United States, and with the British Columbia transmission system, which is owned, operated and maintained by the British Columbia Transmission Corporation, a Crown corporation of the Province of British Columbia, Canada.

OC proposes to connect the two transmission systems using HVDC submarine cables across the Strait of Juan de Fuca, an international waterway. The Project is proposed to be a 550–MW bidirectional controllable transmission system, comprised of HVDC modules interconnected by submarine and underground terrestrial cables. OC proposes to use HVDC LightTM cable, which is a polymeric insulated cable that is steel-wire armored, hermetically sealed, and approximately 10 inches in diameter for the marine crossing and 8 inches in diameter for the buried terrestrial portion. The cable contains no circulating or insulating fluids. The overall length of the proposed transmission line would be 21.6 miles, about 19.2 miles of which would be buried in marine bedlands and approximately 1.2 miles would be underground within the City of Port Angeles. The remaining 1.2 miles would be terrestrial in the greater Victoria area, British Columbia. A directional drill would be used for the marine-to-terrestrial transition, in order to minimize disturbances to the shoreline and intertidal zone.

For the connection in the United States to the FCRTS, OC proposes to construct a converter station in Port

Angeles to change between direct current and alternating current. This proposed converter station would be located in the vicinity of BPA's Port Angeles Substation in Clallam County, Washington, and would occupy from one to two acres. OC has proposed that the converter station be sited within the existing boundary of the Port Angeles Substation on property leased or otherwise transferred from BPA to OC.

OC has proposed to begin construction of the HVDC transmission line and converter station by June 2006. Under this schedule, the HVDC system would be interconnected to the FCRTS in the fall of 2007, with a proposed operation date of December 2007. Once constructed, all existing land use and marine activities would be expected to continue to take place along the route of the transmission line, excluding the area encompassed by the converter station. The HVDC transmission system would be expected to operate continuously for at least 20 years.

OC is in the process of applying for applicable permits from the City of Port Angeles, which may trigger the Washington State Environmental Policy Act (SEPA) process for the proposed Project. OC also is coordinating with other Federal and State agencies regarding all required permits and approvals.

On December 20, 2004, OC applied to OEEA for a Presidential permit to develop the proposed Project. DOE published a notice of that application in the **Federal Register** on February 18, 2005 (70 FR 8350). OC also has submitted a request to BPA for interconnection of the proposed Project to the FCRTS. BPA and OEEA are separate organizational units both within DOE. DOE has determined its actions for the proposed Project, including issuance of a Presidential permit, would constitute a major Federal action that may have a significant impact upon the environment within the meaning of NEPA.

BPA's Proposed Action. BPA has adopted an Open Access Transmission Tariff for the FCRTS, consistent with the Federal Energy Regulatory Commission's (FERC) *pro forma* open access tariff. Under BPA's tariff, BPA offers transmission interconnection to the FCRTS to all eligible customers on a first-come, first-served basis, consistent with all BPA requirements, but with this offer subject to the results of an environmental review under NEPA. Under its tariff, BPA must respond to OC's request for transmission interconnection.

BPA proposes to execute an agreement with OC to provide interconnection services for up to 550 MW from the proposed Project. As part of this agreement, BPA may agree to lease or otherwise permit occupancy by OC of approximately one to two acres of real property that is owned by BPA adjacent to the Port Angeles Substation. This property would be used for a new converter substation that would allow interconnection of the proposed Project to the FCRTS at Port Angeles Substation.

OEEA's Proposed Action. OEEA's proposed action is to issue a Presidential permit for the proposed Project. Executive Order 10485, as amended, provides that a Presidential permit may be issued after a finding that the proposed Project is consistent with the public interest and after favorable recommendation by the Departments of State and Defense. In determining consistency with the public interest, DOE considers the impacts of the proposed Project on the reliability of the U.S. electric power system and on the environment, and any other factors that DOE may also consider pertinent to the public interest. The regulations implementing the Executive Order have been codified at 10 CFR 205.320–205.329. Issuance of a permit for a particular project indicates that there is no Federal objection to that Project, but does not mandate that the Project be completed.

Possible Alternatives for the Proposed Actions. For BPA, an alternative to its proposed action of offering interconnection contract terms is to not offer these terms. For OEEA, an alternative to the proposed issuance of a Presidential permit is to deny this permit. In either instance, the Project as proposed would not go forward. The EIS will evaluate both of these alternatives as the "no-action" alternative.

Public Participation and Identification of Environmental Issues. Consistent with its NEPA regulations, DOE has established a minimum 30-day scoping period during which affected landowners, Tribes, concerned citizens, special interest groups, local governments, State and Federal agencies, and any other interested parties are invited to comment on the scope of the proposed EIS. Scoping will help DOE to identify potentially significant impacts that may result from its proposed actions and the privately proposed transmission line, and ensure that all relevant environmental issues related to DOE's proposed actions are addressed in the EIS.

The EIS will consider the reasonably foreseeable consequences of construction and operation of the proposed HVDC transmission line across the Strait of Juan de Fuca and the interconnection to the FCRTS. Based on DOE's experience, potential environmental issues for the proposed transmission line and interconnection facilities may include socioeconomic impacts created by a construction workforce; effects on recreation (primarily fishing); impacts on cultural resources; impacts to wildlife habitat and populations including migratory birds, fish, and marine mammals; noise created by the converter station during Project operation; and mitigation measures.

When completed, the Draft EIS will be circulated for a minimum 45-day public comment period, and DOE will hold one or more public hearings on the Draft EIS. In the Final EIS, DOE will consider and respond to all comments received on the Draft EIS. DOE expects to publish the Final EIS in summer 2006. BPA's and OEEA's subsequent decisions will be documented in a Record of Decision.

In addition to the Federal NEPA process, the City of Port Angeles will provide opportunity for public participation as part of its SEPA and permitting process. It is expected that representatives from the City of Port Angeles will hold public meetings for the transmission project during 2005. DOE will coordinate with the City of Port Angeles to ensure full consideration of all public and agency comments received.

Issued in Portland, Oregon, on April 28, 2005.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. 05–8995 Filed 5–4–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Rebuild of the Libby (FEC) to Troy Section of BPA's Libby to Bonners Ferry 115-kilovolt Transmission Line

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: BPA intends to prepare an EIS on the proposed rebuilding, operation, and maintenance of a 17-mile-long portion of BPA's Libby to Bonners Ferry 115-kilovolt (kV) Transmission Line in Lincoln County, Montana. The portion to be rebuilt would start at Flathead Electric Cooperative's (FEC) Libby

Substation, in the town of Libby, Montana, and proceed west along an existing right-of-way for about 17 miles, terminating at BPA's Troy Substation just east of the town of Troy, Montana. The line would be rebuilt mostly on existing right-of-way, and would replace an existing 115-kV wood pole line. The EIS is being prepared for the proposed project in accordance with the National Environmental Policy Act (NEPA) and in accordance with DOE regulations.

DATES: Written comments on the NEPA scoping process are due to the address below no later than June 6, 2005. Comments may also be made at two EIS scoping meetings to be held on May 19, 2005, at the address below.

ADDRESSES: Send letters with comments and suggestions on the proposed scope of the Draft EIS to Bonneville Power Administration, Communications—DM–7, P.O. Box 14428, Portland, Oregon 97293–4428; FAX them to 503–230–3285; or submit your comments on-line at: *http://www.bpa.gov/comment/*. To be placed on the project mail list, call 1–888–276–7790.

Comments may also be made at EIS scoping meetings to be held on Thursday, May 19, 2005, from 2 p.m. to 4 p.m., and from 6 p.m. to 8 p.m., in conference rooms A, B, & C at the Kootenai National Forest Supervisor's Office, 1101 Highway 2 West, Libby, Montana. At these informal open-house meetings, we will provide a brief introduction of the proposed project during the first 15 minutes. We will then provide maps and information about the project, have several members of the project team available to answer questions, and accept oral and written comments.

FOR FURTHER INFORMATION CONTACT: Kirk Robinson, Project Manager, Bonneville Power Administration—TNP–TPP–3, P.O. Box 61409, Vancouver, Washington 98666–1409; toll-free telephone 1–800–282–3713; direct telephone 360–619–6301; or e-mail *kmrobinson@bpa.gov*. You may also contact Tish Eaton, Environmental Coordinator, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; telephone 503–230–3469; fax 503–230–5699; or e-mail *tkeaton@bpa.gov*. Information about the project can also be found at *http://www.efw.bpa.gov*.

SUPPLEMENTARY INFORMATION: BPA is proposing to rebuild a 17-mile-long section of BPA's Libby to Bonners Ferry 115-kV transmission line. This rebuild would replace an existing 115-kV wood pole transmission line that runs west from FEC's Libby Substation in the town of Libby, to BPA's Troy Substation, east of Troy, Montana. The proposed rebuild would be located primarily in BPA's existing right-of-way corridor with two potential re-routings—one to avoid immediately adjacent residences in the town of Libby, and the other at a river crossing prior to a washout at China Creek, approximately one-half mile east of the present crossing of the Kootenai River. The project is needed to continue to provide safe and reliable service to the local communities, and in anticipation of the future growth of the area.

The Libby (FEC) to Troy section of the Libby to Bonners Ferry transmission line was originally built by Pacific Power & Light Company (PP&L) in the 1950's. The condition of the Libby (FEC) to Troy section of the line has been deteriorating over the years to the point where a major rebuilding of the H-frame wood pole line is needed to continue serving customer loads safely and reliably. Field reconnaissance surveys of the line during the summer of 2004 showed that many of the wooden poles and cross-arms have passed their ability to withstand required structural loads, including stresses caused by snow and ice build-up during winter. Also, serious problems with the conductor have been discovered. In the last two years, BPA transmission line maintenance crews have provided "fixes" for critical situations to prevent the line from failing completely, but these fixes are meant to be only temporary, and they do not provide a complete long-term solution to the existing structural and conductor problems with the line.

This proposed project was originally considered by BPA in 1993–1994, as part of the Northwest Montana/North Idaho Support Project. The proposal at that time was to build a 230-kV double-circuit transmission line from BPA's substation at Bonners Ferry to Libby Substation, owned at the time by PP&L. The project was scoped with the public, comments were incorporated into the proposal, and environmental analysis was done. A preliminary draft EIS was in preparation when the project was cancelled for fiscal reasons.

Alternatives Proposed for Consideration. Based on information gathered during the previous environmental evaluation, and from current and potential load growth studies for the area, BPA currently is considering four alternatives for evaluation in the EIS: (1) Rebuilding the line in-kind, as a single-circuit 115-kV wood pole H-frame line with some wood-pole equivalent steel poles; (2) rebuilding the line as a double-circuit 115-kV tubular steel pole line; (3) rebuilding the line as a double-circuit 230-kV tubular steel pole line; and (4) the alternative of not rebuilding the line (an alternative BPA always considers). Other alternatives may be identified through the scoping process.

Public Participation and Identification of Environmental Issues. BPA has established a 30-day scoping period during which affected landowners, concerned citizens, special interest groups, local governments, and any other interested parties are invited to comment on the scope of the proposed EIS. Scoping will help BPA ensure that a full range of environmental issues related to this proposal is addressed in the EIS, and also will help identify significant or potentially significant impacts that may result from the proposed project.

The potential environmental issues identified for most transmission projects include: land use, cultural resources, visual resources, sensitive plants and animals, recreation use, erosion concerns, and fish and water resources. The Draft EIS for the proposed project will address these issues, as well as other environmental issues raised during the public scoping process. When completed, the Draft EIS will be circulated for review and comment, and BPA will hold public meetings to receive comments on the Draft EIS. BPA will consider and respond in the Final EIS to comments received on the Draft EIS. BPA's decision will be documented in a Record of Decision. The EIS will satisfy the requirements of NEPA.

Issued in Portland, Oregon, on April 28, 2005.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. 05–8996 Filed 5–4–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP05–130–000, CP05–132–000, and CP05–131–000]

Dominion Cove Point LNG, LP, Dominion Transmission, Inc.; Notice of Application

April 29, 2005.

Take notice that on April 15, 2005, Dominion Cove Point LNG, LP (Cove Point LNG) filed an application in Docket No. CP05–130–000, pursuant to section 3 of the Natural Gas Act (NGA), requesting authority to expand its facilities at its liquefied natural gas

(LNG) import terminal at Cove Point, Maryland. Cove Point LNG also filed on April 15, 2005, an application in Docket No. CP05–132–000, pursuant to section 7(c) of the NGA, requesting a certificate of public convenience and necessity authorizing it to expand the capacity of its natural gas pipeline in Calvert, Prince George's and Charles County, Maryland. Dominion Transmission, Inc. also filed on April 15, 2005, an application in Docket No. CP05–131–000, pursuant to section 7(c) of the NGA, requesting a certificate of public convenience and necessity authorizing it to expand the capacity of its natural gas pipeline in Pennsylvania, New York, Virginia and West Virginia. Additional supplements to Cove Point LNG's and Dominion's applications were filed on April 22, 2005, and April 28, 2005; this information was required to complete the Commission's minimum filing requirements.

The details of these proposals are more fully set forth in the applications which are on file with the Commission and open to public inspection. The filings may also 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions regarding these applications should be directed to Anne E. Bomar. Managing Director, Transmission, Rates and Regulation, Dominion Resources, Inc., 120 Tredegar Street, Richmond, Virginia 23219 or by phone at (804) 819–2134.

Cove Point LNG proposes to expand its existing LNG terminal by adding two new 160,000 cubic meter LNG storage tanks and additional vaporization capacity at its site in Calvert County, Maryland. The proposed terminal expansion would increase the send-out capability by 800,000 Dth/d and increase the storage capacity by 6.8 MMDth/d. Cove Point LNG is proposing to offer this increase in LNG terminal service on a proprietary basis under section 3 of the NGA and says that this would be a permissible application of the Commission's policy on LNG terminals as expressed in a prior case concerning Hackberry LNG Terminal, LLC. Cove Point LNG has proposed a new section 30 in the General Terms and Conditions of its existing FERC tariff for its current LNG terminal and transportation services to identify this proprietary service and explain the proprietary service's operation in relation to Cove Point LNG's existing services.

Cove Point LNG also proposes to construct and operate about 47 miles of 36-inch-diameter loop pipeline in Calvert, Prince George's, and Charles County, Maryland to allow it to deliver an additional 800,000 Dth/d from its LNG terminal to it connections with other interstate pipelines. Cove Point LNG is proposing to offer this additional service to Statoil Natural Gas, LLC at an incremental monthly reservation charge of $3.6824.

Dominion proposes to construct and operate about 81 miles of 24-inch-diameter pipeline lateral in central Pennsylvania and 33 miles of pipe in other parts of Pennsylvania and West Virginia. As part of the new central Pennsylvania system, Dominion proposes to construct two new compressor stations in Juniata and Centre Counties, Pennsylvania. Dominion says that these new facilities will allow it to transport an additional 700,000 Dth/d from its interconnection with Cove Point LNG to various delivery points on its system. Dominion also says that these new facilities will allow it to offer a new underground storage service of 6.0 MMDth, with an additional demand of 100,000 Dth/d. Dominion is proposing to offer these additional services to Statoil Natural Gas, LLC at incremental rates, and is also proposing a new incremental storage rate schedule—Rate Schedule GSS–E.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, 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.

Persons who wish to comment only on the environmental review of this project, or in support of or in opposition to 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. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the applicant. 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.

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.

Comment Date: May 27, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2186 Filed 5–4–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–289–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

April 29, 2005.

Take notice that on April 26, 2005, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective May 27, 2005:

Third Revised Sheet No. 259
Original Sheet No. 259A
Third Revised Sheet No. 274
Original Sheet No. 274A
Second Revised Sheet No. 296
Fourth Revised Sheet No. 401
Second Revised Sheet No. 406
Third Revised Sheet No. 407
Second Revised Sheet No. 408
Third Revised Sheet No. 418
Original Sheet No. 418A
Second Revised Sheet No. 422
Second Revised Sheet No. 440

EPNG states that the tariff sheets revise the Form of Service Agreements

to reflect additional contracting practices and revise the General Terms and Conditions to provide for the electronic execution of contracts.

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.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2192 Filed 5–4–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP03–398–016 and RP04–155–007 (Consolidated)]

Northern Natural Gas Company; Notice of Motion To Implement Settlement Rates on an Interim Rates

April 29, 2005.

Take notice that on April 26, 2005, Northern Natural Gas Company (Northern) tendered for filing a Motion to Implement Settlement Rates on an Interim Basis. Northern also tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of May 1, 2005:

1 Revised Substitute 71 Revised Sheet No. 50
1 Revised Substitute 72 Revised Sheet No. 51
1 Revised Substitute 35 Revised Sheet No. 52
1 Revised Substitute 70 Revised Sheet No. 53
1 Revised Ninth Revised Sheet No. 55
1 Revised Substitute 19 Revised Sheet No. 56
1 Revised Substitute 27 Revised Sheet No. 59
1 Revised Substitute 11 Revised Sheet No. 59A
1 Revised Substitute 30 Revised Sheet No. 60
1 Revised Substitute 10 Revised Sheet No. 60A

Northern states that it is filing the above-referenced motion and tariff sheets to implement settlement rates on an interim basis effective May 1, 2005.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2191 Filed 5–4–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC05–72–000, et al.]

Arizona Public Service Company, et al.; Electric Rate and Corporate Filings

April 28, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Arizona Public Service Company Pinnacle West Capital Corporation

[Docket No. EC05–72–000]

Take notice that on April 22, 2005, Arizona Public Service Company (APS) tendered for filing an application for authorization pursuant to section 203 of the Federal Power Act for APS to transfer to Pinnacle West Capital Corporation (PWCC) certain Commission-jurisdictional contracts.

Comment Date: 5 p.m. eastern time on May 13, 2005.

2. Atlantic City Electric Company, Potomac Electric Power Company, Delmarva Power & Light Company, Pepco Energy Services, Inc., Potomac Power Resources, LLC, Conectiv Energy Supply, Inc., Conectiv Atlantic Generation, LLC, Conectiv Delmarva Generation, Inc., Conectiv Bethlehem, LLC, Fauquier Landfill Gas, LLC, Rolling Hills Landfill Gas, LLC

[Docket Nos. ER96–1361–008, ER98–4138–004, ER99–2781–006, ER98–3096–010, ER01–202–003, ER00–1770–009, ER02–453–005, ER04–472–002, and ER04–529–002]

Take notice that on April 25, 2005, Atlantic City Electric Company, Potomac Electric Company, Delmarva Power & Light Company, Pepco Energy Services, Inc., Potomac Power Resources, LLC, Conectiv Energy Supply, Inc., Conectiv Atlantic Generation, LLC, Conectiv Delmarva

Generation, Inc., Conectiv Bethlehem, LLC, Fauquier Landfill Gas, LLC, and Rolling Hills Landfill Gas, LLC, (jointly, the PHI Entities) submitted for filing proposed revisions to their respective market-based rate tariffs to incorporate the reporting requirements of the Commission's order, *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority, Final Rule*, 110 FERC ¶ 61,097 (2005) (Order No. 652). The PHI Entities state that copies of the filing were served on parties on the official service lists in the above-captioned proceedings.

Comment Date: 5 p.m. eastern time on May 5, 2005.

3. Midwest Independent Transmission System Operator, Inc.

[Docket Nos. ER03–580–005 and EL03–119–005]

Take notice that on June 25, 2004, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted a refund report in compliance with Commission's letter order issued March 3, 2004 in Docket Nos. ER03–580–000, 001, 002, 003, 004 and EL03–119–000.

Comment Date: 5 p.m. eastern time on May 11, 2005.

4. Pacific Gas and Electric Company

[Docket No. ER05–858–000]

Take notice that on April 25, 2005, Pacific Gas and Electric Company (PG&E) tendered for filing temporary modifications to Service Agreement No. 42 for network integration transmission service (NITS) between PG&E and the San Francisco Bay Area Rapid Transit District (BART).

PG&E states that copies of this filing have been served upon BART, the California Public Utilities Commission and the California Independent System Operator Corporation.

Comment Date: 5 p.m. eastern time on May 16, 2005.

5. Whiting Clean Energy, Inc.

[Docket No. ER05–860–000]

Take notice that on April 25, 2005, Whiting Clean Energy, Inc. (Whiting) tendered for filing a Power Sales Tariff. Whiting owns and operates a 525 MW generation facility located in Whiting, Indiana. Whiting states that, pursuant to the Power Sales Tariff, it will offer for sale energy and capacity at cost-based rates. In addition, Whiting states that if desired by a buyer under the Power Sales Tariff, Whiting will provide the buyer with the ability to increase or decrease the output of Whiting's generation facility through the use of automatic generation control equipment. Whiting requests an effective date of April 25, 2005.

Comment Date: 5 p.m. eastern time on May 5, 2005.

6. EnergyUSA–TPC Corp. Northern Indiana Public Service Company

[Docket No. ER05–865–000]

Take notice that on April 26, 2005, EnergyUSA–TPC Corp. (TPC) and Northern Indiana Public Service Company (NIPSCO) tendered for filing a purchased power agreement pursuant to which TPC will provide automatic generation control regulation capacity and energy to NIPSCO. TPC and NIPSCO state that they are corporate affiliates and have complied with all Commission requirements regarding purchased power agreements between affiliates.

Comment Date: 5 p.m. eastern time on May 6, 2005.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2193 Filed 5–4–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC04–90–000, et al.]

Oregon Electric Utility Company, et al.; Electric Rate and Corporate Filings

April 27, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Oregon Electric Utility Company Portland General Electric Company

[Docket No. EC04–90–000]

Take notice that on April 8, 2005, Oregon Electric Utility Company and Portland General Electric Company filed a withdrawal of their application for Approval of a Transfer of Control over Jurisdictional Facilities and Request for Waiver of Regulations in Docket No. EC04–90–000 filed on April 6, 2004, as amended on July 22, 2004, and December 7, 2004.

Comment Date: 5 p.m. eastern time on May 9, 2005.

2. Florida Power & Light Company

[Docket Nos. ER93–465–034, ER96–417–003, ER96–1375–004, OA96–39–011, OA97–245–004]

Take notice that on April 25, 2005, Florida Power & Light Company (FPL) submitted a compliance filing pursuant to the Commission's order issued January 25, 2005, in *Florida Power & Light Co.*, 110 FERC ¶ 61,058 (2005).

FPL states that copies of the filing were served on parties on the official service lists in the above-captioned proceedings.

Comment Date: 5 p.m. eastern time on May 16, 2005.

3. Dow Pipeline Company

[Docket No. ER00–2529–003]

Take notice that on April 25, 2005, Dow Pipeline Company submitted a compliance filing pursuant to the Commission's March 25, 2005, order in *Dow Pipeline Company*, 110 FERC ¶ 61,354 (2005).

Comment Date: 5 p.m. eastern time on May 16, 2005.

4. Southern California Edison Company

[Docket No. ER04–435–012]

Take notice that on April 22, 2005, Southern California Edison Company (SCE) tendered for filing revisions to its Wholesale Distribution Access Tariff (WDAT), FERC Electric Tariff, First Revised Volume No. 5, in compliance with the Commission's Order issued February 18, 2005, in Docket Nos. ER04–435–006, 110 FERC ¶ 61,176. SCE states that the present filing is also tendered pursuant to section 205 of the Federal Power Act, 16 U.S.C. 824d (2004) and section 35.13 of the Comission's Rules of Practice and Procedure, 18 CFR 35.13 (2004).

SCE states that copies of this filing were served on parties on the official service list in the above-captioned proceeding.

Comment Date: 5 p.m. eastern time on May 13, 2005.

5. Milford Power Company, LLC

[Docket No. ER05–163–003]

Take notice that, on April 21, 2005, Milford Power Company, LLC (Milford) submitted a compliance filing pursuant to the Commission's order issued March 22, 2005, in Docket No.ER05–163–000, *Milford Power Company, LLC*, 110 FERC ¶ 61,299.

Milford states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Comment Date: 5 p.m. eastern time on May 12, 2005.

6. Transmission Owners of the Midwest Independent Transmission System Operator Inc.

[Docket No. ER05–447–004]

Take notice that on April 22, 2005, the Transmission Owners of the Midwest Independent Transmission System Operator (Midwest ISO Transmission Owners) submitted for filing in compliance with the Commission's order issued March 24, 2005, in Docket No. ER05–447–000, *et al.*, an amendment to the proposed Schedule 23 to the Midwest Independent Transmission System Operator, Inc.'s Tariff.

The Midwest ISO Transmission Owners state that they are serving this filing on all Midwest ISO's affected customers as well as on all applicable state commissions. In addition, the Midwest ISO Transmission Owners state that the Midwest ISO will post a copy on its home page.

Comment Date: 5 p.m. eastern time on May 13, 2005

7. Deephaven RV Sub Fund Ltd.

[Docket No. ER05–725–001]

Take notice that on April 22, 2005, Deephaven RV Sub Fund Ltd. (Deephaven) tendered for filing a supplement to its March 24, 2005, application in Docket No. ER05–725–000 for market-based rate authority. Deephaven states that the supplement adds a new rate sheet to Deephaven's proposed rate schedule setting forth the change in status reporting requirements adopted by the Commission in Order No. 652. Deephaven requests an effective date of April 25, 2005.

Comment Date: 5 p.m. eastern time on May 2, 2005.

8. Victoria International Ltd.

[Docket No. ER05–757–002]

Take notice that on April 25, 2005, Victoria International Ltd. (Victoria) submitted an amendment to its March 31, 2005, and April 12, 2005, filings submitting a petition for authority to sell power at market-based rates, acceptance of proposed rate schedule, and granting of certain waivers. Victoria requests an effective date 60 days from the date of filing of the petition or the date of the order accepting Victoria's rate schedule for filing, whichever is earlier.

Comment Date: 5 p.m. eastern time on May 13, 2005.

9. Virtual Energy, Inc.

[Docket No. ER05–798–001]

Take notice that on April 22, 2005, Virtual Energy, Inc. (Virtual Energy) filed an amended petition for acceptance of Virtual Energy Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations, originally filed with the Commission on April 8, 2005, in Docket No. ER05–798–000.

Comment Date: 5 p.m. eastern time on May 13, 2005.

10. Duke Energy Corporation

[Docket No. ER05–855–000]

Take notice that on April 22, 2005, Duke Energy Corporation, on behalf of Duke Electric Transmission, (collectively, Duke) submitted a large generator interconnection agreement between Duke Electric Transmission and Power Ventures Group, LLC (PVG), which is designated as Service Agreement No. 339 under Duke Electric Transmission FERC Electric Tariff Third Revised Volume No. 4.

Duke states that copies of the filing were served upon PVG and the South Carolina and North Carolina state public service commissions.

Comment Date: 5 p.m. eastern time on May 13, 2005.

11. Virginia Electric and Power Company

[Docket No. ER05–856–000]

Take notice that on April 22, 2005, Virginia Electric and Power Company (VEPCO) tendered for filing Supplement No. 2 to the Agreement for the Purchase of Electricity for Resale from Virginia Electric and Power Company between VEPCO and the Town of Windsor, North Carolina. VEPCO requests an effective date of June 21, 2005.

VEPCO states that copies of the filing were served upon the Town of Windsor, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment Date: 5 p.m. eastern time on May 13, 2005.

12. Tampa Electric Company

[Docket No. ER05–859–000]

Take notice that on April 22, 2005, Tampa Electric Company (Tampa Electric) filed a notice pursuant to the order issued March 30, 2005, in *North American Electric Reliability Council*, 110 FERC ¶ 61,388, stating that: (1) It uses the North American Electric Reliability Council's (NERC's) revised transmission loading relief (TLR) procedures; and (2) its open access transmission tariff (OATT) shall be considered so modified. Tampa Electric also tendered for filing First Revised Sheet No. 121, which updates the notice concerning use of the NERC TLR procedures in the OATT. Tampa Electric requests an effective date of April 1, 2005.

Tampa Electric states that copies of the filing have been served on all persons on the service list in Docket No. ER05–580–000, all customers under Tampa Electric's OATT, and the Florida Public Service Commission.

Comment Date: 5 p.m. eastern time on May 13, 2005.

13. North West Rural Electric Cooperative

[Docket No. ES05–29–000]

Take notice that on April 21, 2005, North West Rural Electric Cooperative (North West) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to make long-term borrowings in an amount not to exceed $13.5 million under a line of credit with the National Rural Utilities Cooperative Finance Corporation.

North West also requests a waiver from the Commission's competitive

bidding and negotiated placement requirements at 18 CFR 34.2.

Comment Date: 5 p.m. eastern time on May 18, 2005.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2194 Filed 5–4–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–54–000]

Wyoming Interstate Company, Ltd.; Notice of Availability of the Draft Environmental Impact Statement for the Piceance Basin Expansion Project

April 29, 2005.

The environmental staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) on the interstate natural gas pipeline transmission facilities proposed by Wyoming Interstate Company, Ltd. (WIC) in Moffat and Rio Blanco Counties, Colorado, and Sweetwater County, Wyoming, in the above-referenced docket.

The draft EIS was prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). Its purpose is to inform the Commission, the public, and other permitting agencies about the potential adverse and beneficial environmental impacts associated with the proposed Piceance Basin Expansion Project (Piceance Project) and its alternatives, and to recommend practical, reasonable, and appropriate mitigation measures which would avoid or reduce any significant adverse impacts to the maximum extent practicable and, where feasible, to less than significant levels. The draft EIS concludes that the proposed project, with appropriate mitigating measures as recommended, would have limited adverse environmental impact.

The U.S. Department of Interior, Bureau of Land Management (BLM) is participating as a cooperating agency in the preparation of the draft EIS because the project would cross Federal lands under BLM administration in Wyoming and Colorado. The draft EIS will be used by the BLM to consider the issuance of a right-of-way (ROW) grant for the portion of the project on federal lands. While the conclusions and recommendations presented in the draft EIS were developed with input from the BLM as a cooperating agency, the BLM will present its own conclusions and recommendations in its Record of Decision for the project.

Proposed Project

The Piceance Project involves the construction and operation of a new interstate natural gas pipeline system that would extend between the existing Colorado Interstate Gas Company (CIG) Greasewood Compressor Station in Rio Blanco County, Colorado, and the existing CIG Wamsutter Compressor Station in Sweetwater County, Wyoming.[1]

The draft EIS assesses the potential environmental effects of the construction and operation of the following facilities in Colorado and Wyoming:

- About 141.7 miles of 24-inch-diameter new pipeline with 89.8 miles located in Colorado (Rio Blanco and Moffat Counties) and 51.9 miles located in Wyoming (Sweetwater County);
- Additional compression to be installed at the existing CIG Greasewood Compressor Station in Colorado;
- Four meter stations at interconnections with other pipeline systems (two associated with the CIG Greasewood Compressor Station, two at the CIG Wamsutter Compressor Station);
- Three pigging facilities (one associated with each compressor station and a new facility at milepost 54.0 near County Road 4 in Moffat County, Colorado);
- Nine mainline valves (one valve at each of the two existing compressor stations and seven valves along the pipeline ROW); and
- Other associated facilities, such as access roads and communication towers.

The proposed project would be capable of transporting up to 350,000 dekatherms of natural gas per day (Dth/d) from the CIG Greasewood Compressor Station to interconnections at Wamsutter, Wyoming with the CIG and WIC interstate transmission pipeline systems that serve markets east and west of Wamsutter.

Comment Procedures and Public Meetings

Any person wishing to comment on the draft EIS may do so. To ensure consideration of your comments on the proposal in the final EIS, it is important that we receive your comments before the date specified below. Please follow these instructions carefully to ensure that your comments are received in time and are properly recorded:

- Send an original and two copies of your comments to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426;
- Reference Docket No. CP05–54–000;
- Label one copy of your comments for the attention of Gas Branch 1, PJ11.1; and
- Mail your comments so that they will be received in Washington, D.C. on or before *June 20, 2005.*

The Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. *See* 18 Code of Federal Regulations (CFR) 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments, you will need to

[1] Both WIC and CIG are affiliates owned by El Paso Corporation.

create a free account, which can be created by clicking on "Login to File" and then "New User Account."

In addition to or in lieu of sending written comments, the Commission invites you to attend a public comment meeting in the project area. Meetings are scheduled as shown below.

SCHEDULE FOR PUBLIC COMMENT MEETINGS

Date and time	Location
Tuesday, June 7, 2005 at 7 p.m. (MST).	Moffat County Extension Office—CSU 539 Barclay Street, Craig, CO 81625.
Wednesday, June 8, 2005 at 7 p.m. (MST).	Desert School 235 Bugas, Wamsutter, WY 82336.
Thursday, June 9, 2005 at 7 p.m. (MST).	Fairfield Center 200 Main Street, Meeker, CO 81641.

Interested groups and individuals are encouraged to attend and present oral comments on the draft EIS. Transcripts of the meetings will be prepared.

After these comments are reviewed and considered, modifications will be made to the draft EIS and it will be published and distributed as a final EIS. The final EIS will contain responses to timely comments filed on the draft EIS.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). Only intervenors have the right to seek rehearing of the Commission's decision.

Anyone may intervene in this proceeding based on the draft EIS. You must file your request to intervene as specified above.[2] You do not need intervenor status to have your comments considered.

The draft EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426. (202) 502–8371.

A limited number of copies are available from the FERC's Public Reference Room identified above. In addition, copies of the draft EIS have been mailed to federal, state, and local agencies; public interest groups; individuals and affected landowners; libraries; newspapers; and parties to this proceeding.

Additional information about the proposed project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the "eLibrary" link. Click on the eLibrary link, click on "General Search" and enter the docket number excluding the last three digits (CP05–54) in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to the eSubscription link on the FERC Internet Web site.

Information concerning the involvement of the BLM is available from Tom Hurshman, BLM Project Manager, at (970) 240–5345.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2187 Filed 5–4–05; 8:45 am]

BILLING CODE 6717–01–P

[2] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

April 29, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New major license.

b. *Project No.:* 2170–029.

c. *Date Filed:* April 22, 2005.

d. *Applicant:* Chugach Electric Association.

e. *Name of Project:* Cooper Lake Hydroelectric Project.

f. *Location:* On Cooper Lake, approximately 4.8 river miles from the mouth of Cooper Creek in south central Alaska, 55 miles south of Anchorage.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Burke Wick, Chugach Electric Association, 5601 Minnesota Drive, Anchorage, Alaska, 99519. (907) 762–4779.

i. *FERC Contact:* David Turner (202) 502–6091 or *david.turner@FERC.gov.*

j. *Cooperating Agencies:* We are asking Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item l below.

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: June 21, 2005.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Additional study requests and requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

m. This application is not ready for environmental analysis at this time.

n. The existing project consists of: (1) The Cooper Lake Dam, a 52-foot-high

earth-and-rockfilled structure; (2) the 2,620-acre, 5-mile-long Cooper Lake Reservoir; (3) two vertical-shaft Francis turbines with a total capacity of 19.38 megawatts; (4) an intake structure located on Cooper Lake; (5) a tunnel and penstock extending 10,686 feet east from the intake to the powerhouse; a (6) 6.3-mile-long, 69-kV primary transmission line from the powerhouse to Quartz Creek Substation; and 90.4-mile-long, 115-kV secondary transmission line from the Quartz Creek Substation to Anchorage.

The proposed project includes all of the existing facilities described above, except the 90.4-mile-long, 115-kV transmission line, which are proposed for removal because they no longer serve as a primary project transmission line. A new dam would be constructed on Stetson Creek to divert water into Cooper Lake to provide flow releases for fish habitat improvements in Cooper Creek.

o. A copy of the application is on file with the Commission and is available for 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, contact FERC online support at *ferconlinesupport@ferc.gov* or toll-free at 1–866–208–3676, or for Text Telephone (TTY) call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

p. With this notice, we are initiating consultation with the *Alaska State Historic Preservation Officer (SHPO)*, as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. *Procedural schedule and final amendments:* The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate. The Commission staff proposes to issue one Environmental Assessment (EA) rather than issuing a draft and final EA. Staff intends to allow at least 30 days for entities to comment on the EA, and will take into consideration all comments received on the EA before final action is taken on the license application. If any person or organization objects to the staff proposed alternative procedure, they should file comments as stipulated in item l above, briefly explaining the basis for their objection.

Issue Acceptance Letter—July 2005
Issue Scoping Document 1 for comments—August 2005
Scoping Meeting—September 2005
Issue Scoping Document 2—November 2005
Notice of application is ready for environmental analysis—December 2005
Notice of the availability of the EA—June 2006
Ready for Commission's decision on the application—November 2006

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2188 Filed 5–4–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Commissioner and FERC Staff Participation in National Association of Regulatory Utility Commissioners Resource Planning and Procurement Forum

April 29, 2005.

In the matter of: RM04–7–000; PL04–6–000; PL04–9–000; EC05–20–000; ER05–263–000; ER05–264–000; ER05–265–000; ER03–753–000; ER04–1248–002; ER05–640–000; RT01–2–015, RT01–2–016, and ER03–738–003; ER05–730–000; ER05–764–000; EL05–80–000; ER05–807–000; ER03–563–030 and EL04–102–000; EL05–52–000 and EL05–52–001; EL02–23–003 and EL02–23–006; EL03–236–001, EL03–236–002, EL03–236–003, EL03–236–004, EL03–236–005, and EL03–236–006; ER04–457–001, ER04–457–002, and EL05–60–000; ER05–572–000; EL05–84–000; EL05–48–000; EL05–48–001; ER04–1144–002 and ER04–1144–003; EC05–65–000; ER05–17–001; ER05–410–001; ER03–1272–003, ER03–1272–004, ER03–1272–005, ER03–1272–006, EL05–22–000, EL05–22–001, and EL05–22–002; Market Based Rates for Public Utilities; Solicitation Processes For Public Utilities; Acquisition and Disposition of Merchant Generation Assets by Public Utilities; PPL Sundance Energy, LLC, PPL EnergyPlus, LLC, and Arizona Public Service Company; Brownsville Power I. L.L.C.; Caledonia Power I, L.L.C.; Cinergy Capital and Trading, Inc.; Entergy Services, Inc.; Union Light, Heat and Power Company; Cinergy Services, Inc.; PJM Interconnection, LLC; ISO New England Inc.; Montana Alberta Tie Ltd.; Southern California Edison Company; Pacific Gas and Electric Company; Devon Power, LLC, *et al.*; Entergy Services, Inc.; Consolidated Edison Company of New York Inc.; PJM Interconnection, LLC; PJM Interconnection, LLC; Niagara Mohawk Power Corporation; New York Independent System Operator, Inc.; Neptune Regional Transmission System, LLC v. PJM Interconnection, LLC; New York Independent System Operator, Inc.; ITC Holdings Corp. and International Transmission Company; Trans-Elect NTD Path 15, LLC; Southern California Edison Company; Entergy Services, Inc.

The Federal Energy Regulatory Commission (FERC) hereby gives notice that FERC Commissioners and FERC staff may participate in the National Association of Regulatory Utility Commissioners (NARUC) Resource Planning and Procurement Forum noted below. The forum is expected to include discussion of issues relating to transmission infrastructure and to Commission and state coordination with respect to public utility power sales transactions and public utility dispositions of Commission-jurisdictional facilities. That discussion may address matters at issue in the above-captioned proceedings. The participation of FERC Commissioners and FERC staff is part of the Commission's ongoing outreach efforts.

NARUC Resource Planning and Procurement Forum—May 16, 2005, 9:30 a.m.–4:30 p.m. (c.s.t.); Hyatt Regency O'Hare, 9300 W. Bryn Mawr Avenue, Rosemont, IL 60018, 847–696–1234. The NARUC Resource Planning and Procurement Forum is open to the public.

For more information, contact Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission at (202) 502–8368 or *sarah.mckinley@ferc.gov*.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2190 Filed 5–4–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. [FRL–7907–5]

Tenth Meeting of the World Trade Center Expert Technical Review Panel To Continue Evaluation on Issues Relating To Impacts of the Collapse of the World Trade Center Towers

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The World Trade Center Expert Technical Review Panel (or WTC Expert Panel) will hold its tenth meeting intended to provide for greater input on continuing efforts to monitor the situation for New York residents and workers impacted by the collapse of the World Trade Center (WTC). The panel members will help guide the EPA's use

of the available exposure and health surveillance databases and registries to characterize any remaining exposures and risks, identify unmet public health needs, and recommend any steps to further minimize the risks associated with the aftermath of the WTC attacks. Panel meetings will be open to the public, except where the public interest requires otherwise. Information on the panel meeting agendas, documents (except where the public interest requires otherwise), and public registration to attend the meetings will be available from an Internet Web site. EPA has established an official public docket for this action under Docket ID No. ORD–2004–003.

DATES: The tenth meeting of the WTC Expert Panel will be held on Tuesday, May 24, 2005, from 9 a.m. to 5 p.m., eastern daylight savings time. On-site registration will begin at 8:30 a.m.

ADDRESSES: The WTC Expert Panel meeting will be held at the Alexander Hamilton U.S. Customs House, One Bowling Green, New York, NY in the Auditorium (basement level). A government-issued identification (*e.g.*, driver's license) is required for entry.

FOR FURTHER INFORMATION CONTACT: For meeting information, registration and logistics, please see the panel's Web site *http://www.epa.gov/wtc/panel* or contact ERG at (781) 674–7374. The meeting agenda and logistical information will be posted on the Web site and will also be available in hard copy. For further information regarding the WTC Expert Panel, contact Ms. Lisa Matthews, EPA Office of the Science Advisor, telephone (202) 564–6669 or e-mail: *matthews.lisa@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. WTC Expert Panel Meeting Information

Eastern Research Group, Inc., (ERG), an EPA contractor, will coordinate the WTC Expert Panel meeting. To attend the panel meeting as an observer, please register by visiting the Web site at: *http://www.epa.go/wtc/panel*. You may also register for the meeting by calling ERG's conference registration line between the hours of 9 a.m. and 5:30 p.m. e.s.t. at (781) 674–7374 or toll free at 1–800–803–2833, or by facing a registration request to (781) 674–2906 (include full address and contact information). Pre-registration is strongly recommended as space is limited, and registrations are accepted on a first-come, first-served basis. The deadline for pre-registration is May 18, 2005. Registrations will continue to be accepted after this date, including on-site registration, if space allows. There will be a limited time at the meeting for oral comments from the public. Oral comments will be limited to five (5) minutes each. If you wish to make a statement during the observer comment period, please check the appropriate box when you register at the Web site. Please bring a copy of your comments to the meeting for the record or submit them electronically via e-mail to *meetings@erg.com*, subject line: WTC.

II. Background Information

Immediately following the September 11, 2001, terrorist attack on New York City's World Trade Center, many Federal agencies, including the EPA, were called upon to focus their technical and scientific expertise on the national emergency. EPA, other Federal agencies, New York City and New York State public health and environmental authorities focused on numerous cleanup, dust collection and ambient air monitoring activities to ameliorate and better understand the human health impacts of the disaster. Detailed information concerning the environmental monitoring activities that were conducted as part of this response is available at the EPA Response to 9–11 Web site at *http://www.epa.gov/wtc/*.

In addition to environmental monitoring, EPA efforts also included toxicity testing of the dust, as well as the development of a human exposure and health risk assessment. This risk assessment document, Exposure and Human Health Evaluation of Airborne Pollution from the World Trade Center Disaster, is available on the Web at *http://www.epa.gov/ncea/wtc.htm*. Numerous additional studies by other Federal and State agencies, universities and other organizations have documented impacts to both the outdoor and indoor environments and to human health.

While these monitoring and assessment activities were ongoing and the cleanup at Ground Zero itself was occurring, EPA began planning for a program to clean and monitor residential apartments. From June until December 2002, residents impacted by WTC dust and debris in an area of about 1 mile by 1 mile south of Canal Street were eligible to request either federally-funded cleaning and monitoring for airborne asbestos or monitoring of their residences. The cleanup continued into the summer of 2003 by which time the EPA had cleaned and monitored 3,400 apartments and monitored 800 apartments. Detailed information on this portion of the EPA response is also available at *http://www.epa.gov/wtc/*.

A critical component of understanding long-term human health impacts is the establishment of health registries. The WTC Health Registry is a comprehensive and confidential health survey of those most directly exposed to the contamination resulting from the collapse of the WTC towers. It is intended to give health professionals a better picture of the health consequences of 9/11. It was established by the Agency for Toxic Substances and Disease Registry (ATSDR) and the New York City Department of Health and Mental Hygiene (NYCDHMH) in cooperation with a number of academic institutions, public agencies and community groups. Detailed information about the registry can be obtained from the registry Web site at: *http://www.nyc.gov/html/doh/htm/wtc/index.html*.

In order to obtain individual advice on the effectiveness of these programs, unmet needs and data gaps, the EPA has convened a technical panel of experts who have been involved with WTC assessment activities. Mr. E. Timothy Oppelt, EPA Acting Assistant Administrator for Research and Development, is serving as Interim Panel Chair. Dr. Paul Lioy, Professor of Environmental and Community Medicine at the Environmental and Occupational Health Sciences Institute of the Robert Wood Johnson Medical School—UMDNJ and Rutgers University, serves as vice Chair. A full list of the panel members, a charge statement and operating principles for the panel area available from the panel Web site listed above. Panel meetings typically will be one- or two-day meetings, and they will occur over the course of approximately a two-year period. Panel members will provide individual advice on issues the panel addresses. These meetings will occur in New York City and nearby locations. All of the meetings will be announced on the Web site and by a **Federal Register** notice, and they will be open to the public for attendance and brief oral comments.

The focus of the tenth meeting of the WTC Expert Panel is to discuss EPA's Final Draft Proposed Sampling Program to Determine Extent of World Trade Center Impacts to the Indoor Environment, and to hear comments from individual panel members and the public on the final draft sampling plan. The final draft sampling plan will be posted on the panel Web site identified earlier at *http://www.epa.gov/wtc/panel* the week of May 9, 2005. There will also be an update on the WTC signature study. Additional information on

meetings of the WTC Expert Panel can be found at the panel Web site.

III. Hot To Get Information on E-DOCKET

EPA has established an official public docket for this action under Docket ID No. ORD–2004–0003. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Office of Environmental Information (OEI) Docket in the Headquarters EPA Docket Center, (EPA/DC) EPA West Building, Room B102, 1301 Constitution Avenue, NW., Washington, DC 20460. 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; facsimile: (202) 566–1753; or e-mail: *ORD.Docket@epa.gov*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listings 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.

Dated: April 28, 2005.

E. Timothy Oppelt,

Acting Assistant Administrator, EPA Office of Research and Development.

[FR Doc. 05–8871 Filed 5–4–05; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7908–2]

Intent To Grant a Co-Exclusive Patent License

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to grant a co-exclusive license.

SUMMARY: Pursuant to 35 U.S.C. 207 (Patents) and 37 CFR part 404 (U.S. Government patent licensing regulations), EPA hereby gives notice of its intent to grant a co-exclusive, royalty-bearing, revocable license to practice the invention described and claimed in the U.S. patent application entitled Method for Isolating and Using Fungal Hemolysins, filed May 30, 2001, U.S. Serial Number 09/866,793, and all corresponding patents issued throughout the world, and all reexamined patents and reissued patents granted in connection with such patent application, to Roche Diagnostics Corporation, Indianapolis, Indiana, and to Aerotech Laboratories, Phoenix, Arizona.

The invention was announced as being available for licensing in the May 12, 2003 issue of the **Federal Register** (68 FR 25371) as U.S. Patent Application Number 09/866,793, filed May 30, 2001, and claiming priority from a provisional application filed June 1, 2000.

The proposed co-exclusive license will contain appropriate terms, limitations, and conditions to be negotiated in accordance with 35 U.S.C. 209 and 37 CFR 404.5 and 404.7 of the U.S. Government patent licensing regulations.

EPA will negotiate the final terms and conditions and grant the co-exclusive license, unless within 15 days from the date of this notice EPA receives, at the address below, written objections to the grant, together with supporting documentation. The documentation from objecting parties having an interest in practicing the above patents should include an application for an exclusive or nonexclusive license with the information set forth in 37 CFR 404.8. The EPA Patent Attorney and other EPA officials will review all written responses and then make recommendations on a final decision to the Director or Deputy Director of the National Exposure Research Laboratory who have been delegated the authority to issue patent licenses under EPA Delegation 1–55.

DATES: Comments on this notice must be received by EPA at the address listed below by May 20, 2005.

FOR FURTHER INFORMATION CONTACT: Laura Scalise, Patent Attorney, Office of General Counsel (Mail Code 2377A), Environmental Protection Agency, Washington, DC 20460, telephone (202) 564–8303.

Dated: April 27, 2005.

Marla E. Diamond,

Associate General Counsel, Finance and Operations Law Office.

[FR Doc. 05–8986 Filed 5–4–05; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 75]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank) provides working capital guarantees to lenders. In assessing the creditworthiness of an applicant, Ex-Im Bank reviews EIB Form 84–1. This form provides information which allows the Bank to obtain legislatively required reasonable assurance of repayment, as well as to fulfill other statutory requirements. The form has had some minor change in content and requires a three-year extension.

DATES: Written comments should be received on or before July 5, 2005 to be assured of consideration.

ADDRESSES: Direct all comments and requests for additional information to Pamela Bowers, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571 (202) 565–3792, or *pamela.bowers@exim.gov*.

SUPPLEMENTARY INFORMATION:

Titles and Form Numbers: U.S. Small Business Administration, Export-Import Bank of the United States Joint Application for Working Capital Guarantee.

OMB Number: 3048–0003.

Form Number: EIB–SBA 84–1 (Revised 2/2005).

Type of Review: Revision and extension of expiration date.

Annual Number of Respondents: 600.

Estimated Time Per Respondent: 2 Hours.

Annual Burden Hours: 1,200.

Frequency of Reporting or Use: Upon application for guarantees or working capital loans advanced by the lenders to U.S. exporters.

Dated: April 29, 2005.

Solomon Bush,

Agency Clearance Officer.

BILLING CODE 6690–01–M

OMB No.: 3048-0003
Expires 5/31/08

(SBA Use Only) Date Received C.I.D. No. Intermediary	U.S. SMALL BUSINESS ADMINISTRATION EXPORT-IMPORT BANK OF THE UNITED STATES JOINT APPLICATION FOR EXPORT WORKING CAPITAL GUARANTEE	(Ex-Im Bank Use Only) Date Received

PART A. PRINCIPAL PARTIES

1. Borrower/Exporter Please circle the appropriate answer: New to Ex-Im Bank or SBA? Yes No

Company Name	D&B No.		Telephone No.
Name and Title of Contact Person	Federal ID No.		Fax No.
Address	City	State	Zip
Gross Sales: $	No. of Full-Time Employees:	Primary North American Industrial Classification System (NAIC) No.:	"Small Business Concern" as described in SBA Guidelines? □ Yes □ No

Has the Borrower or its owner(s), or the Guarantor ever filed for protection under U.S. bankruptcy laws? Has either had an involuntary bankruptcy petition filed against it? □ Yes □ No

2. Borrower's Management (Proprietors, partners, officers, directors and holders of all outstanding stock or other ownership interests - 100% of ownership must be shown. Include anyone who was a principal within the last six months.) Attach separate sheet of paper if necessary.

Name	Complete Street Address	% owned	Social Security Number	Title/Management position	Gender* (M/F)

Race* (check one or more boxes): □ American Indian/Alaska Native; □ Black/African American; □ Asian; □ Native Hawaiian/Pacific Islander; □ White. Ethnicity:* □ Hispanic/Latino; □ Not Hispanic/Latino.
Military Service Status* (choose one): □ Non-Veteran; □ Veteran; □ Service Disabled Veteran

Race* (check one or more boxes): □ American Indian/Alaska Native; □ Black/African American; □ Asian; □ Native Hawaiian/Pacific Islander; □ White. Ethnicity:* □ Hispanic/Latino; □ Not Hispanic/Latino.
Military Service Status* (choose one): □ Non-Veteran; □ Veteran; □ Service Disabled Veteran

Race* (check one or more boxes): □ American Indian/Alaska Native; □ Black/African American; □ Asian; □ Native Hawaiian/Pacific Islander; □ White. Ethnicity:* □ Hispanic/Latino; □ Not Hispanic/Latino.
Military Service Status* (choose one): □ Non-Veteran; □ Veteran; □ Service Disabled Veteran

*Minority-Owned? Yes No

*Women-Owned? Yes No

*This information is collected for statistical purposes only. It has no bearing on the credit decision. Disclosure is voluntary.

3. Borrower's Affiliate(s) If more than one affiliate, please attach separate sheet of paper.

Company Name	D&B No.	Telephone No.	
Name and Title of Contact Person	Federal ID No.	Fax No.	
Street Address	City	State	Zip

4. Personal Guarantor(s) If more than one guarantor, please attach separate sheet of paper.

Name	Social Security No. Date of Birth and Place of Birth	Telephone No. Fax No.

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Street Address	City	State	Zip

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5. Lender Please circle the appropriate answer: New to Ex-Im Bank or SBA? Yes (If yes, submit annual report.) No			
Name	Federal ID No.	Telephone No. Fax No.	
Address	City	State	Zip

PART B. INFORMATION ABOUT THIS TRANSACTION

1. Loan Information		
Loan Amount: $	Term of Loan: □ 6 months □ Other (specify:) □ 1 year	Type of Loan (check one): □ Revolving □ Transaction(s) Specific
Interest Rate to be Charged: Lender Interest Rate _____% Per Annum	Other Fees or Charges (type and amount);	Renewal? □ Yes □ No
If Interest Rate is to be Variable: Base Rate:_____ Adjustment Period:_____ (Monthly, Quarterly, Annually, etc.) Spread:_____ Base Rate Source:_____ (WSJ, LIBOR, etc.)	Conversion of Preliminary Commitment? □ Yes If yes: commitment #_____ □ No	Were You Assisted by an Ex-Im Bank City/State Partner or a Small Business Development Center? □ Yes If yes, please identify: Name & Address:_____ _____ Contact Name:_____ Telephone No.:_____ □ No

2. Transaction Information			
Products/Goods/Services to be exported (description):			
Estimated Total Export Sales to be supported by this Loan: $			
Principal Countries of Export (please identify the top 3 countries):			
(Ex-Im Bank applicants only) U.S. Content Percentage: _____ %			
Please estimate the number of jobs to be supported by this Loan:	# of existing jobs maintained: # of additional jobs created:		
Are Performance Guarantees or Standby Letters of Credit to be issued under this Loan?	Yes	No	Percentage of Loan to be utilized for performance guarantees: _____%

3. *(Ex-Im Bank applicants only)* **Please answer the following questions about the "export items" to be exported from the U.S.**			
a. Military Is the buyer of the export items associated in any way with the military? Are the items to be used by the military, or are they defense articles, or do they have a military application?	Yes	No	If yes, please attach a description of the buyer or items, as applicable.
b. Nuclear Are the export items to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities?	Yes	No	If yes, please attach a description of the items.
c. Environmental Are the export items to be used for an environmental project or do they have perceptible environmental benefits?	Yes	No	If yes, please attach a description of the items, including the following information: If transaction related to a specific project, identify the project; project location; and project sector or industry. If not related to a specific project, identify the sector in which items are to be used to create an environmental benefit.
d. Munitions Are the export items on the U.S. Munitions Control List (Part 121 of Title 22 of the Code of Federal Regulations), or do they require a validated export license from the Bureau of Export Administration?	Yes	No	If yes, please attach a description of the items. If uncertain whether a validated export license is required, written verification from the appropriate licensing agency may be required before loan approval.

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PART C. CERTIFICATIONS

***Please attach a signed, duplicate original of Part C for each Borrower and each Lender**

1. Borrower and Lender Certifications

The undersigned, each as authorized representative of the Borrower and the Lender (respectively) and on its behalf, each independently make the following certifications:

Debarment/Suspension – I certify and acknowledge that neither I or my Principals have within the past 3 years been a) debarred, suspended, declared ineligible from participating in, or voluntarily excluded from participation in, a Transaction; b) formally proposed for debarment, with a final determination still pending; c) indicted, convicted or had a civil judgment rendered against us for any of the offenses listed in the Regulations; d) delinquent on any amounts due and owing to the U.S. Government or its agencies or instrumentalities as of the date of execution of this certification; or the undersigned has received a written statement of exception from Ex-Im Bank or SBA attached to this certification, permitting participation in this Transaction despite an inability to make certifications a) through d) in this paragraph. I further certify that I have not and will not knowingly enter into any agreements in connection with the goods and/or services purchased with the proceeds of this loan with any individual or entity that has been debarred, suspended, declared ineligible from participating in, or voluntarily excluded from participation in a Transaction. All capitalized terms not defined herein shall have the meanings set forth in the Government-wide Non-procurement Suspension and Debarment Regulations - Common Rule (13 CFR part 145 – SBA Regulations and 12 CFR part 413 – Ex-Im Bank Regulations).

Compliance with Laws - In addition, I certify that I have not, and will not, engage in any activity in connection with this transaction that is a violation of a) the Foreign Corrupt Practices Act of 1977, 15 U.S.C. 78dd-1, et seq. (which provides for civil and criminal penalties against individuals who directly or indirectly make or facilitate corrupt payments to foreign officials to obtain or keep business); b) the Arms Export Control Act, 22 U.S.C. 2751 et seq.; c) the International Emergency Economic Powers Act, 50 U.S.C. 1701 et seq.; or d) the Export Administration Act of 1979, 50 U.S.C. 2401 et seq. I further certify that I have not been found by a court of the United States to be in violation of any of these statutes within the preceding 12 months and, to the best of my knowledge, the performance by the parties to this transaction of their respective obligations does not violate any other applicable law.

Lobbying (applicable to Lender only) – I certify to the best of my knowledge and belief, that if any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this commitment providing for the United States to guarantee a loan, I will complete and submit a Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions. Submission of this statement is imposed by 31 U.S.C. 1352 as a prerequisite for making or entering into this transaction. Any person who fails to file this statement when required is subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

False Statements – I certify that the representations made and the facts stated in this application and its attachments are true to the best of my knowledge and belief, and I have not misrepresented or omitted any material facts. I understand that knowingly making false statements or overvaluing a security to obtain a Government-guaranteed loan can subject me to a fine of up to $10,000 and imprisonment for up to five years under 18 U.S.C. 1001.

Borrower:

Name of Borrower	
Signature	Date
Name and Title of Authorized Representative (Print or Type)	

Lender:

Name of Lender	
Signature	Date
Name and Title of Authorized Representative (Print or Type)	

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2. Guarantor and Additional Borrower Representations and Certifications *(SBA applicants only)*

The undersigned, each as authorized representative of the Borrower and the Guarantor(s) (respectively) and on its behalf, each independently make the following representations and certifications:

(If any answer to any of these questions is "yes," provide complete information on a separate sheet of paper)	Borrower	Guarantor
a. Are there any pending or threatened liens, tax liens, judgments or material litigation against the:	☐ Yes ☐ No	☐ Yes ☐ No
b. Does the Borrower or Guarantor or any spouse or member of the household of the Borrower or Guarantor, or anyone who owns, manages or directs the Borrower's business or their spouses or members of their households, work for SBA, Small Business Advisory Council, SCORE, any Federal Agency, or the Lender?	☐ Yes ☐ No	☐ Yes ☐ No
c. Has the Borrower or its owner(s), or the Guarantor ever filed for protection under U.S. bankruptcy laws? Has either had an involuntary bankruptcy petition filed against it?	☐ Yes ☐ No	☐ Yes ☐ No
d. Has the Borrower or its owner(s) or affiliates, or the Guarantor ever previously requested U.S. Government financing?	☐ Yes ☐ No	☐ Yes ☐ No
e. Is the Borrower or Guarantor now, or ever have been in the past: (a) under indictment, on parole or probation; or (b) charged with or arrested for any criminal offense other than a minor motor vehicle violation (including offenses which have been dismissed, discharged, or nolle prosequi); or (c) convicted, placed on pretrial diversion, or placed on any form of probation including adjudication withheld pending probation for any criminal offense other than a minor vehicle violation?	☐ Yes ☐ No	☐ Yes ☐ No
f. Are all owners and Guarantors U.S. Citizens? If no: Are the non-U.S. Citizens lawful permanent resident aliens? ☐ Yes (provide alien registration number(s): _____) ☐ No	☐ Yes ☐ No	☐ Yes ☐ No

Authorization - I authorize SBA and/or the Lender to make inquiries as necessary to verify the accuracy of the statements made and to determine my creditworthiness. I authorize the SBA's Office of Inspector General to request criminal record information about me from criminal justice agencies for the purpose of determining my eligibility for programs authorized by the Small Business Act, as amended.

Agreements - I agree that if SBA approves this application I will not, for at least two years after the date of SBA's approval, hire as an employee or consultant anyone that was employed by the SBA during the one-year period prior to the disbursement of the loan. I further agree that as consideration for any management, technical, and business development assistance that may be provided to me by SBA or on its behalf, I waive all claims against SBA and its consultants. I understand and agree that I need not pay anybody to deal with SBA, and that I have read and understand SBA Form 159, which explains SBA policy on Borrower and Lender representatives and their fees. By my signature, I certify that I have received a copy and read a copy of the "Statements Required by Law and Executive Order" (SBA Form 1261) that was attached to this application, and that I agree to comply with all such laws and executive orders.

False Statements - I certify that the representations made and the facts stated in this application and its attachments are true, to the best of my knowledge and belief, and I have not misrepresented or omitted any material facts. I understand that knowingly making false statements or overvaluing a security to obtain a Government-guaranteed loan can subject me to a fine of up to $10,000 and imprisonment for up to five years under 18 U.S.C. 1001, and to the civil remedies available under the False Claims Act, 31 U.S.C. 3729 et seq. I further understand that knowingly making false statements or overvaluing a security to a Federally insured institution can subject me to a fine of up to $1,000,000 and imprisonment for up to 20 years under 18 U.S.C. 1014.

Borrower:

Name of Borrower	
Signature	Date
Name and Title of Authorized Representative (Print or Type)	

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Guarantor:

Name of Guarantor	
Signature	Date
Name and Title of Authorized Representative (Print or Type)	

3. **Additional Lender Certifications** ***(SBA applicants only)***

The undersigned, as authorized representative of the Lender and on its behalf, make the following certifications:

I submit this application to SBA for approval subject to the terms and conditions outlined above. Without the participation of SBA as described in the application, I would not be willing to make this loan, and in my opinion this financial assistance is not otherwise available on reasonable terms.

I certify that none of the Lender's employees, officers, directors, or substantial stockholders (more than 10%) have a financial interest in the applicant.

I certify that the representations made and the facts stated in this application and its attachments are true, to the best of my knowledge and belief, and I have not misrepresented or omitted any material facts. I understand that knowingly making false statements or overvaluing a security to obtain a Government-guaranteed loan can subject me to a fine of up to $10,000 and imprisonment for up to five years under 18 U.S.C. 1001, and to the civil remedies available under the False Claims Act, 31 U.S.C. 3729 et seq.

Name of Lender	
Signature	Date
Name and Title of Authorized Representative (Print or Type)	

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NOTICE TO APPLICANT:

Authority for Requiring Submission of Information in Application - The applicant is hereby notified that Ex-Im Bank and SBA request the information in this application under the authority of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635 et seq.) and section 7(a)(14) of the Small Business Act ("SB Act"), (15 U.S.C. 636(a)(14)), respectively. Providing the requested information is mandatory (except, see Privacy Act notice below concerning social security number), and failure to provide the requested information may result in SBA/Ex-Im Bank being unable to determine the applicant's eligibility for financial assistance. Unless a currently valid OMB control number is displayed on this form (see upper right of each page), SBA/Ex-Im Bank may not require the information requested in this application, and applicants are not required to provide such information.

Submission of Social Security Number (Privacy Act notice) - Under the Privacy Act, the applicant is not required to provide social security number information, and failure to provide social security number may not affect any right, benefit, or privilege to which applicant is entitled. Disclosures of name and other personal identifiers are required for a benefit, however, and SBA requires an applicant seeking financial assistance to provide sufficient information to allow SBA to make a character and credit determination concerning individuals that are borrowers, principals, and guarantors. In determining whether an individual is of good character, SBA considers the person's integrity, candor, and disposition toward criminal actions. In making loans pursuant to section 7(a) of the SB Act (15 U.S.C. 636(a)(6)), SBA is required to have reasonable assurance that the loan is of sound value and will be repaid, or that it is in the best interest of the Government to grant the financial assistance requested. Additionally, SBA is specifically authorized to verify the applicant's criminal history, or lack thereof, pursuant to section 7(a)(1) of the SB Act (15 U.S.C. 636(a)(1)(B)). Further, for all forms of assistance, SBA is authorized to make all investigations necessary to ensure that a person has not engaged in acts that violate or will violate the SB Act or the Small Business Investment Act (15 U.S.C. 634 and 687b(a)). For these purposes, applicant is asked to voluntarily provide social security numbers to assist SBA in making character determinations and to distinguish the individuals listed in this application from other individuals with the same or similar name or other personal identifier.

The Privacy Act authorizes SBA to make certain "routine uses" of information protected by that Act. One such routine use is that when this information indicates a violation or potential violation of law, whether civil, criminal, or administrative in nature, SBA may refer it to the appropriate agency, whether Federal, State , local or foreign, charged with responsibility for or otherwise involved in investigation, prosecution, enforcement or prevention of such violations. Another routine use is to assist in obtaining credit bureau reports, including business credit reports on the small business borrower and consumer credit reports and scores on the principals of the small business and guarantors on the loan for purposes of originating, servicing, and liquidating small business loans and for purposes of routine periodic loan portfolio management and lender monitoring. See 69 F.R. 58598, 58617 (and any subsequently published notices) for additional background and other routine uses.

Disclosure – Ex-Im Bank and SBA will hold confidential all information provided in the application, subject only to disclosure as required under the Freedom of Information Act (5 USC 552), the Privacy Act of 1974 (5 USC 552a), the Right to Financial Privacy Act of 1978 (12 USC 3401), or any other law or court order.

Public Burden Statement - Reporting for this collection of information is estimated to average 7.5 hours per response, including reviewing instructions, searching data sources, gathering information, and completing and reviewing the application. Send comments regarding the burden estimate, including suggestions for reducing it, to Office of Management and Budget, Paperwork Reduction Project OMB# 3048-0009, Washington, D.C. 20503.

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Expires 5/31/08

APPLICATION INSTRUCTIONS

PART A. PRINCIPAL PARTIES

1. **Borrower/Exporter.** Complete this section with information on the individual or corporate borrower. Provide the preliminary North American Industrial Classification System No. (NAIC) of the borrower, rather than the product being exported.

2. **Management.** Complete this section for each proprietor, partner, officer, director or other individual owning 20% or more of the borrower. 100% of ownership must be shown.

3. **Personal Guarantor(s).** List all individuals and entities that will guarantee repayment of the loan. The personal guarantee of the owner(s) is required in most cases.

4. **Lender.** Leave blank if you are applying for a Preliminary Commitment and a prospective lender has not been identified.

PART B. INFORMATION ABOUT THE TRANSACTION

Provide the loan amount, term and type of loan requested, and answer all questions in Part B. (See also Checklist item 2 below.)

PART C. CERTIFICATIONS

This section must be signed by an authorized representative of the borrower, each guarantor, and, if this is a request for a final commitment, the Lender.

CHECKLIST OF INFORMATION TO BE ATTACHED

(Note: All Attachments must be signed and dated by all person(s) signing this form.)

BACKGROUND	Yes	N/A
1. Brief resume of principals and key employees, History of business; copy of business plan, if available; identify whether sole proprietorship, general partnership, limited liability company (LLC), corporation and/or subchapter-S corporation.		
2. Explanation of use of proceeds and benefits of the loan guarantee, including details of the underlying transaction(s) for which the loan is needed, including country(s) where the buyers are located.		
TRANSACTION	**Yes**	**N/A**
3. Attach product literature. *(Ex-Im Bank applicants only)*: If applicable, attach description of items if they are nuclear, military, environmental, on the U.S. Munitions Control List, or require an export license.		
4. Copy of letter of credit and/or copy of buyer's order/contract, if available.		
5. Export credit insurance-related material (policy, application, buyer credit limit), if applicable.		
6. Copy of export license, if required.		
FINANCIAL INFORMATION	**Yes**	**N/A**
7. Business financial statements (Balance Sheet, Income Statement, statement of Cash Flows) for the last three years, if applicable, supported by the most recent Federal income tax return for the business. *(SBA applicants only)*: Also submit the last three years of signed Federal income tax returns for the business.		
8. Current financial statement (interim) dated within 90 days of the date of application filing.		
9. Aging of accounts receivable and accounts payable.		
10. Schedule of all principal officer/owner's compensation for the past three years, and current year to date [if none, please indicate].		
11. Signed joint personal financial statements(s) of each major shareholder(s)/partner(s), owner(s), of the company (with 20% or greater ownership, including assets and liabilities of both spouses) and their most recent Federal income tax return (not required for venture capital partners).		
12. Estimate of monthly cash flow for the term of the loan, highlighting the proposed export transaction.		
13. Description of type and value of proposed collateral to support the loan (company assets/export product, i.e., inventory, accounts receivable, other).		
14. Attach credit memorandum prepared by the Lender. *(SBA applicants only)*: Also attach D&B Report and Personal Credit Reports on Principals and Guarantors.		
15. *(Ex-Im Bank applicants only)*: Nonrefundable $500 application fee for a Preliminary Commitment or nonrefundable $100 application fee for a Final Commitment, whichever is applicable, by check or money order made out to the Ex-Im Bank.		
16. *(SBA applicants only)*: SBA Form 1261		
17. *(SBA applicants only)*: Copy of IRS Form 4506-T (original to be submitted to IRS by the Lender).		

OMB No.: 3048-0003
Expires 5/31/08

MAILING/FORWARDING INSTRUCTIONS

Please circle the appropriate answer.

1. If application is submitted by a Borrower/Exporter:

   a. Is Borrower/Exporter's requested loan amount in Part B $1,666,666 or less? ◻ Yes ◻ No

   b. Is Borrower/Exporter a small business, as defined by 13 CFR 121.105? ◻ Yes ◻ No

   If answer to *both* of the above is YES, send entire set of materials to the SBA Representative in the U.S. Export Assistance Center nearest you. Call (800) 827-5722 for the address.

   If answer to *both* of the above is NO, send entire set of materials to:
   Export-Import Bank of the U.S.
   Office of Credit Applications and Processing
   811 Vermont Avenue, NW
   Washington, DC 20571

2. If application is submitted by a Lender.

   a. Is Lender an **SBA 7(a) Participating Lender**? ◻ Yes ◻ No
   If YES, and if the loan will have a maturity of twelve (12) months or less, submit with this application a Lender's check equal to 0.25% of the guaranteed amount of the loan.

   b. Is Lender using its **Ex-Im Bank Delegated Authority**? ◻ Yes ◻ No
   If YES, send the application, the Loan Authorization Notice (two originals), the appropriate facility fee, and the $100 application fee to the Ex-Im Bank address above, **regardless of the guarantee amount.**

Loan Officer's Recommendation: ◻ Approve ◻ Decline State Reason(s):		
Signature	Title	Date
Other Recommendation if required: ◻ Approve ◻ Decline State Reason(s):		
Signature	Title	Date
THIS BLOCK TO BE COMPLETED BY SBA OFFICIAL TAKING FINAL ACTION		
◻ Approve ◻ Decline State Reason(s):		
Signature	Title	Date

[FR Doc. 05–8913 Filed 5–4–05; 8:45 am]
BILLING CODE 6690–01–C

FEDERAL MEDIATION AND CONCILIATION SERVICE

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35) (PRA), the Federal Mediation and Conciliation Service (FMCS) requests comments on a proposed request for Office of Management and Budget (OMB) to approve an FMCS online customer survey. This survey is to evaluate the impact of FMCS' relationship-development and training programs (RDTs), the impact of the training program on the relationship between labor and management, and the impact of the training on the workplace. The survey will be voluntary and will be administered online, to randomly selected private sector employers and their corresponding unions. The survey asks 10 questions about FMCS-provided RDT programs. In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), FMCS invites the public to comment on this proposed information collection. The FMCS will consider all comments received in response to this notice before requesting approval of this collection of information from the Office of Management and Budget.

DATES: Submit comments on or before July 5, 2005.

ADDRESSES: Send comments to Maria A. Fried, Attorney-Advisor, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427.

FOR FURTHER INFORMATION CONTACT: Maria A. Fried, Attorney-Advisor, Federal Mediation and Conciliation Service, 202–606–5444; *mfried@fmcs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Survey of Relationship-Development and Training Programs.

OMB Number: Not yet assigned.

Expiration Date: Not applicable.

Type of Request: New collection of information.

Method of Collection: Historically, the FMCS closes approximately 2400 RDT cases per fiscal year. The intent is to survey 10 percent of these closed cases over the course of the fiscal year, including company and union counterpart that received the training. Using its database, FMCS will randomly select cases closed within each quarter in order to meet the agency's desire to survey 10% of all closed cases over the fiscal year.

RDT participants with e-mail addresses will receive an e-mail with a Web link to the survey questions. RDT participants without e-mail addresses will receive a post card explaining that they have been randomly selected for a survey and provided with a link to access the survey. The survey will take no longer than 5 minutes to complete.

Survey Questions:

The survey will appear online as noted below:

FMCS Customer Survey Questions

Our records show that you recently used FMCS training services. FMCS is collecting this information to become more aware of the impact of its training services and to improve them. Participation is voluntary and responses are completely confidential. Please help us improve our training services by completing this short on-line survey. There are only 10 questions, and it should require fewer than five minutes. Your comments are important to us, and we appreciate your time and your interest in FMCS training services.

Please note that the FMCS may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB control number. The control number for this survey is ___ __.

1. Which do you represent?
   a. Labor.
   b. Management.
2. What was the primary factor motivating your decision to have this training program? Select the primary factor.
   a. Our recent contract negotiations were contentious (or a recent strike) and we believed this training would improve our relationship and help reduce conflict.
   b. We have many grievances pending and we believed this training would help us improve resolution of them.
   c. We wanted to improve morale.
   d. We need improved methods of communication with one another.
   e. We agreed to the training because the other side wanted it.
   f. An FMCS mediator recommended the training.
   g. Another source recommended training.
   h. We needed to learn more effective problem-solving techniques for our upcoming contract negotiations.
   i. Other.
3. Did the program (select one).
   a. Meet expectations.
   b. Exceed expectations.
   c. Fall below expectations.
4. As a result of the training program, do you believe that the parties' relationship improved? Select one.
   a. Yes (if yes, go to question 5).
   b. No (if no, go to question 6).
5. What were the positive outcomes of the training program, if any? Please select all that apply.
   a. Number of grievances decreased.
   b. Grievances were handled more efficiently.
   c. Employee moral improved.
   d. Communication (both quality and method) improved.
   e. Productivity improved.
   f. Joint problem solving techniques were implemented or improved.
   g. Contract negotiations after the training was collaborative.
   h. Absenteeism declined.
   i. Mutual respect and understanding resulted.
   j. Information is shared proactively and more frequently.
   k. Support for labor-management committees increased among senior labor and management officials.
   l. Other (describe).
   m. No discernible change as a result of the training.
   n. There were some negative results of the training (describe).
6. If you believe that the training program fell below expectations, please indicate how the program could be improved. (Please describe).
7. Have you had negotiations since the training?
   a. Yes (if yes, go to question 8).
   b. No (if no, go to question 9).
8. If you have had negotiations since the training, do you believe that the training had an impact on the negotiations? If so, described how.
   a. Yes. (Described how).
   b. No.
9. Because of the FMCS training, do you perceive that the likelihood of a job action has (i.e., lockout or strike).
   a. Increased.
   b. Decreased.
   c. Remained the same.
10. What is the most important reason you might select FMCS for relationship-development training again? Select one.
    a. Because of the positive impact it had on our labor-management relations.
    b. Because it made company and employees more productive.
    c. Because it helped us cope with difficult negotiations.
    d. Because it taught us important skills that can be applied in other conflict situations.
    e. All.
    f. Other.
    g. Would not use FMCS for training again.

Results: Survey results will be used to improve RDT programs, and for OMB/Congressional submissions. Results will be available upon request.

Estimated Annual Respondent Burden: It is estimated that 250 labor or management representatives will participate in the survey. See chart below for breakdown of annual costs.

Total annual hour burden (for all respondents)	Union respondents [1]	Management respondents [2]	Total costs
1250 minutes (21 hours total annually) ...	$18.07/hour × 21 hour = $379.47	$42.94/hour × 21 hours = $901.74	$1281.21

[1] The average hourly wage was derived from BLS' "Employer Costs for Employee Compensation 4th Quarter 2004," from the hourly wage calculation across all occupations nationwide.
[2] The average management wage rate is derived from BLS' "General and operations managers" classification mean hourly wage estimates.

Request for Comments: In accordance with the Paperwork Reduction Act, comments on the FMCS RDT survey are requested with regard to any of the following:

(a) Whether the proposed collection of information is necessary for the proper performance of functions of the Agency, including whether the information will have practical utility;

(b) The accuracy of the Agency's estimate of the burden (including hours and costs) 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 the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: April 29, 2005.

Scot Beckenbaugh,

Acting Director.

[FR Doc. 05–8915 Filed 5–4–05; 8:45 am]

BILLING CODE 6372–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program; Office of Chemical Nomination and Selection: Announcement of and Request for Public Comment on Toxicological Study Nominations to the National Toxicology Program

AGENCY: National Institute of Environmental Health Sciences, National Institutes of Health.

ACTION: Notice; request for comments.

SUMMARY: The National Toxicology Program (NTP) continuously solicits and accepts nominations for toxicological studies to be undertaken by the program. Nominations of substances of potential human health concern are received from federal agencies, the public and other interested parties. These nominations are subject to several levels of review before selections for testing are made and toxicological studies are designed and implemented. This notice (1) provides brief background information and study recommendations regarding 15 nominations for NTP study (Table 1), (2) solicits public comment on the nominations and study recommendations, and (3) requests the submission of additional relevant information for consideration by the NTP in its continued evaluation of these nominations. An electronic copy of this announcement, Internet links to electronic versions of supporting documents for each nomination, and further information on the NTP and the NTP Study Nomination and Review Process can be accessed through the NTP Web site (*http://ntp.niehs.nih.gov/;* select "Nominations to the Testing Program").

DATES: Comments or information should be submitted by June 6, 2005.

ADDRESSES: Send comments or information to Dr. Scott A. Masten, Office of Chemical Nomination and Selection, NIEHS/NTP, 111 T.W. Alexander Drive, P.O. Box 12233, Research Triangle Park, North Carolina 27709; telephone: (919) 541–5710; FAX: (919) 541–3647; e-mail: *masten@niehs.nih.gov.* Supporting documents for these nominations are available at the NTP Web site (*http://ntp.niehs.nih.gov/* select "Nominations to the Testing Program").

FOR FURTHER INFORMATION CONTACT: See contact information for Dr. Masten under **ADDRESSES** above.

SUPPLEMENTARY INFORMATION:

Background Information on NTP Study Nominations and the NTP Office of Chemical Nomination and Selection

The NTP actively seeks to identify and select for study chemicals and other agents for which sufficient information is not available to adequately evaluate potential human health hazards. The NTP accomplishes this goal through a formal open nomination and selection process. Substances considered appropriate for study generally fall into two broad yet overlapping categories: (1) Substances judged to have high concern as possible public health hazards based on the extent of human exposure and/or suspicion of toxicity and (2) substances for which toxicological data gaps exist and additional studies would aid in assessing potential human health risks, *e.g.* by facilitating cross-species extrapolation or evaluating dose-response relationships. Nominations are also solicited for studies that permit the testing of hypotheses to enhance the predictive ability of future NTP studies, address mechanisms of toxicity, or fill significant gaps in the knowledge of the toxicity of classes of chemical, biological, or physical substances.

Study nominations may entail the evaluation of a variety of health-related effects including, but not limited to, reproductive and developmental toxicity, genetic toxicity, immunotoxicity, neurotoxicity, metabolism and disposition, and carcinogenicity in appropriate experimental models. In reviewing and selecting nominations for study, the NTP also considers legislative mandates that require responsible private sector commercial organizations to evaluate their products for health and environmental effects. The possible human health consequences of anticipated or known human exposure, however, remain the over-riding factor in the NTP's decision to study a particular substance.

Nominations undergo a multi-step, formal process of review. During the entire nomination review and selection process, the NTP works actively with regulatory agencies, its advisors, and interested parties to supplement information about nominated substances and ensure that regulatory and public health needs are addressed. The nomination review and selection process is accomplished through the participation of representatives from the National Institute of Environmental Health Sciences (NIEHS), other federal agencies represented on the Interagency Committee for Chemical Evaluation and Coordination (ICCEC), the NTP Board of Scientific Counselors—an external scientific advisory body, the NTP Executive Committee—the NTP federal interagency policy body, and the public. Study recommendations are initially developed and refined by the nominator, NTP staff, and the ICCEC. Individual study recommendations for the nominations listed in Table 1 may be further refined as the formal review

process continues. The nomination review and selection process is described in further detail on the NTP Web site (*http://ntp.niehs.nih.gov/;* select "Nominations to the Testing Program").

The NTP Office of Chemical Nomination and Selection (OCNS) manages the solicitation, receipt, and review of NTP toxicology study nominations. The OCNS conducts an initial review of each study nomination received to determine whether the substance or issue has been adequately studied or has been previously considered by the NTP. For nominations not eliminated from consideration or deferred at this stage, the OCNS initiates a formal review process, as described above. The OCNS also ensures adequate background information is available to support the review for each nomination. For further information on the OCNS visit the NTP Web site (*http://ntp.niehs.nih.gov* select "Nominations to the Testing Program") or contact Dr. Masten (see **ADDRESSES** above).

Request for Comments and Additional Information

The NTP invites interested parties to submit written comments or supplementary information on the nominated substances and study recommendations that appear in Table 1. The NTP welcomes toxicology and carcinogenesis study information from completed, ongoing, or anticipated studies, as well as information on current U.S. production levels, use or consumption patterns, human exposure, environmental occurrence, or public health concerns for any of the nominated substances. The NTP is interested in identifying appropriate, novel, animal and non-animal experimental models for mechanistic-based research, including genetically modified rodents and higher-throughput in vitro test methods, and as such, solicits comments regarding the use of specific in vivo and in vitro experimental approaches to address questions relevant to the nominated substances and issues under consideration. The NTP will not respond to submitted comments; however, all information received will be become part of the official record that the NTP considers in its ongoing review of these nominations. Persons submitting comments should include their name, affiliation, mailing address, phone, fax, e-mail address, and sponsoring organization (if any) with the submission. Written submissions will be made publicly available electronically on the NTP Web site as they are received (*http://ntp.niehs.nih.gov/* select "Nominations to the Testing Program").

Dated: April 22, 2005.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

BILLING CODE 4140–01–P

Table 1. Study Recommendations for Substances Nominated to the NTP for Toxicological Studies

Substance [CAS No.]	Nominated by	Rationale for Nomination	Study Recommendations*
Acetyl-L-carnitine hydrochloride [5080-50-2] and α-Lipoic acid [62-46-4]	National Cancer Institute	Consumer exposure through increasing dietary supplement use; lack of adequate toxicological data	-Subchronic toxicity studies (individual and combination studies)
Antimony trioxide [1309-64-4]	National Institute of Environmental Health Sciences	Significant human exposure in occupational settings and lack of adequate two-year exposure carcinogenicity studies	-Chronic toxicity and carcinogenicity studies -Cardiotoxicity studies
Antimony trisulfide [1345-04-6]	National Cancer Institute	Significant human exposure in occupational settings and suspicion of carcinogenicity	No additional studies at this time due to presumed lower workplace exposures relative to other antimony compounds
4-Bromofluorobenzene [460-00-4]	National Institute of Environmental Health Sciences	High production volume and use; lack of adequate toxicological data; suspicion of toxicity based on chemical structure	Defer pending review of anticipated submissions on exposure and toxicity information to the U.S. Environmental Protection Agency and possible sponsorship in the High Production Volume Challenge Program
Butylparaben [94-26-8]	National Institute of Environmental Health Sciences	Widespread use in foods, cosmetics, and pharmaceuticals; potential reproductive toxicant; lack of adequate toxicological data	-Toxicological characterization including reproductive toxicity studies
2,6-Diaminopyridine [141-86-6]	National Cancer Institute	Moderate production and industrial use; lack of adequate toxicological data	Defer pending review of additional information on uses and potential exposure from hair dyes
1,3-Dichloropropanol [96-23-1]	National Institute of Environmental Health Sciences	High production volume and use; occurrence in foods; reproductive toxicity and carcinogenicity demonstrated but not adequately characterized	-Toxicological characterization -Metabolism and disposition studies -Reproductive toxicity studies -Carcinogenicity studies -Coordinate studies with voluntary data development activities of the U.S. Environmental Protection Agency
2,5-Dimercapto-1,3,4-thiadiazole [1072-71-5]	Chemonics Industries, Inc.	Component of wildland fire retardant formulations; moderate production and industrial use; lack of adequate toxicological data	-Genotoxicity studies -Metabolism and disposition studies -Subchronic toxicity studies
3-Dimethylaminopropylamine [109-55-7]	National Cancer Institute	Significant and increasing use in personal care products; widespread industrial use; lack of information on chronic toxicity; evidence of toxicity in exposed workers	-*In vitro* genotoxicity studies (in combination with a nitrosating agent) -Dermal absorption and metabolism studies with focus on nitrosamine formation

Substance [CAS No.]	Nominated by	Rationale for Nomination	Study Recommendations*
Garcinia cambogia extract [90045-23-1]	National Cancer Institute	Consumer exposure through increasing dietary supplement use; lack of adequate toxicological data	Defer pending further review of recently published studies
Gum guggul extract [No CAS No.]	National Institute of Environmental Health Sciences	Consumer exposure through increasing dietary supplement use; demonstrated metabolic and hormonal effects; lack of adequate toxicological data	-Toxicological characterization
Imidazolidinyl urea [39236-46-9]	National Cancer Institute	Widely used preservative in personal care products; mutagenic potential; lack of adequate carcinogenicity data	-Genotoxicity studies -Dermal absorption studies -Evaluation of potential degradation products (e.g., diazolidinyl urea and formaldehyde)
Permanent makeup inks [No CAS No.]	U.S. Food and Drug Administration	Rapidly growing practice in the United States; lack of adequate toxicological data; numerous human adverse event reports	For representative Premier Products True Color pigments: -*In vitro* and *in vivo* allergenicity, photoallergenicity, and phototoxicity studies -Chemical characterization studies
Usnic acid [125-46-2] and *Usnea* herb [No CAS No.]	U.S. Food and Drug Administration	Widely used in dietary supplement and personal care products; lack of adequate toxicological data; numerous human adverse event reports	-Toxicological characterization including genotoxicity,pharmacokinetic, and developmental and reproductive toxicity studies -*In vitro* mitochondrial toxicity studies
Vincamine [1617-90-9]	National Cancer Institute	Consumer exposure through dietary supplement use; suspicion of toxicity; lack of adequate toxicological data	-Integrate into current NTP research program on QT interval prolongation

* The term "toxicological characterization" in this table includes studies for genotoxicity, subchronic toxicity, and chronic toxicity/carcinogenicity as determined to be appropriate during the conceptualization and design of a research program to address toxicological data needs. Though other types of studies (e.g., metabolism and disposition, immunotoxicity, and reproductive and developmental toxicity) may be conducted as part of a complete toxicological characterization, these types of studies are not listed unless they are specifically recommended.

[FR Doc. 05–8959 Filed 5–4–05; 8:45 am]
BILLING CODE 4140–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Pacific Proving Grounds

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees at the Pacific Proving Grounds, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Pacific Proving Grounds, Marshall Islands.

Locations: Enewetak Atoll.

Job Titles and/or Job Duties: All scientists and scientific couriers.

Period of Employment: July 1, 1958, until August 31, 1958 (Operation Hardtack I).

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *ocas@cdc.gov*.

Dated: April 28, 2005.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention.

[FR Doc. 05–8949 Filed 5–4–05; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Use of Human Papilloma Virus (HPV) Immunoreactive Peptides for the Development of Vaccines Against HPV Infections

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the invention embodied in:

PCT/US02/09261 filed March 22, 2002, entitled "Human Papilloma Virus Immunoreactive Peptides" (E–126–2001/0–PCT–02), (Inventors: Samir N. Khleif and Jay Berzofsky) (NCI), prior U.S. provisional application 60/278,520, filed March 23, 2001, now abandoned. National stage filed March 22, 2002: In U.S. Patent Application No. 10/472,661; in Canada Patent Application No. 2,441,947; in EPO Patent Application No. 02728570.9; in Australia Patent Application No. 2002258614 to Panacea Biotec Ltd. (hereafter PBL), having a place of business in New Deli, India. The patent rights in these inventions have been assigned to the United States of America.

DATES: Only written comments and/or application for a license, which are received by the NIH Office of Technology Transfer on or before July 5, 2005 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Sally Hu, Ph.D., M.B.A., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Email: *hus@od.nih.gov;* Telephone: (301) 435–5606; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: PCT/US02/09261 provides immunogenic peptides from the Human Papilloma Virus which are suitable for development of epitope-based vaccines directed towards HPV and discloses methods of administering these peptides to individuals, as well as a method for monitoring or evaluating an immune response to HPV with these peptides. This invention provides a potential prophylactic or therapeutic vaccine against cervical cancer caused by HPV16 and 18, and a targeted therapy for cervical cancer and other diseases that are caused by HPV including other genital cancers, head and neck cancers, and upper digestive tract cancers.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to the development of vaccines against HPV infections.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 26, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–8960 Filed 5–4–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provision set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Review of Research Project Applications (R01s).

Date: June 2–3, 2005.

Time: 6:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Irina Gordienko, PhD, Review Branch, NIH, NHLBI, DEA, Bethesda, MD 20892, (301) 325–0725, *gordieni@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 27, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–8963 Filed 5–4–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group, Heart, Lung, and Blood Program Project Review Committee.

Date: June 15, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Jeffrey H. Hurst, PhD, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute/NIH, 6701 Rockledge Drive, RM 7208, Bethesda, MD 20892, (301) 435–0303, *hurst@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 27, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–8965 Filed 5–4–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel "NIH AIDS Research and Reference Reagent Program".

Date: May 13, 2005.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Roberta Binder, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, Room 3130, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–7966, *rb169n@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 27, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–8961 Filed 5–4–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory General Medical Sciences Council, May 19, 2005, 8:30 a.m. to May 20, 2005, 5 p.m. National Institutes of Health, Natcher Building, Conference Rooms E1 and E2, 9000 Rockville Pike, Bethesda, MD 20892 which was published in the **Federal Register** on April 20, 2005, 70 FR 20582–20583.

On May 19, 2005, the meeting will be closed from 8:30 a.m. to 3 p.m. and open from 3 p.m. to 5:30 p.m. On May 20, 2005, the meeting will be closed from 8:30 a.m. to 12 p.m. The meeting is partially closed to the public.

Dated: April 27, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–8962 Filed 5–4–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 05–71, Review of R01.

Date: May 18, 2005.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca Roper, MS, MPH, Scientific Review Administrator, Scientific

Review Branch, Division of Extramural Research, National Inst of Dental & Craniofacial Research, 45 Center Dr., room 4AN32E, Bethesda, MD 20892, (301) 451–5096.

Name of Committee: National Institute of Dental and Craniofacail Research Special Emphasis Panel 05–57, Review of R01.

Date: May 19, 2005.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca Roper, MS, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, National Inst of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr., room 4AN32E, Bethesda, MD 20892, (301) 451–5096.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 05–69, Review of R21s(TMJ/Pain).

Date: May 27, 2005.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2904, *george_hausch@nih.gov*.

Name of Committee: National Institute of Dental and Craniofiacial Research Special Emphasis Panel 05–72, Review RFA DE05–008.

Date: June 8, 2005.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: BWI airport Marriott, 1743 West Nursery Road, Baltimore, MD 21240.

Contact Person: Lynn M. King, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm 4AN–38K, National Institute of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, (301) 594–5006.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 05–63, Review of U01.

Date: June 8, 2005.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca Roper, MS, MPH, Scientific Review Administrator, Scientific Review Branch Division of Extramural Research, National Inst. of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr., room 4AN32E, Bethesda, MD 20892, (301) 451–5096.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 05–67, Review of R21s (Materials).

Date: July 12, 2005.

Time: 10:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Yujing Liu, MD, PhD, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN38E, Bethesda, MD 20892, (301) 594–3169, *yujing_liu@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: April 27, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–8964 Filed 5–4–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIDCR Special Grants Review Committee 05–73, Review of R03s, Fs, Ks.

Date: June 16–17, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda, MD, Marriott Bethesda North Hotel and Conference Ctr, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Lynn Mertens King, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm 4AN–32F, National Inst of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, (301) 594–5006, *lynn.king@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: April 27, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–8966 Filed 5–4–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive License: Cancer Diagnostic Based on Detecting Expression of Human Brother of Regulator of Imprinted Sites ("BORIS") and BORIS Antibodies

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), announces that the Department of Health and Human Services is contemplating the grant of an exclusive license to practice the inventions embodied in U.S. Provisional Patent Application Serial No. 60/611,789, entitled "Method of Detecting Cancer Based On Immune Reaction To BORIS" filed September 21, 2004 (E–241–2004/0–US–01); U.S. Provisional Patent Application Serial No. 60/358,889, entitled "Brother of The Regulator of Imprinted Sites (BORIS)" filed February 22, 2001 (E–227–2001/0–US–01); PCT Application No. PCT/US03/05186, entitled "Brother of The Regulator of Imprinted Sites (BORIS)" filed February 21, 2003 (E–227–2001/0–PCT–02); and U.S. Patent Application Serial No. 10/505,377, entitled "Brother of The Regulator of Imprinted Sites (BORIS)" filed August 19, 2004 (E–227–2001/–0–US–03), to NewLink Genetics Corporation, having a place of business in Ames, Iowa.

The prospective exclusive territory may be United States, Canada, Europe and Japan, and the field of use may be limited to manufacture and sale of Analyte Specific Reagents or FDA-approved in vitro diagnostics for cancer and cancer predisposition.

DATES: Only written comments and/or license applications which are received by the National Institutes of Health on or before July 5, 2005 will be considered.

ADDRESSES: Requests for copies of the patent and/or patent applications, inquiries, comments and other materials relating to the contemplated exclusive license should be directed to: Mojdeh

Bahar, J.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804. Telephone: (301) 435–2950; Facsimile: (301) 402–0220; E-mail: *baharm@od.nih.gov.*

SUPPLEMENTARY INFORMATION: The above-mentioned patent applications describe the human protein Brother of Regulator of Imprinted Sites ("BORIS"), and a method of detecting cancer by monitoring BORIS expression or by detecting anti-BORIS antibodies. Dr. Victor V. Lobanenkov and colleagues at the National Institute of Allergy and Infectious Diseases discovered BORIS and its potential application as a cancer diagnostic. BORIS is a paralog of CCCTC-binding factor ("CTCF"), a transcription factor that also functions in chromatin insulation. The amino acid sequences of BORIS and CTCF contain eleven conserved zinc fingers each of which binds to DNA. BORIS protein can be detected in cancer cells, and importantly, it is one of a few cancer-testis antigens that are immunogenic in humans.

BORIS resides in 20q13.2, a region that is commonly amplified in many human cancers. Normally, BORIS mRNA can be detected in testis, but not in other human tissues. However, BORIS mRNA is detectable in over one hundred cancer cell lines representing most of the major forms of human tumors and is also detectable in primary breast cancer tumor samples, but not in controls. BORIS protein is mis-expressed in cancer cell lines, and antibodies against BORIS have been detected in serum from patients with gliomas, lung, breast, or prostate cancers but not in serum from controls.

The correlation between cancer and BORIS expression indicates that detection of aberrantly expressed BORIS and/or anti-BORIS antibodies could serve as a method of screening or diagnosing cancer. In patients already known to have cancer, expression of BORIS could be monitored to measure a patient's response to a particular therapeutic regimen.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 27, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–8967 Filed 5–4–05; 8:45 am]

BILLING CODE 4140–01–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 751–TA–28–29]

Certain Frozen Warmwater Shrimp and Prawns From India and Thailand

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of review investigations concerning the Commission's affirmative determinations in investigations Nos. 731–TA–1066–1067 (Final), Certain frozen warmwater shrimp and prawns from India and Thailand.

SUMMARY: The Commission hereby gives notice that it has instituted investigations pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) (the Act) to review its determinations in investigations Nos. 731–TA–1066–1067 (Final). The purpose of the investigations is to determine whether revocation of the antidumping duty orders on certain frozen warmwater shrimp and prawns from India and Thailand is likely to lead to continuation or recurrence of material injury to an industry in the United States. Certain frozen warmwater shrimp and prawns from India and Thailand are provided for in subheadings 0306.13.00 and 1605.20.10 Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, C, D, and E (19 CFR part 207).

DATES: Effective May 5, 2005.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On December 17, 2004, the Department of Commerce determined that imports of certain frozen and canned warmwater shrimp and prawns from India and Thailand are being sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act (19 U.S.C. 1673) (69 FR 76916, 76918, December 23, 2004); and on January 6, 2005 the Commission determined, pursuant to section 735(b)(1) of the Act (19 U.S.C. 1673d(b)(1)), that an industry in the United States was materially injured by reason of imports of such LTFV merchandise. Accordingly, Commerce ordered that antidumping duties be imposed on such imports (70 FR 5143, February 1, 2005).

On January 6, 2005, when the Commission conducted its vote in these investigations, it stated that it was concerned about the possible impact of the December 26, 2004, tsunami on the shrimp industries of India and Thailand. The tsunami occurred prior to the closing of the record in these investigations on December 27, 2004. At the time the record closed, however, factual information as to any impact of the tsunami on the ability of producers in India or Thailand to produce and export shrimp was not available. On February 8, 2005, the Commission published a **Federal Register** notice (70 FR 6728) inviting comments from the public on whether changed circumstances exist sufficient to warrant the institution of changed circumstances reviews of the Commission's affirmative determinations concerning certain frozen warmwater shrimp and prawns from India and Thailand.

The Commission received 23 submissions in response to its **Federal Register** notice soliciting comments. Commenters that supported institution of changed circumstances reviews include Seafood Exporters Association of India, the Ministry of Commerce and Industry of India, the Department of Foreign Trade of the Royal Thai

Government, Sen. John Ensign, and Rep. William M. Thomas. Commenters that opposed institution of a changed circumstances review are the Ad Hoc Shrimp Action Committee, Versaggi Shrimp Corp., and Indian Ridge Shrimp Co., who were petitioners in the original investigations, Sen. Trent Lott, Sen. Mary Landrieu, Sen. Jeff Sessions, Sen. Richard Shelby, Sen. David Vitter, Rep. Walter B. Jones, Rep. Charlie Melancon, the governors of Florida, Georgia, Louisiana, Mississippi, South Carolina, and Texas, and Joseph Francis, a commercial fisherman from Ruston, Washington. The Alabama House of Representatives submitted a resolution it passed opposing institution of a review. The U.S. Department of State submitted a factual report on the impact of the tsunami on the Thai shrimp industry.

On April 25, 2005, after reviewing the comments it received in response to that request, the Commission determined that it had received information which showed changed circumstances sufficient to warrant instituting review investigations and that there was good cause for instituting such review investigations within two years after publication of the orders.

The Commission has further determined, pursuant to section 201.4(b) of the Commission rules, that there is good and sufficient reason in these proceedings to waive the provisions of section 207.45(c) of the Commission rules stating that changed circumstances review investigations be completed within 120 days of publication of the notice of institution and, instead, has set a deadline for completion of these reviews of October 31, 2005.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in these investigations will be placed in the nonpublic record on August 31, 2005, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on September 14, 2005, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 8, 2005. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 12, 2005, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is September 7, 2005. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is September 21, 2005; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before September 21, 2005. On October 11, 2005, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before October 14, 2005, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.45 of the Commission's rules.

By order of the Commission.

Issued: April 29, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–8970 Filed 5–4–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–384 and 731–TA–806–808 (Review)]

Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil, Japan, and Russia

Determination

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty and countervailing duty orders on certain hot-rolled flat-rolled carbon-quality steel products from Brazil and Japan, and termination of the suspended antidumping duty investigation on imports of certain hot-rolled flat-rolled carbon-quality steel products from Russia, would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted these reviews on May 3, 2004 (69 FR 24189), and determined on August 6, 2004, that it would conduct full reviews (69 FR 52525, August 26, 2004). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on September 9, 2004 (69 FR 54701). The hearing was held in Washington, DC, on March 2, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these reviews to the Secretary of Commerce on April 28, 2005. The views of the Commission are contained in USITC Publication 3767 (April 2005), entitled Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, Japan, and Russia (Inv. Nos. 701–TA–384 and 731–TA–806–808 (Review)).

By order of the Commission.

[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] Vice Chairman Deanna Tanner Okun and Commissioner Daniel R. Pearson dissenting.

Issued: April 28, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–8969 Filed 5–4–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Oregon State Plan: Approval of Oregon State Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Approval of Oregon State standards for fall protection, forest activities and steel erection.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is approving three standards: fall protection, forest activities and steel erection, promulgated by the Oregon Department of Consumer and Business Services pursuant to its OSHA-approved state plan. These standards differ from the equivalent federal standards but have been determined to be "at least as effective" as the federal standards.

On August 9, 2004, OSHA published a **Federal Register** notice (69 FR 48253) requesting public comment on whether the Oregon standards met both the "at least as effective" criterion and product clause tests of Section 18(c)(2) of the Occupational Safety and Health Act. This notice invited interested persons to submit by September 8, 2004, written comments and views regarding the Oregon state standards and whether they should be approved by the Regional Administrator. OSHA received two comments in response to the fall protection standard.

DATES: *Effective Date:* May 5, 2005.

FOR FURTHER INFORMATION CONTACT: Barbara Bryant, Director, Office of State Programs, Directorate of Cooperative and State Programs, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–2244. You may access Oregon's standards on the state's Web page at *http://www.cbs.state.or.us/external/osha/standards/standards*. You may also access electronic copies of this **Federal Register** notice, as well as federal OSHA standards, on OSHA's Web page at *http://www.osha.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The requirements for adoption and enforcement of safety and health standards by a state with a state plan approved under Section 18(b) of the Act (29 U.S.C. 667) are set forth in Section 18(c)(2) of the Act and in 29 CFR 1902, 1952.7, 1953.4, 1953.5 and 1953.6. OSHA regulations require that states respond to the adoption of new or revised permanent federal standards by state promulgation of comparable standards within six months of OSHA publication in the **Federal Register** (29 CFR 1953.5(a)). Independent state standards must be submitted for OSHA review and approval. Newly adopted state standards must be submitted for OSHA review and approval under procedures set forth in 29 CFR part 1953, but are enforceable by the state upon adoption and prior to Federal review and approval.

Section 18(c)(2) of the Act provides that if state standards which are not identical to Federal standards are applicable to products which are distributed or used in interstate commerce, such standards must be required by compelling local conditions and must not unduly burden interstate commerce. (This latter requirement is commonly referred to as the "product clause").

On December 28, 1972, notice was published in the **Federal Register** (37 FR 286228) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision and a description of the state's plan. The Oregon plan provides for the adoption of state standards that are "at least as effective" as comparable federal standards promulgated under Section 6 of the Act. The Administrator of the Oregon Occupational Safety and Health Division (OR–OSHA), Department of Consumer and Business Services, is empowered to create, adopt, modify, and repeal rules and regulations governing occupational safety and health standards following public notice and a hearing in conformance with the state's Administrative Procedures Act. Public notice describing the subject matter of the proposed rule, and where and when the hearing will occur, must be published in the state newspapers at least 30 days in advance of the hearing. The Administrator considers all recommendations by any member of the public in the promulgation process. Whenever the Administrator adopts a standard, the effective date is usually 30 days after signing.

B. Standards Approved

1. Fall Protection

In response to the promulgation of the federal fall protection standard for construction at 29 CFR 1926.500–503 and appendices (1926 Subpart M), as published in the **Federal Register** (59 FR 40672) on August 9, 1994, with amendments on January 26, 1995 (60 FR 5131), August 2, 1995 (60 FR 39254) and January 18, 2001 (66 FR 5317), Oregon adopted OAR–003–1926.400 (Division 3/M) under Administrative Order 6–1995, on April 18, 1995, with amendments made on September 15, 1997, February 8, 2000, February 5, 2001, April 15, 2002, and July 19, 2002, under Administrative Orders 7–1997, 3–2000, 3–2001, 3–2002 and 6–2002.

The federal provisions at 29 CFR 1926.501(b)(1) through (b)(15) generally require employers to use conventional fall protection to protect employees from fall hazards at heights of six feet or more, though for many work activities employers can use alternative measures in lieu of conventional fall protection. The Oregon standard, in contrast, requires employers to use conventional fall protection to protect employees from fall hazards at heights of 10 feet or more [per OAR 437–003–1501], but generally does not permit the use of the alternative measures allowed under the federal standard.[1] In addition, Oregon retains the six-foot requirement for holes, wall openings, established floors, mezzanines, balconies, walkways and excavations. Oregon has also retained the federal standard for protecting employees from falling into or onto dangerous equipment from heights below six feet. (For a more complete list of differences between the federal fall protection standard and Oregon's fall protection program see OSHA's August 9, 2004 **Federal Register** notice requesting public comment (69 FR 48253), available on OSHA's Web site at *http://www.osha.gov.*).

The Oregon standard for fall protection in residential construction has been in effect since June 1, 1995, and the state's standard for fall protection in general construction has been in effect since July 19, 2002. During that time, OSHA has received no indication of significant objection to the state's different standard as to its effectiveness in comparison to the federal standard.

2. Forest Activities

In response to the promulgation of the federal logging operations standard, 29 CFR 1910.266, as published in the **Federal Register** (59 FR 51672) on October 12, 1994, with amendments on September 8, 1995 (60 FR 47022) and March 7, 1996 (61 FR 9228), Oregon determined that its existing logging standard in OAR, Chapter 437, Division 6, was as effective and asked that the standard be approved. This standard was adopted on September 27, 1991, under OR–OSHA Administrative Order 12–1991. After discussion with OSHA, however, the standard was repealed on June 2, 2003, and a new OAR Chapter 437, Division 7 Forest Activities standard (OAR 437–007–0001 through 1405) was adopted under OR–OSHA Administrative Order 5–2003, and amended on June 7, 2004, under OR–OSHA Administrative Order 3–2004.

The scope of the Oregon standard is broader and covers all forest activity operations, while the federal standard applies only to logging operations. Oregon's standard contains many different requirements relating to head protection, working within contact of another employee, falling object protective structures (FOPS), rollover protective structures (ROPS), other protective structures for machines, standards for machine cabs, and first aid and CPR training. Oregon's forest activities standard also includes numerous additional requirements. (For a more complete list of differences between the federal logging operations standard and Oregon's forest activities standard, see OSHA's August 9, 2004 **Federal Register** notice requesting public comment (69 FR 48253) , available on OSHA's Web site at *http://www.osha.gov.*).

3. Steel Erection

In response to the promulgation of the federal Steel Erection standard, 29 CFR 1926.750–761 and appendices (Subpart R), as published in the **Federal Register** (66 FR 5317) on January 18, 2001, with a delay in the effective date published on July 17, 2001 (66 FR 37137), Oregon adopted its standard at OAR 437–003–1926.750 through 761 and appendices (OAR 437 Division 3/R) on April 15, 2002, effective April 18, 2002, under Administrative Order 3–2002. Changes to the state's standards at Subdivisions R (steel erection) and M (fall protection) were adopted and effective on July 19, 2002, under Administrative Order 6–2002. These amendments required a 10 foot fall protection trigger height for all construction trades in Oregon (including steel erection) except for 6 feet for holes, wall openings, established floors, mezzanines, balconies, walkways, excavations, and working over dangerous equipment. The 2003 Oregon State Legislature's House Bill 3010 directed OR–OSHA to revise the steel erection standard to parallel the federal requirements and not require the use of fall protection by workers engaged in steel erection at heights lower than the heights at which fall protection relating to steel erection is required by federal regulations. The federal steel erection standard requires fall protection at 15 feet in general, and at 30 feet for connectors and employees working in controlled decking zones. Accordingly, the state adopted amendments to its steel erection standard on December 30, 2003, effective January 1, 2004, under Administrative Order 8–2003. The state standard is now almost identical to the comparable federal standard. The differences or additional requirements relate to written site-specific erection plans, written notifications to the controlling contractor, tag lines, large roof and floor openings, written certifications of training records, and definition of the term "opening". (For a more complete list of differences between the federal steel erection standard and Oregon's steel erection standard, see OSHA's August 9, 2004 **Federal Register** notice requesting public comment (69 FR 48253), available on OSHA's Web site at *http://www.osha.gov.*)

II. Public Participation

On August 9, 2004, OSHA published a **Federal Register** notice (69 FR 48253) requesting public comment on whether the Oregon standards for fall protection, forest activities and steel erection meet both the "at least as effective" criterion and the product clause test of Section 18(c)(2) of the Act. This notice invited interested persons to submit by September 8, 2004, written comments and views regarding these Oregon standards and whether they should be approved by the Regional Administrator. In response to this notice, two comments were received concerning Oregon's fall protection standard. No comments were received regarding the state's forest activities and steel erection standards. One comment, from Michelle Johnson, Safety and Health Supervisor, Chelan County Public Utilities District, Washington, was a request for information on the Washington state fall protection standard. The second comment, from J.

[1] The state adopted a 10 foot trigger height for those working surfaces and activities where guardrail systems are normally impractical and personal fall arrest systems are most often the only reasonable alternative. The state deems the higher trigger height necessary for circumstances where personal fall arrest systems require at least 10 feet of height to be effective in preventing an employee from striking a lower level in a fall situation.

Nigel Ellis of Ellis Safety Solutions, Wilmington, Delaware, claimed that Oregon's 10-foot trigger height for certain fall protection requirements renders the state's standard less effective than the federal standard. The commenter suggested that Oregon adopt an across-the-board trigger height of 6 feet to be consistent with the federal standard. OSHA has reviewed the Oregon fall protection standard for overall effectiveness and in light of the comments received. OSHA has also reviewed a letter from Oregon OSHA dated November 16, 2004, responding to the comments and providing clarifications and assurances regarding its interpretation of the standard and intended enforcement policies. OSHA's findings are as follows:

For many work activities Oregon's fall protection standards mirror the federal standard and require employers to provide fall protection for employees working at heights of 6 feet and higher. OAR 437–003–1501(1)–(4). For some tasks, however, Oregon OSHA has a 10-foot trigger for fall protection requirements. OAR 437–003–1501. But while the federal standard often permits employers to utilize alternative measures, *e.g.*, a controlled access zone with a safety monitor, at heights of 10 feet and above, OR–OSHA regularly requires the use of conventional fall protection at those more dangerous heights. Oregon has represented to federal OSHA that employers in that state virtually never raise infeasibility as a basis or defense for not providing conventional fall protection, and that infeasibility has not been a successful argument in a contested case or recognized in settlement agreements. Therefore, OSHA has determined that the Oregon standards are as strict or stricter than the federal standard with respect to those activities for which the state maintains a 6-foot trigger height and for all work done at heights of 10 feet or higher. With respect to those few fall hazards between 6 and 10 feet that are not otherwise covered by Oregon's fall protection standard, the state has assured OSHA that it will consider the issuance of citations or orders to correct under its general duty clause (ORS 654.010, 654.015), or the posting of red warning notices (ORS 654.082). Accordingly, OSHA believes that Oregon's fall protection program is at least as effective as the federal program.

III. Decision

Having reviewed the state submissions and public comments submitted in response to the August 9, 2004, **Federal Register** notice, OSHA has determined that:

(1) The state standards meet the "at least as effective" criteria of Section 18(c)(2) of the Act.

(2) The record on these standards includes no persuasive evidence, developed by or submitted to OSHA, that the standards are not in compliance with the product clause test of Section 18(c)(2) of the Act. There is no evidence that the standards pose an undue burden upon interstate commerce or are not based upon compelling local conditions. Therefore the standards are presumed to be in compliance with Section 18(c)(2) of the Act.

OSHA therefore approves these standards; however, OSHA reserves the right to reconsider this approval should substantial objections be submitted to the Assistant Secretary.

IV. Location of Basic State Plan Documentation

Copies of basic state plan documentation are maintained at the following locations; specific documents are available upon request, including a copy of these state standards, the submitted comparisons to the equivalent federal standards, and public comments received. Oregon's standards, program directives, and other documents may be accessed on the state's Web page at *http://www.cbs.state.or.us/external/osha/rules*. Contact the Office of the Regional Administrator, Occupational Safety and Health Administration, 1111 Third Avenue, Suite 715, Seattle, Washington 98101–3212, (206) 553–5930, fax (206) 553–6499; Oregon Occupational Safety and Health Division, Department of Consumer and Business Services, 350 Winter Street, Room 430, Salem, Oregon 97301–3882, (503) 378–3272, fax (503) 7461; and the Office of State Programs, Occupational Safety and Health Administration, Room N–3700, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693–2244, fax (202) 693–1671. An electronic copy of this **Federal Register** notice, as well as referenced federal OSHA standards, may be obtained from the OSHA home page, *http://www.osha.gov*.

This notice is issued pursuant to section 18 of the Occupational Safety and Health Act of 1970, Pub. L. 91–596, 84 STAT 1608 (29 U.S.C. 667).

Signed at Seattle, Washington, this 9th day of March 2005.

Richard S. Terrill,

Regional Administrator.

[FR Doc. 05–8918 Filed 5–4–05; 8:45 am]

BILLING CODE 4510–26–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Determination of Executive Compensation Benchmark Amount Pursuant to Section 39 of the Office of Federal Procurement Policy (OFPP) Act (41 U.S.C. 435), as Amended

AGENCY: Office of Federal Procurement Policy, OMB.

ACTION: Notice.

SUMMARY: The Office of Management and Budget (OMB) is hereby publishing the attached memorandum to the heads of executive departments and agencies concerning the determination of the maximum "benchmark" compensation amount that will be allowable under government contracts during contractors' FY 2005—$473,318. This determination is required under Section 39 of the Office of Federal Procurement Policy (OFPP) Act (41 U.S.C. 435), as amended. The benchmark compensation amount applies equally to both defense and civilian procurement agencies.

FOR FURTHER INFORMATION CONTACT: Rein Abel, Office of Federal Procurement Policy, (202) 395–3254.

David H. Safavian,
Administrator.

Memorandum for the Heads of Executive Departments and Agencies

Subject: Determination of Executive Compensation Benchmark Amount Pursuant to Section 39 of the Office of Federal Procurement Policy (OFPP) Act (41 U.S.C. 435), as amended.

This memorandum sets forth the "benchmark compensation amount" as required by Section 39 of the Office of Federal Procurement Policy (OFPP) Act (41 U.S.C. 435), as amended. Under Section 39, the benchmark compensation amount is "the median amount of the compensation provided for all senior executives of benchmark corporations for the most recent year for which data is available." The benchmark compensation amount established by Section 39 limits the allowability of compensation costs under government contracts. The benchmark compensation amount does not limit the compensation that an executive may otherwise receive. This amount is based on data from commercially available surveys of executive compensation that analyze the relevant data made available by the Securities and Exchange Commission. More specifically, as required by Section 39 of the OFPP Act, the data used is the median (50th percentile)

amount of compensation accrued over a recent 12 month period for the top five highest paid executives of public-traded companies with annual sales over $50 million. After consultation with the Director of the Defense Contract Audit Agency, we have determined pursuant to the requirements of Section 39 that the benchmark compensation amount for contractors' Fiscal Year 2005 is $473,318. This amount is for Fiscal Year 2005 and subsequent contractor fiscal years, unless and until revised by OMB. The benchmark compensation amount applies to contract costs incurred after January 1, 2005, under covered contracts of both the defense and civilian procurement agencies as specified in Section 39 of the OFPP Act (41 U.S.C. 435), as amended.

Questions concerning this memorandum may be addressed to Rein Abel, Office of Federal Procurement Policy, on (202) 395–3254.

David H. Safavian,

Administrator.

[FR Doc. 05–8950 Filed 5–4–05; 8:45 am]

BILLING CODE 6325–49–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 05–085]

Notice of Information Collection Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Kathleen Shaeffer, Acting NASA Reports Officer, NASA Headquarters, 300 E Street SW., Mail Suite 6M70, Washington, DC 20546, (202) 358–1230, *kathleen.shaeffer-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Aeronautics and Space Administration (NASA) is requesting renewal of an existing collection that is used to ensure proper accounting of Federal funds and property provided under cooperative agreements with commercial firms. Reporting and recordkeeping are prescribed 14 CFR Part 1274.

Absence of the information provided by agreement recipients by means of the following proposals, reports, and recordkeeping would result in NASA's inability to carry out its mission and to comply with statutory requirements (*e.g.*, Chief Financial Officers Act, on the accountability of public funds and maintenance of an appropriate internal control system).

II. Method of Collection

NASA utilized paper and electronic methods to collect information from collection respondents.

III. Data

Title: Cooperative Agreements with Commercial Firms.

OMB Number: 2700–0092.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 58.

Estimated Time Per Response: Ranges from 20 minutes to 7 hours per response.

Estimated Total Annual Burden Hours: 3,488.

Estimated Total Annual Cost: 0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Dated: April 26, 2005.

Patricia L. Dunnington,

Chief Information Officer.

[FR Doc. 05–8989 Filed 5–4–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[05–084]

Notice of Information Collection Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Kathleen Shaeffer, Acting NASA Reports Officer, NASA Headquarters, 300 E Street, SW., Mail Suite 6M70, Washington, DC 20546, (202) 358–1230, *kathleen.shaeffer-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Aeronautics and Space Administration (NASA) is requesting renewal of an existing collection to enable monitoring of contracts valued at less than $500K. Collection is prescribed in the NASA Federal Acquisition Regulation Supplement and approved mission statements.

There are multiple uses of this information by NASA procurement and technical personnel in the management of contracts (*e.g.*, evaluate contractor management systems, ensure compliance with mandatory public policy provisions, evaluate and control costs charged against contracts, detect

and minimize conditions conducive to fraud, waste, and abuse, and form a database for reports to Congress and the Executive Branch). Without this information, NASA would not be able to effectively manage and control contractor efforts to furnish goods and services in support of NASA's mission.

II. Method of Collection

NASA utilized paper and electronic methods to collect information from collection respondents.

III. Data

Title: NASA Acquisition Process—Reports Required Under Contracts With a Value of Less Than $500K.

OMB Number: 2700–0088.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit; not-for-profit institutions; State, local or tribal government.

Estimated Number of Respondents: 956.

Estimated Time Per Response: Approximately 20 hours.

Estimated Total Annual Burden Hours: 803,040.

Estimated Total Annual Cost: 0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Dated: April 26, 2005.

Patricia L. Dunnington,

Chief Information Officer.

[FR Doc. 05–8994 Filed 5–4–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before June 6, 2005, to be assured of consideration.

ADDRESSES: Send comments to Desk Officer for NARA, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5167.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on January 24, 2005 (70 FR 3398). Only one comment was received from an individual that objected to the Presidential Library system but did not address the information collection directly. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Presidential Library Facilities.

OMB number: 3095–0036.

Agency form number: None.

Type of review: Regular.

Affected public: Presidential library foundations or other entities proposing to transfer a Presidential library facility to NARA.

Estimated number of respondents: 1.

Estimated time per response: 31 hours.

Frequency of response: On occasion.

Estimated total annual burden hours: 31 hours.

Abstract: The information collection is required for NARA to meet its obligations under 44 U.S.C. 2112(a)(3) to submit a report to Congress before accepting a new Presidential library facility. The report contains information that can be furnished only by the foundation or other entity responsible for building the facility and establishing the library endowment.

Dated: April 29, 2005.

Shelly L. Myers,

Deputy Chief Information Officer.

[FR Doc. 05–8968 Filed 5–4–05; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL INSTITUTE FOR LITERACY

National Institute for Literacy Advisory Board

AGENCY: National Institute for Literacy.

ACTION: Notice of a partially closed meeting.

SUMMARY: This notice sets forth the schedule and a summary of the agenda for an upcoming meeting of the National Institute for Literacy Advisory Board (Board). The notice also describes the functions of the Board. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting. Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.*, interpreting services, assistive listening devices, or materials in alternative format) should notify Liz Hollis at telephone number (202) 233–2072 no later than May 9, 2005. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

DATES: *Open sessions*—May 19, 2005, from 8:30 a.m. to 5 p.m. and May 20, 2005, from 10 a.m. to 2 p.m. *Closed session*—May 20, 2005, from 9 a.m. to 10 a.m.

ADDRESSES: National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Liz Hollis, Special Assistant to the Director; National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006; telephone number: (202) 233–2072; e-mail: *ehollis@nifl.gov*.

SUPPLEMENTARY INFORMATION: The Board is established under section 242 of the Workforce Investment Act of 1998,

Public Law 105–220 (20 U.S.C. 9252). The Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Board advises and makes recommendations to the Interagency Group that administers the Institute. The Interagency Group is composed of the Secretaries of Education, Labor, and Health and Human Services. The Interagency Group considers the Board's recommendations in planning the goals of the Institute and in implementing any programs to achieve those goals. Specifically, the Board performs the following functions: (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and the Institute's Director.

The National Institute for Literacy Advisory Board will meet May 19–20, 2005. On May 19, 2005, from 8:30 a.m. to 5 p.m. and May 20, 2005, from 10 a.m. to 2 p.m. The Board will meet in open session to discuss the Institute's program priorities; strengthening interagency coordination, and status of on-going work; and other Board business as necessary. On May 20, 2005, from 9 a.m. to 10 a.m., the Board meeting will meet in closed session in order to discuss personnel issues. This discussion relates to the internal personnel rules and practices of the Institute and is likely to disclose information of personal nature where disclosure would constitute a clearly unwarranted invasion of personnel privacy. The discussion must therefore be held in closed session under exemptions 2 and 6 of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(2) and (6). A summary of the activities at the closed session and related matters that are informative to the public and consistent with the policy of 5 U.S.C. 552b will be available to the public within 14 days of the meeting.

Records are kept of all Advisory Board proceedings and are available for public inspection at the National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006, from 8:30 a.m. to 5 p.m.

Dated: April 26, 2005.

Sandra L. Baxter,

Interim Director.

[FR Doc. 05–8972 Filed 5–4–05; 8:45 am]

BILLING CODE 6055–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Social, Behavioral and Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Social, Behavioral, and Economic Sciences (ACSBE) (#1171).

Date & Time: June 2, 2005—8:30 a.m.–5 p.m.; June 3, 2005—8:30 a.m.–12:30 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 1235, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Mr. Tyrone Jordan, Office of the Assistant Director, Directorate for Social, Behavioral, and Economic Sciences, National Science Foundation, 4201 Wilson Boulevard, Room 905, Arlington, VA 22230, 703–292–8741.

Summary Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation on major goals and policies pertaining to Social, Behavioral and Economic Sciences Directorate programs and activities.

Agenda: Discussion on issues, role and future direction of the Directorate for Social, Behavioral, and Economic Sciences.

Dated: May 3, 2005.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 05–9094 Filed 5–3–05; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: 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:* 10 CFR part 33–Specific Domestic Licenses of Broad Scope for Byproduct Material.

2. *Current OMB approval number:* 3150–0015.

3. *How often the collection is required:* There is a one-time submittal of information to receive a license. Once a specific license has been issued, there is a 10-year resubmittal of the information for renewal of the license.

4. *Who is required or asked to report:* All applicants requesting a license of broad scope for byproduct material and all current licensees requesting renewal of a broad scope license.

5. *The estimated number of annual respondents:* 1.

6. *The number of hours needed annually to complete the requirement or request:* 1.

7. *Abstract:* 10 CFR part 33 contains mandatory requirements for the issuance of a broad scope license authorizing the use of byproduct material. The subparts cover specific requirements for obtaining a license of broad scope. These requirements include equipment, facilities, personnel, and procedures adequate to protect health and minimize danger to life or property.

Submit, by July 5, 2005, 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, U.S. Nuclear Regulatory Commission, T–5 F53, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV.*

Dated at Rockville, Maryland, this 29th day of April 2005.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 05–8946 Filed 5–4–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382]

Entergy Operations, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–38, issued to Entergy Operations, Inc. (Entergy or the licensee), for operation of the Waterford Steam Electric Station, Unit 3 (Waterford 3) located in Saint Charles Parish, Louisiana.

The proposed amendment would remove the license condition on instrument uncertainty, that was imposed on the Waterford 3 license with the issuance of License Amendment 199 for the extended power uprate (EPU) on April 15, 2005.

The amendment request was submitted on an exigent basis because the need for a license amendment to remove the license condition was not recognized by Entergy or the NRC staff until just prior to the issuance of the EPU, and the licensee requests approval of the proposed amendment by May 27, 2005, to support power ascension from the Spring 2005 refueling outage.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change is administrative in nature and does not result in a change to any structure, system, or component (SSC). The accident mitigation features of the plant for previously evaluated accidents are not affected by the proposed change. The proposed change has no impact on the safety analysis because the application of an explicit offset to the Technical Specification parameters for instrument uncertainty provides additional assurance that the plant will operate within the operating envelop[e] previously analyzed. The completion of the license condition will allow Waterford 3 to operate at the power level of 3716 MWt [megawatts-thermal] which has previously been evaluated and approved by the NRC staff as documented in Amendment 199 to the Waterford 3 Operating License.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change is administrative in nature and does not change the design function or operation of any SSC. The proposed change introduces no new mode of operation. The proposed change does not affect the functional capability of safety-related equipment. The completion of the license condition will allow Waterford 3 to operate at the power level of 3716 MWt which has previously been evaluated and approved by the NRC staff as documented in Amendment 199 to the Waterford 3 Operating License.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change is administrative in nature and does not result in a change to any structure, system, or component (SSC). The accident mitigation features of the plant for previously evaluated accidents are not affected by the proposed change. The proposed change has no impact on the safety analysis because the application of an explicit offset to the Technical Specification parameters for instrument uncertainty provides additional assurance that the plant will operate within the operating envelop[e] previously analyzed. Existing Technical Specification operability and surveillance requirements are not reduced by the proposed change. The completion of the license condition will allow Waterford 3 to operate at the power level of 3716 MWt which has previously been evaluated and approved by the NRC staff as documented in Amendment 199 to the Waterford 3 Operating License.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be

affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner/requestor is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petitioner/requestor must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to Nicolas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 2005–3502, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated April 27, 2005, which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 29th day of April 2005.

For the Nuclear Regulatory Commission.

Thomas W. Alexion,

Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 05–8948 Filed 5–4–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–33635, License No. 45–15200–04, EA–04–103]

In the Matter of: ATTN: Mr. David F. Johns, President, Soil Consultants, Inc., 9393 Center Street, Manassas, VA 20110–5547; Confirmatory Order Modifying License (Effective Immediately)

I

Soil Consultants, Inc. (SCI or Licensee) is the holder of Materials License No. 45–15200–04 issued by the Nuclear Regulatory Commission (NRC or Commission) on October 6, 2004, Amendment No. 03. The license authorizes the Licensee to use sealed source(s) contained in portable gauging devices (registered pursuant to 10 CFR 32.320 or equivalent Agreement State regulation) for measuring properties of materials in accordance with the conditions specified therein.

II

An investigation of the Licensee's activities was completed on February 11, 2004. The results of this investigation and the NRC's further consideration of this matter, including a predecisional enforcement conference held with you on August 12, 2004, indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated October 6, 2004. The Notice states the nature of violation, the provision of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation. The licensee responded in letters dated November 5, 2004, and December 5, 2004, and denied a violation occurred. An Order Imposing a civil penalty was served upon the Licensee by letter dated February 1, 2005. The February 1st letter offered SCI the opportunity either to pay the civil penalty, request a hearing, or request alternative dispute resolution (ADR) in which a neutral mediator with no decision-making authority would facilitate discussions between the NRC and SCI and, if possible, assist the NRC and SCI in reaching an agreement on resolving the concern. SCI chose to participate in ADR. On March 16, 2005, the NRC and SCI met at NRC Headquarters in Rockville, Maryland in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution.

III

By letter dated April 8, 2005, the Licensee has agreed that in addition to the corrective actions outlined in their letters to the NRC dated November 5, 2004, and December 2, 2004, SCI would take certain additional measures to emphasize the importance of a Safety Conscious Work Environment at their facility. The Licensee agreed to:

1. Hire an outside consultant to:

a. Provide insight and develop an initial training module addressing a safety conscious work environment (SCWE) and 10 CFR 30.7, Employee protection," by no later than five months from the date of issuance of the Confirmatory Order,

b. Conduct initial training for managers and employees of SCI using the module by no later than six months from the date of issuance of the Confirmatory Order, and

c. Develop a refresher training module addressing SCWE and 10 CFR 30.7 for the managers and employees of SCI by no later than six months from the date of issuance of the Confirmatory Order.

2. By no later than six months from the date of issuance of the Confirmatory Order, SCI shall revise its training program requirements to conduct refresher training of SCWE and 10 CFR 30.7 at a frequency consistent with SCI's general employee training.

3. By no later than six months from the date of issuance of the Confirmatory Order, SCI shall revise its training program requirements to conduct SCWE and 10 CFR 30.7 training for new managers and employees of SCI, within sixty days of their assumption of duties.

4. Pay a civil penalty in the amount of $1,200 for a violation of 10 CFR 30.7, "Employee protection," requirements within thirty days of the date of issuance of the Confirmatory Order.

On April 18, 2005, SCI consented to the NRC issuing this Confirmatory Order, as described in Section IV below. SCI further agreed in its April 18, 2005, letter that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing. The NRC has concluded that its concerns can be resolved through effective implementation of SCI's commitments.

I find that the Licensee's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that SCI's commitments be confirmed by this Order. Based on the above and SCI's consent, this Order is immediately effective upon issuance. SCI is required to provide the NRC with a letter summarizing its actions when all of the Section IV requirements have been completed.

IV

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30, *it is hereby ordered, effective immediately, that* License No. 45–15200–04 is modified as follows:

1. The Licensee shall hire an outside consultant to:

a. Provide insight and develop an initial training module addressing a safety conscious work environment (SCWE) and 10 CFR 30.7, Employee protection," by no later than five months from the date of issuance of the Confirmatory Order,

b. Conduct initial training for managers and employees of SCI using the module by no later than six months from the date of issuance of the Confirmatory Order, and

c. Develop a refresher training module addressing SCWE and 10 CFR 30.7 for the managers and employees of SCI by no later than six months from the date of issuance of the Confirmatory Order.

2. The Licensee shall revise its training program requirements to conduct refresher training of SCWE and 10 CFR 30.7 at a frequency consistent with SCI's general employee training, by no later than six months from the date of issuance of the Confirmatory Order.

3. By no later than six months from the date of issuance of the Confirmatory Order, the Licensee shall revise its training program requirements to conduct SCWE and 10 CFR 30.7 training for new managers and employees of SCI, within sixty days of their assumption of duties.

4. Pay a civil penalty in the amount of $1,200 for a violation of 10 CFR 30.7, "Employee protection," requirements within thirty days of the date of issuance of the Confirmatory Order.

The Director, Office of Enforcement, may relax or rescind, in writing, any of the above conditions upon a showing by SCI of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time

must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406–1415, and to the Licensee. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated this 27th day of April, 2005.

For the Nuclear Regulatory Commission.

Frank J. Congel,

Director, Office of Enforcement.

[FR Doc. 05–8945 Filed 5–4–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–315 and 50–316]

Indiana Michigan Power Company and Donald C. Cook Nuclear Plant, Units 1 and 2; Notice of Availability of the Final Supplement 20 to the Generic Environmental Impact Statement for the License Renewal of Donald C. Cook Nuclear Plant, Units 1 and 2

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has published a final plant-specific supplement to the "Generic Environmental Impact Statement (GEIS), NUREG–1437," regarding the renewal of operating licenses DPR–58 and DPR–74 for an additional 20 years of operation at Donald C. Cook Nuclear Plant, Units 1 and 2 (CNP). CNP is located in Berrien County, Michigan, about 55 miles east of Chicago, Illinois. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources.

In Section 9.3 of the final Supplement 20 to the GEIS, the staff concludes that based on: (1) The analysis and findings in the GEIS; (2) the environmental report submitted by Indiana Michigan Power Company; (3) consultation with Federal, State, and local agencies; (4) the staff's own independent review; and (5) the staff's consideration of public comments, the recommendation of the staff is that the Commission determine that the adverse environmental impacts of license renewal for CNP Units 1 and 2 are not so great that preserving the option of license renewal for energy-planning decision makers would be unreasonable.

The final Supplement 20 to the GEIS is available for public inspection in the NRC Public Document Room (PDR) located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland, or from the Publicly Available Records (PARS) component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* (the Public Electronic Reading Room). Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*. In addition, the Bridgman Public Library, 4460 Lake Street, Bridgman, Michigan and the Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan, have agreed to make the final plant-specific supplement to the GEIS available for public inspection.

FOR FURTHER INFORMATION, CONTACT: Mr. William Dam, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Mr. Dam may be contacted at 301–415–4014 or via e-mail *WLD@nrc.gov*.

Dated at Rockville, Maryland, this 22nd day of April, 2005.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 05–8947 Filed 5–4–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Number 030–04781]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Pharmacia and Upjohn Company, Kalamzoo, MI

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Dr. Peter J. Lee, Decommissioning Branch, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region III, 2443 Warrenville Road, Lisle, Illinois 60532–4352. Telephone: 630–829–9870; fax number: 630–515–1259; e-mail: *pjl2@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuing a license amendment of Material License No. 21–00182–03 issued to Pharmacia & Upjohn Company (the licensee), to authorize release of its Henrietta Street and Jasper Street facilities for unrestricted use.

The NRC staff has prepared an Environmental Assessment (EA) in support of this amendment in accordance with the requirements of 10 CFR Part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

II. EA Summary

The purpose of the proposed action is to amend the licensee's byproduct

material license and release its Henrietta Street and Jasper Street facilities for unrestricted use. On April 24, 1958, the Atomic Energy Commission authorized the licensee to conduct the radiological operations. The primary radioactive materials used at Henrietta Street and Jasper Street facilities were H–3, C–14, P–32, P–33, S–35, and I–125. On January 26, 2005, the licensee submitted a license amendment request to amend its license to release its Henrietta Street and Jasper Street facilities for unrestricted use. The licensee has conducted surveys of the facility and provided information to the NRC to demonstrate that the site meets the license termination criteria in 10 CFR 20.1402, "Radiological Criteria for Unrestricted Use."

The staff has examined the licensee's request and the information provided in support of its request, including the surveys performed to demonstrate compliance with the release criteria. Based on its review, the staff has determined that there are no additional remediation activities necessary to complete the proposed action and a Finding of No Significant Impact is appropriate.

III. Finding of No Significant Impact

The staff has prepared an EA in support of the proposed action. The staff has found that the environmental impacts from the proposed action are bounded by the impacts evaluated in the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Facilities" (NUREG–1496). On the basis of the EA, the NRC concluded that there are no significant environmental impacts from the proposed amendment and determined not to prepare an environmental impact statement.

IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are: ML050310283 and ML042640549 for the January 26, 2005, amendment request, and ML051090105 for the EA summarized above. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr@nrc.gov*.

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North. 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Lisle, Illinois, this 19th day of April 2005.

For the Nuclear Regulatory Commission.

Jamnes L. Cameron,

Chief, Decommissioning Branch, Division of Nuclear Materials Safety Region III.

[FR Doc. 05–8944 Filed 5–4–05; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of May 9, 2005:

A Closed Meeting will be held on Thursday, May 12, 2005 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (6), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Campos, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Thursday, May 12, 2005, will be: Formal orders of investigations; institution and settlement of injunctive actions; and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: May 2, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–9076 Filed 5–3–05; 11:18 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice 5061]

Culturally Significant Objects Imported for Exhibition Determinations: "Callot to Greuze: French Drawings From Weimar"

AGENCY: Department of State.

ACTION: Notice

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 "Callot to Greuze: French Drawings from Weimar," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit objects at the Frick Collection, New York, NY, from on or about June 1, 2005, to on or about August 7, 2005, 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 object, 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 27, 2005.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 05–8988 Filed 5–4–05; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4898]

Secretary of State's Advisory Committee on Private International Law: Notice of Renewal of Charter

The Charter of the Secretary of State's Advisory Committee on Private International Law was renewed on January 11, 2005 and expires on January 10, 2007.

The Advisory Committee assists the State Department to monitor domestic and international developments in private international law, provides a means for state, local and private sector viewpoints to be made available to the Department, and provides information to assist in the development of positions for international efforts to harmonize or negotiate uniform rules of private law through model national laws, legal guidelines, treaties, and other means.

The Advisory Committee has focused on work undertaken or proposed for various international bodies, including but not limited to the Hague Conference on Private International Law; the United Nations Commission on International Trade Law (UNCITRAL), the International Institute for the Unification of Private Law UNIDROIT), and the Organization of American States (OAS).

Topics reviewed by the Committee include, but are not limited to, jurisdiction and enforcement of foreign judgments; party choice of forum, enforcement of foreign arbitral awards; cross-border business insolvency law; the protection of minors; inter-country adoption; child abduction; electronic commerce; secured finance; carriage of goods by sea and by other modes of transportation; international franchising; and other topics of current interest in private law as they arise.

Meetings are open to the public, and participation by the public is relied on for the Committee's work. Interested persons, organizations, academic centers and others can participate pro bono in all aspects of the Committee's work. All interested parties can seek additional information from the Office of the Assistant Legal Adviser for Private International Law (L/PIL), Department of State, by contacting Jeffrey Kovar, Mary Helen Carlson or Hal Burman at 202–776–8420, fax 776–8482, or by e-mail to Cherise Reid at *reidcherised@State.gov*.

Harold S. Burman,

Executive Director, Secretary of State's Advisory Committee on Private International Law, Department of State.

[FR Doc. 05–8987 Filed 5–4–05; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 5060]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Africa Workforce Development

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/NEAAF–05–49.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates: Application Deadline: June 6, 2005.

Executive Summary: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs, United States Department of State, announces an open competition for grants to support exchanges and training programs promoting "Africa Workforce Development." U.S. public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to develop and implement exchanges and training programs involving participants from Sub-Saharan Africa, including training conducted in Sub-Saharan Africa. These U.S. organizations should provide evidence of a current expertise in Sub-Saharan Africa, or experience working in Sub-Saharan Africa, and work in conjunction with Sub-Saharan African NGO partners. Three grants, not exceeding $133,333 each, are anticipated, although more awards could be accommodated if they are at smaller amounts.

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 the Conference Report accompanying the FY–2005 Consolidated Appropriations Act (Pub. L. 108–447) which earmarks $400,000 to support Africa Workforce Development.

Purpose: The Bureau seeks proposals for an exchange program on African Workforce Development. U.S.-African partnership is emphasized as a mutually beneficial, direct and efficient method of promoting this goal. Partnerships promote the interests and long-term commitment of African and American participants going beyond U.S. government financing. The Bureau encourages applicants to consider carefully the choice of target countries. Applicants should research the work of development agencies (such as USAID, UN agencies) on the target themes, and select countries for which there has been limited investment on the issue. Applicants are encouraged to contact the Public Affairs Sections (PAS) in U.S. Embassies in Africa, and the Office of Citizen Exchanges, to discuss proposed activities and their relevance to mission priorities.

Proposals should focus on one or two countries rather than a large group so as to maximize impact. The Bureau offers the following programming ideas and suggestions.

Africa Workforce Development: The purpose of this program is to enhance Workforce Development efforts in Sub-Saharan Africa through Citizen Exchanges. ECA has set the following broad goals for the program this year:

- To foster a more productive and fully employed workforce in Africa through collaboration between U.S. and African workforce development specialists;
- To develop professional and personal linkages between African and U.S. host institutions and communities that will lead to sustained interaction;
- To promote mutual understanding between cultures and societies in the U.S. and Africa.

The Office realizes that there are many different approaches to workforce development, and is open to a wide variety of program plans. However, in order to be eligible for consideration, each proposal must explain its methodology for assessing workforce development needs and explain how its choice of needs to be addressed in the proposed program is relevant to the focus country(ies). In addition, the Office recommends that each applicant

consider addressing the following objectives in its plan:

- Assist citizens in making the transition from academic studies to participation in the workforce;
- Assist citizens in learning skills and attitudes which make them more employable;
- Guide citizens in seeking jobs and in carrying them out satisfactorily;
- Provide training in information technology;
- Assist Africans in identifying workforce needs and developing plans to ameliorate those needs;
- Develop programs which are adaptable to local and individual needs; and
- Develop programs that will attract and maintain the attention of citizens, encouraging their initiative and commitment.

The commitment of African partners will be important to long-term program success, and applicants should consider the possibility of selecting African partners through a competitive process to assess their commitment and capability.

II. Award Information

Type of Award: Grant Agreement. ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: 2005.

Approximate Total Funding: $400,000.

Approximate Number of Awards: 3.

Approximate Average Award: $133,333.

Anticipated Award Date: Pending availability of funds, September 1, 2005.

Anticipated Project Completion Date: September 1, 2007.

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

Proposals that clearly demonstrate significant cost sharing—with 25% of the amount requested from ECA as the preferred target—will be judged more competitive under review criterion #10.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. If one or more grants are approved at or below that limit, it will affect the number and amounts of other grants; however, the total amount available to be awarded across all grants in this competition is $400,000.

IV. Application and Submission Information

Note: Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information to Request an Application Package

To obtain an application package for this competition, please see IV.2 below.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm*. Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The original and ten copies of the application should be sent per the instructions under IV.3e. "Submission Dates and Times section" below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence to All Regulations Governing the J Visa. The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the "Responsible Officer" for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties "cooperating with or assisting the sponsor in the conduct of the sponsor's program." The actions of grantee program organizations shall be "imputed to the sponsor in evaluating the sponsor's compliance with" 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the

applicant should discuss their record of compliance with 22 CFR part 62 *et seq.*, including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://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) 401–9810. FAX: (202) 401–9809.

IV.3d.2. Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and 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.3d.3. Program Monitoring and Evaluation. Proposals must contain an evaluation plan that describes how the applicant organization intends to gather data on the project's effectiveness in achieving its outcomes. Competitive evaluation plans will include the following four components:

a. A restatement of anticipated outcomes;

b. A list of data the applicant would collect in order to assess progress toward each outcome;

c. A description of how the applicant would collect the information (for example, through surveys) and a draft timeline for collecting data;

d. Draft questionnaires, surveys, focus group questions, or other instruments with which the applicant would gather quantitative and qualitative data. Proposals should indicate how each instrument would provide information on progress toward each project outcome.

Statement of Anticipated Outcomes: Proposals should indicate the category of each outcome such as participant satisfaction, participant learning, participant behavior, or institutional change.

Data To Be Collected: Proposals should list the data that applicants would collect. Applicants may use quantitative data or qualitative data to measure progress toward outcomes. Below are examples of data that applicants might collect for each type of outcome as well as sample survey questions that applicants might use to gather this data:

Example 1:

Outcome: Participants are satisfied with the exchange experience.

Outcome type: Participant Satisfaction.

Data to be collected: Percent of participants who express satisfaction with the exchange experience based on an average of several factors.

Sample question: On a scale of one to five (1 = very dissatisfied, 5 = very satisfied), please rate your satisfaction with (a) project administration, (b) content, (c) variety of experiences, (d) relevance to professional or educational development.

Example 2:

Outcome: Participants increase their abilities to organize volunteer activities in their home communities.

Outcome type: Participant Learning.

Data to be collected: Percent of participants who improved their abilities in areas necessary to organize volunteer activities.

Sample question: On a scale of one to four (1 = no or very limited ability, 4 = substantial ability), please rate your ability in the following areas: (a) Volunteer recruitment, (b) volunteer management, (c) community outreach, (d) resource management.

Example 3:

Outcome: Participants increase their participation and/or responsibility in community or civil society.

Outcome type: Participant Behavior.

Data to be collected: Percent of participants who increase their participation or level of responsibility.

Sample question: As a direct result of your participation in the exchange, have you done or received any of the following in your community (answer yes or no to each item): (a) Assumed a leadership role or position in your community, (b) organized or initiated new activities or projects in your community, (c) established a new organization in your community.

Example 4:

Outcome: Increased collaboration and linkages.

Outcome type: Institutional changes.

Data to be collected: Percent of participants who establish or continue professional collaboration.

Sample question: Have you established or continued any professional collaboration that grew out of your exchange experience? (Answer yes or no)

Methods and Timeline: Applicant organizations should plan to gather data a minimum of three times during the project: (1) Before exchange activities, (2) following exchange activities, and (3) as a follow-up (approximately six months to a year after exchange activities). The exact timing depends on the nature of the project itself. Proposals should suggest grant periods of sufficient length to collect follow-up information.

Applicants should consider the timing of data collection for each level of outcome. For example, grantees may measure participant learning at the end of an activity since this is a shorter-term outcome. Behavioral and institutional outcomes are longer-term and it might not be possible to adequately assess them until a follow-up survey. Pre-program surveys should collect baseline data as appropriate.

Draft data collection instruments: Proposals should include sample surveys, lists of questions, or other instruments that the applicant organization proposes to use. Applicants should include samples of instruments they would use during each evaluation activity (pre-program, post-program, and follow-up).

Evaluation plans should describe how the applicant will tabulate data, where the data will be kept, and who will have access to such data. Interim and final reports should provide summary data in tabular and graphic form as well as tabulated raw data. ECA may ask for immediate notice of information that indicates significant progress or delay in achieving outcomes. All data collected, including survey responses and contact

information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following: (1) *Direct Program Expenses* (including general program expenses, such as orientation and program-related supplies, educational materials, traveling campaigns, consultants, interpreters, and room rental; and participant program expenses, such as domestic and international travel and per diem).

(2) *Administrative Expenses*, including indirect costs (*i.e.* salaries, telephone/fax, and other direct administrative costs).

(3) *Travel costs for visa processing purposes:* All foreign participants funded by any grant agreement resulting from this competition must travel on J–1 visas. Failure to secure a J–1 visa for the foreign participant will preclude charging the participant's cost to the grant agreement. Participants will apply for J–1 visas only after the Office of Citizen Exchanges and the mission Public Affairs Section or consulate have approved their participation in this program. The Office of Citizen Exchanges will issue DS–2019 forms and deliver to foreign program visitors through the mission Public Affairs Section. All J visas for African program visitors must be issued by the Posts in the target country, so proposals should include costs for potential participants to travel to those Posts to pick up DS–2019 forms and for visa interviews and processing.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. *Submission Dates and Times: Application Deadline Date:* June 6, 2005.

Explanation of Deadline and Shipping Method: Due to heightened security measures, proposal submissions must be sent via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.) and be shipped no later than the above deadline. The 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. 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. ECA will not notify you upon receipt of application. 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. Applications may not be submitted electronically at this time.

Applicants must follow all instructions in the Solicitation Package.

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 nine copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/NEAAF–05–49, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

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.3g. *Intergovernmental Review of Applications:* Executive Order 12372 does not apply to this program.

Applicants must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal in text (.txt) format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. embassy(ies) for its (their) review.

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 grants 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. *Quality of the program conceptualization:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be "smart" (specific, measurable, attainable, results-oriented and placed in a reasonable time frame). Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *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, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. In order to qualify for a grant of more than $60,000, the proposal must demonstrate an institutional record of conducting more than four years of successful international exchanges. If the applicant has received previous support from the ECA Bureau, the proposal should show responsible fiscal

management and full compliance with ECA Bureau reporting requirements.

7. *Post-grant Activities:* Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

8. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. The plan should follow the guidance given in Section IV.3d.3 above.

9. *Cost-effectiveness:* 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.

10. *Cost-sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions. Note Section III.2 above which states that proposals that clearly demonstrate significant cost sharing—with 25% of the amount requested from ECA as the preferred target—will be judged more competitive under this criterion.

11. *Value to U.S.-Partner Country Relations:* Proposed projects should receive positive assessments by the U.S. Department of State's geographic area desk and overseas officers of program need, potential impact, and significance in the partner country(ies).

VI. Award Administration Information

VI.1. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following: Office of Management and Budget Circular A–122, "Cost Principles for Nonprofit Organizations." Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."

OMB Circular A–87, "Cost Principles for State, Local and Indian Governments."

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please refer to the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants.*

http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.

VI.3. Reporting Requirements

Grantees must provide ECA with a hard copy original plus two copies of the following reports:

1. A final program and financial report no more than 90 days after the expiration of the award;

2. Quarterly program and financial reports.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: James E. Ogul, Office of Citizens Exchange, ECA/PE/C/NEA–AF, Room 216, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone: 202–453–8161, Fax: 202–453–8168, Internet address: *ogulje@state.gov.* All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/NEAAF–05–49.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: April 28, 2005.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 05–8990 Filed 5–4–05; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICR) abstracted below have been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collections. The ICR describes the nature of the information collection and the expected burden. The Federal Register Notices with a 60-day comment period soliciting comments on the following collections of information were published on February 17, 2005, pages 8132–8133, with the exception of the notice for 2120–0574, which was published on August 25, 2004, page 52324.

DATES: Comments must be submitted on or before, June 6, 2005. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

1. *Title:* Application for Certificate of Waiver or Authorization.

OMB Control Number: 2120–0027.

Type of Request: Extension of a currently approved collection.

Form(s): FAA Form 7711–2.

Affected Public: A total of 25,231 respondents.

Abstract: Part A of Subtitle VII of the Revised Title 49, United State Code, authorizes the issuance of regulations governing the use of navigable airspace. 14 CFR parts 91, 101, and 105 prescribe regulations governing the general operation and flight of aircraft, moored balloons, kites, unmanned rockets, unmanned free ballons, and parachute jumping. Applicants are individual airmen, state and local governments, and businesses.

Estimated Annual Burden Hours: An estimated 13,646 hours annually.

2. *Title:* Aircraft Registration.

OMB Control Number: 2120–0042.

Type of Request: Extension of a currently approved collection.

Form(s): AC Forms 8050–1, 2, 4, 98, 117.

Affected Public: A total of 41,978 aircraft owners and operators.

Abstract: The information collected is used by the FAA to register aircraft or hold an aircraft in trust. The information required to register and prove ownership of an aircraft is required by any person wishing to register an aircraft.

Estimated Burden Hours: A total of 73,572 hours annually.

3. *Title:* Development of Major Repair Data.

OMB Control Number: 2120–0507.

Type of Request: Extension of a currently approved collection.

Form(s): FAA Form 8100–8.

Affected Public: A total of 19 Aircraft maintenance, commercial aviation, aircraft repair stations, air carriers, commercial operators.

Abstract: SFAR 36 (to part 121) relieves qualifying applicants (Aircraft maintenance, commercial aviation, aircraft repair stations, air carriers, commercial operators) of the burden to obtain FAA approval of data developed by them for the major repairs on a case-by-case basis; and provides for one-time approvals.

Estimated Burden Hours: A total of 306 hours annually.

4. *Title:* Aviation Safety Counselor of the Year Award.

OMB Control Number: 2120–0574.

Type of Request: Extension of a currently approved collection.

Form(s): FAA Form 8740–14.

Affected Public: A total of 180 respondents.

Abstract: The form is used to nominate private citizens for recognition of their volunteer service to the FAA. The agency will use the information on the form to select time regional winners and one national winner. The respondents are private citizens involved in aviation.

Estimated Burden Hours: A total of 180 hours annually.

5. *Title:* Reduced Vertical Separation Minimum (RVSM).

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0679.

Form(s): NA.

Affected Public: An estimated total of 2,275 aircraft operators.

Abstract: Aircraft operators seeking operational approval to conduct RVSM operations within the 48 contiguous United States (U.S.), Alaska and that portion of the Gulf of Mexico where the FAA provides air traffic services, must submit their application of the Certificate Holding District Office (CHDO). The CHDO registers RVSM approved airframes in the FAA RVSM Approvals Database. When operators complete airworthiness, continued airworthiness and operations program requirements, the CHDO grants operations approval.

Estimated Annual Burden Hours: An estimated 68,250 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques of other forms of information technology.

Issued in Washington, DC on April 28, 2005.

Judith D. Street,

FAA Information Collection Clearance Officer, Information Systems and Technology Services Staff, ABA–20.

[FR Doc. 05–8939 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 05–08–C–00–DSM To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Des Moines International Airport, Des Moines, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Des Moines International Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 6, 2005.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: 901 Locust, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Michael R. Salamone, Deputy Director Aviation Finance and Administration, Des Moines International Airport, 5800 Fleur Drive, Des Moines, IA 50321.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Des Moines under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Lorna K. Sandridge, PFC Program Manager, 901 Locust, Kansas City, MO 64106, (816) 329–2641. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Des Moines International Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 26, 2005, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Des Moines was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 22, 2005.

The following is a brief overview of the application.

Proposed charge effective date: January 1, 2011.

Proposed charge expiration date: April 1, 2012.

Level of the proposed PFC: $4.50.

Total estimated PFC revenue: $2,750,000.

Brief description of proposed project(s): Outbound baggage make-up belts, automated access control upgraded, American's with Disabilities transition project, and full depth replacement signature front aprons.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 Air Taxi/Commercial Operators (ATCO).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: 901 Locust, Kansas City, MO 64106.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Des Moines International Airport.

Issued in Kansas City, Missouri, on April 26, 2005.

George A. Hendon,

Manager, Airports Division, Central Region.

[FR Doc. 05–8930 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of intent To Rule on Application 05–06–U–00–ALO To Use the Revenue From a Passenger Facility Charge (PFC) at Waterloo Municipal Airport, Waterloo, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Waterloo Municipal Airport under the provisions of the 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 6, 2005.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: 901 Locust, Kansas City, MO 64106. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Brad Hagen, Director of Aviation, of the Waterloo Municipal Airport at the following address: 2790 Livingston Lane, Waterloo, Iowa 50703. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Waterloo Airport Commission under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Lorna K. Sandridge, PFC Program Manager, 901 Locust, Kansas City, Missouri 64106, (816) 329–2641. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Waterloo Municipal Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 26, 2005, the FAA determined that the application to use the revenue from a PFC submitted by the Waterloo Airport Commission was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 27, 2005.

The following is a brief overview of the application.

Proposed charge effective date: September, 2005.

Proposed charge expiration date: April, 2007.

Level of the proposed PFC: $4.50.

Total estimated PFC revenue: $360,000.

Brief description of proposed project: Reconstruct of terminal area ramp.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional airports office located at: 901 Locust, Kansas City, Missouri 64106.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Waterloo Municipal Airport.

Issued in Kansas City, Missouri, on April 26, 2005.

George A. Hendon,

Manager, Airports Division Central Region.

[FR Doc. 05–8929 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Metallic Materials Properties Development and Standardization (MMPDS) Handbook

AGENCY: Federal Aviation Administration (DOT).

ACTION: Notice of availability and request for public comment; correction.

SUMMARY: This notice corrects the "How To Obtain Copies" Web address published April 11, 2005 (70 FR 18452) that announced the availability of and requested comments for a proposed plan to manage the Metallic Materials Properties Development and Standardization (MMPDS) Handbook which has replaced the now cancelled "Department of Defense Handbook: Metallic Materials and Elements for Aerospace Vehicle Structures," (MIL–HDBK–5) and our intention to make the MMPDS Handbook the primary source of metallic materials and fastener allowable properties demonstrated to comply with FAA airworthiness requirements.

DATES: The comment period is extended to July 5, 2005.

ADDRESSES: Send all comments on the proposals to: John J. Petrakis, National Aging Aircraft Program Manager, Technical Program & Continued Airworthiness Branch, AIR–120, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–9274; fax (202) 267–5340. You may deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591, or electronically submit comments to the following Internet address e-mail *9-AWA-AVR-AIR120-TechPrograms@faa.gov*. Include in the subject line of your message the title of the document on which you are commenting.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Petrakis, AIR–120, Room 835, Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–9274, FAX: (202) 267–5340.

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the proposed plan to manage the Handbook identified in this notice by submitting written data, views, or arguments to the address listed above. You may examine all comments received on the proposed plan to manage the Handbook before and after the comment closing date at the Federal Aviation Administration, Room 835, 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director of the Aircraft Certification Service will consider all communications received on or before the closing date.

Background

Though now cancelled, "Metallic Materials and Elements for Aerospace Vehicle Structures" (MIL–HDBK–5) continues to be used as a primary source of statistically based design allowables for metallic materials and fastened joints used in the U.S. military and commercial aerospace design. As such, the handbook was kept current for almost 50 years by joint government and industry effort.

In 1997, the Air Force began to shift from military to commercial specifications which forced the aviation industry to find an alternative approach to sustain MIL–HDBK–5. Because MIL–HDBK–5 remains critical to commercial aircraft certification and the maintenance and continued airworthiness of the commercial fleet, the FAA has assumed responsibility for the management of this essential reference document.

In support of aircraft certification, the FAA intends to make the MMPDS Handbook the primary source of metallic materials and fastener allowable properties demonstrated to comply with FAA airworthiness requirements.

In addition, the FAA is proposing a plan to sustain the Handbook and secure funding for maintaining MMPDS from multiple sources, including other government agencies, industry stakeholders, the private sector, and from sales of the handbook and related products.

How To Obtain Copies

You may get a copy of the notice of availability: *http://www.faa.gov/certification/aircraft/DraftDoc/CommNotices.htm.*

You may also request a copy from Mr. John J. Petrakis. See the section entitled **FOR FURTHER INFORMATION CONTACT** for the complete address.

Issued in Washington, DC, on April 27, 2005.

David W. Hempe,

Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 05–8934 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2005–20721]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption from the diabetes standard; request for comments.

SUMMARY: This notice publishes the FMCSA's receipt of applications from five individuals for exemption from the diabetes mellitus prohibition in the Federal Motor Carrier Safety Regulations. If granted, the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the requirement prescribed in 49 CFR 391.41(b)(3).

DATES: Comments must be received on or before June 6, 2005.

ADDRESSES: You may submit comments identified by any of the following methods. Please identify your comments by the DOT DMS Docket Number FMCSA–2005–20721.

- 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 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number for this notice. 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: Dr. Mary D. Gunnels, Office of Bus and Truck Standards and Operations, (202) 366–4001, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 8 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Public Participation: The DMS is available 24 hours each day, 365 days a year. You can get electronic submission and retrieval help guidelines under the "help" section of the DMS Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act statement in the **Federal Register** published April 11, 2000 (Volume 65, Number 70; pages 19477–78) or you may visit *http://dms.dot.gov.*

Background

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the agency to renew exemptions at the end of the 2-year period. The five individuals listed in this notice have recently requested an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statute.

Qualifications of Applicants

1. Gerald E. Huelle

Mr. Huelle, age 57, has had insulin-treated diabetes mellitus since 1994. He has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years. His endocrinologist examined him in 2004 and stated he "is quite well versed on how to treat either hyperglycemia or hypoglycemia should it occur. Jerry [Gerald] has shown a very good level of motivation to try to control his diabetes.

He is also very much capable of monitoring his blood sugars and managing his insulin." He meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2004 and stated, "You have no diabetic retinopathy." Mr. Huelle reported he has driven straight trucks for 43 years, accumulating 172,000 miles, and tractor-trailer combinations 33 years, accumulating 2.4 million miles. He holds a Class A commercial driver's license (CDL) from Wyoming. His driving record shows no crashes and one conviction for a moving violation—speeding—in a CMV for the past 3 years. He exceeded the speed limit by 20 mph.

2. Lee R. Kumm

Mr. Kumm, 52, has had insulin-treated diabetes since 1986. He has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years. His endocrinologist examined him in 2004 and stated, "He has demonstrated a willingness to monitor and manage his diabetes. He meets with the dietitian and an R.N. [Registered Nurse] in the hospital diabetes center a minimum of twice a year." He meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2005 and stated, "Each retina reveals mild diabetic changes but no evidence of any visual threat on account of diabetes or any other ocular problem. Your eyes have been stable for a number of years." Mr. Kumm submitted that he has driven straight trucks for 4 years, accumulating 240,000 miles, and tractor-trailer combinations for 5 years, accumulating 490,000 miles. He holds a Class ABCDM CDL from Wisconsin. His driving record shows no accidents or convictions for moving violations in a CMV for the past 3 years.

3. Mitchell L. Pullen

Mr. Pullen, 47, has had insulin-treated diabetes mellitus since 1968. He has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of others, or resulting in impaired cognitive function that occurred without warning within the last 5 years. His endocrinologist examined him in 2004 and stated, "He is showing very good ability in management and understanding procedures." He has completed 6 hours of diabetes education, including recognizing and treating hypoglycemia. He meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2004 and stated he has a history of proliferative diabetic retinopathy, which has been stabilized with laser photocoagulation. Mr. Pullen reported he has driven straight trucks for 10 years, accumulating 50,000 miles, and tractor-trailer combinations for 22 years, accumulating 2.6 million miles. He holds a Class A CDL from Nebraska. His driving record shows no accidents or convictions for moving violations in a CMV for the past 3 years.

4. Charles E. Wheat, Sr.

Mr. Wheat, 69, has had insulin-treated diabetes mellitus for the past 14 years. He has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of others, or resulting in impaired cognitive function that occurred without warning within the last 5 years. His endocrinologist examined him in 2004 and stated, "Mr. Wheat has completed diabetes education and is doing a good job of monitoring and self-management of his diabetes. Mr. Wheat has been educated in corrective action when blood sugars are too high or too low. I am confident that he has knowledge of these skills and has mastered them." He meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2004 and stated, "He shows no signs of diabetic retinopathy." Mr. Wheat stated he has driven straight trucks for 5 years, accumulating 65,000 miles, and tractor-trailer combinations for 20 years, accumulating 1.3 million miles. He holds a Class A CDL from Mississippi. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

5. Steven R. Zoller

Mr. Zoller, 36, has had insulin-treated diabetes mellitus since 2001. He has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of others, or resulting in impaired cognitive function that occurred without warning in the past 5 years. His endocrinologist examined him in 2004 and certified, "Mr. Zoller has been educated with regard to diabetes and its management and understands the procedures that should be followed if complications arise. He has demonstrated willingness to properly monitor and manage his diabetes." He meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2004 and certified, "Dilated fundus examination reveals no evidence of any diabetic retinopathy." Mr. Zoller reported he has driven straight trucks for 16 years, accumulating 560,000 miles, and tractor-trailer combinations for 3 years, accumulating 150,000 miles. He holds a Class A CDL from Minnesota. His driving record shows no accidents or convictions for moving violations in a CMV for the past 3 years.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: April 25, 2005.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

[FR Doc. 05–8973 Filed 5–2–05; 1:07 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2005–21099]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before July 5, 2005.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gearhart, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202–366–1867; FAX: 202–366–7901; or e-MAIL: *beth.gearhart@marad.dot.gov*. Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Shipbuilding Orderbook and Shipyard Employment.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0029.

Form Numbers: MA–832.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Summary of Collection of Information: In compliance with the

Merchant Marine Act of 1936, as amended, MARAD conducts this survey to obtain information from the shipbuilding and ship repair industry to be used primarily to determine if an adequate mobilization base exists for national defense and for use in a national emergency.

Need and Use of the Information: The collection of information is necessary in order for MARAD to perform and carry out its duties required by Sections 210 and 211 of the Merchant Marine Act of 1936.

Description of Respondents: Owners of U.S. shipyards who agree to complete the requested information.

Annual Responses: 800.

Annual Burden: 400 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://dms.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Authority: 49 CFR 1.66.

Dated: April 27, 2005.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–8921 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2005–21100]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before July 5, 2005.

FOR FURTHER INFORMATION CONTACT: Sharon Cassidy, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202–366–5506; FAX: 202–366–6988; or E-MAIL: *sharon.cassidy@marad.dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Application for Waiver of the Coastwise Trade Laws for Small Passenger Vessels.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0529.

Form Numbers: None.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Summary of Collection of Information: Owners of small passenger vessels desiring waiver of the coastwise trade laws affecting small passenger vessels will be required to file a written application and justification for waiver to the Maritime Administration (MARAD). The agency will review the application and make a determination whether to grant the requested waiver.

Need and Use of the Information: MARAD requires the information in order to process applications for waivers of the coastwise trade laws and to determine the effect of waivers of the coastwise trade laws on United States vessel builders and United States-built vessel coastwise trade businesses.

Description of Respondents: Small passenger vessel owners who desire to operate in the coastwise trade.

Annual Responses: 100.

Annual Burden: 100 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://dms.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Authority: 49 CFR 1.66.

Dated: April 27, 2005.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–8922 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–21096]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel AURORA.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application

is given in DOT docket 2005–21096 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before June 6, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 21096. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Sharon Cassidy, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5506.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel AURORA is:

Intended Use: "Crewed recreational multi-day, overnight passenger sailing charters."

Geographic Region: "East coast of the U.S. including Maine, NH, Mass, RI, CT, NY, NJ, DE, MD, VA, NC, SC, GA & FL, and Caribbean including PR and VI."

Dated: April 27, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–8924 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–21098]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel RIPPLE.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–21098 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before June 6, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 21098. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Sharon Cassidy, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5506.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel RIPPLE is:

Intended Use: "To provide recreational sailing opportunity for customers."

Geographic Region: "Chesapeake Bay and Delaware Bay, including the states of MD, VA and DE."

Dated: April 27, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–8926 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–21097]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel STEPPING STONE.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–21097 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments.

Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before June 6, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 21097. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Sharon Cassidy, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5506.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel STEPPING STONE is:

Intended Use: "6 passenger day sails/sunset sails."

Geographic Region: "East Coast of the U.S. including West Coast of Florida."

Dated: April 27, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–8925 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–21095]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel WINDSONG.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–21095 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before June 6, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005–21095. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Sharon Cassidy, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5506.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel WINDSONG is:

Intended Use: "Half and full day sailing charters for 6 passengers. Pleasure cruises only."

Geographic Region: "State of Florida."

Dated: April 27, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–8923 Filed 5–4–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34691]

Stockton Terminal & Eastern Railroad—Acquisition and Operation Exemption—Rail Line of Union Pacific Railroad Company

Stockton Terminal & Eastern Railroad (STE), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire, from Union Pacific Railroad Company (UP), and operate approximately 1.07-miles of rail line (UP's former Oakdale Branch), between milepost 91.83 and the end of the track at California State Highway 99, milepost 92.9 in Stockton, San Joaquin County, CA.

STE indicates that the transaction will be consummated no sooner than 7 days after filing this notice. Because the notice was filed on April 14, 2005, the earliest the transaction could be consummated was April 21, 2005. STE certified that its projected revenues as a result of this transaction would not result in the creation of a Class II or Class I rail carrier.

If the notice 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. 34691, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1112.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: April 25, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–8800 Filed 5–4–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Ad Hoc Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Ad Hoc Committee of the Taxpayer Advocacy Panel will be conducted in Park City, UT. The TAP will be discussing issues pertaining to lessening the burden for individuals. Recommendations for IRS systemic changes will be developed.

DATES: The meeting will be held Friday, June 3, 2005 and Saturday, June 4, 2005.

FOR FURTHER INFORMATION CONTACT: Mary O'Brien at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Ad Hoc Committee of the Taxpayer Advocacy Panel will be held Friday, June 3, 2005 from 8 a.m. Mountain Time to 4:30 p.m. Mountain Time at 1895 Sidewinder Drive, Park City, UT 84060. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Mary O'Brien, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Due to limited space, notification of intent to participate in the meeting must be made with Mary O'Brien. Ms. O'Brien can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

April 29, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–2183 Filed 5–4–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 7 Taxpayer Advocacy Panel (Including the States of Alaska, California, Hawaii, and Nevada)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 7 committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Thursday, May 26, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Peterson O'Brien at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 7 Taxpayer Advocacy Panel will be held Thursday, May 26, 2005 from 12:30 pm Pacific Time to 1:30 pm Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Mary Peterson O'Brien, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Mary Peterson O'Brien. Ms. O'Brien can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: April 29, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–2184 Filed 5–4–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Earned Income Tax Credit Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Earned Income Tax Credit Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Committee will be discussing issues pertaining to the IRS administration of the Earned Income Tax Credit.

DATES: The meeting will be held Thursday, May 19, 2005.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 (toll-free), or 718–488–2085 (non toll-free).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Earned Income Tax Credit Committee of the Taxpayer Advocacy Panel will be held Thursday, May 19, 2005 from 2 p.m. to 3:30 p.m. ET via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made in advance by contacting Audrey Y. Jenkins. To confirm attendance or for more information, Ms. Jenkins may be reached at 1–888–912–1227 or (718) 488–2085. If you would like a written statement to be considered, send written comments to Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201 or post your comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 29, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–2185 Filed 5–4–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Professional Certification and Licensure Advisory Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Professional Certification and Licensure Advisory Committee has scheduled a meeting on Friday, June 10, 2005, at the Veterans Benefits Administration Conference Room 542, 1800 G Street, NW., Washington, DC, from 8:30 a.m. to 4 p.m. The meeting is open to the public.

The purpose of the committee is to advise the Secretary of Veterans Affairs on the requirements of organizations or entities offering licensing and certification tests to individuals for which payment for such tests may be made under chapter 30, 32, 34, or 35 of title 38, United States Code.

The meeting will begin with opening remarks by Ms. Sandra Winborne, Committee Chair. During the morning session, there will be a presentation on the usage of the license and certification test reimbursement benefit, and a discussion about outreach activities. The afternoon session will include statements from the public and a discussion about old and new business.

Interested persons may file written statements to the Committee before the meeting, or within 10 days after the meeting, with Mr. George Richon, Designated Federal Officer, Department of Veterans Affairs, Veterans Benefits Administration (225B), 610 Vermont Avenue, NW., Washington, DC 20420. Oral statements from the public will be heard at 1:30 p.m. on June 10, 2005.

Anyone wishing to attend the meeting should contact George Richon or Michael Yunker at (202) 273–7187.

Dated: April 29, 2005.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 05–8999 Filed 5–4–05; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 70, No. 86
Thursday, May 5, 2005

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19989; Directorate Identifier 2004–NM–151–AD; Amendment 39–14037; AD 2005–07–13]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–300 and –400ER Series Airplanes

Correction

In rule document 05–6689 beginning on page 17598 in the issue of Thursday, April 7, 2005, make the following corrections:

§39.13 [Corrected]

1. On page 17599, in the third column, section heading "**§3913 [Amended]**" should read "**§39.13 [Amended].**"

2. On page 17600, in the first column, in §39.13(d), in the seventh line, "IFE cooling cared" should read "IFE cooling card."

3. On the same page, in the same column, in §39.13(f), the ninth line should read "Special Attention Service Bulletin 767–21–0188 (for Boeing Model 767–300 series airplanes)."

4. On the same page , in the second column, in §39.13(i), in the fifth line the Web site address should read "*http://www.archives.gov/federal register/code_of_federal_regulations/ibr_locations.html.*"

[FR Doc. C5–6689 Filed 5–4–05; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Thursday,
May 5, 2005

Part II

The President

Federal Register
Vol. 70, No. 86
Thursday, May 5, 2005

Presidential Documents

Title 3—

The President

Proclamation 7893 of May 3, 2005

National Observance of the 60th Anniversary of the End of World War II, 2005

By the President of the United States of America

A Proclamation

Sixty years ago, the flags of freedom unfurled across Europe and Asia as victorious American and Allied troops brought World War II to an end. Freedom prevailed when millions were liberated from oppression and tyranny was replaced by democracy.

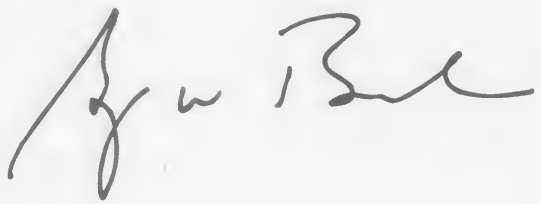
The years of World War II were a hard, heroic, and gallant time in the life of our country. When it mattered most, a generation of Americans showed the finest qualities of our Nation and of humanity. More than 16 million Americans served during World War II, putting on the uniform of the Soldier, the Sailor, the Airman, the Marine, the Coast Guardsman, or the Merchant Mariner. They were the sons and daughters of a peaceful country, who gave the best years of their lives to the greatest mission our country ever accepted. They earned 464 Medals of Honor, and over 400,000 made the ultimate sacrifice for freedom. Millions more supported the war effort at home—caring for the injured and working in factories to provide supplies to those fighting in distant places like Midway, Normandy, Iwo Jima, and Bastogne.

As the war drew to a close, Americans remained united in support of the vital cause of restoring the liberty of mankind. When the end of the war in Europe was announced on May 8, 1945, hundreds of people rushed to the White House to celebrate the triumph of freedom. President Harry Truman addressed the American people from the White House and said, "For this victory, we join in offering our thanks to the Providence which has guided and sustained us through the dark days of adversity." In the following months, the war in the Pacific was won and a grateful Nation began welcoming home liberty's heroes. Many who had left America's farms and cities as young men and women returned as seasoned veterans ready to finish their education, start families, and assume leadership roles in their communities.

Today, as we wage the war on terror and work to extend peace and freedom around the world, our service men and women follow in the footsteps of our World War II veterans by upholding the noble tradition of duty, honor, and love of country. Like generations before them, America's Armed Forces are among the world's greatest forces for good, answering today's dangers and challenges with firm resolve. Their vital mission will help secure our Nation in a new century, and all Americans are grateful for their courage, devotion to duty, and sacrifice.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim 2005 as the National Observance of the 60th Anniversary of the End of World War II. I urge all Americans to mark this observance with appropriate programs, ceremonies, and activities in honor of the Americans who served in World War II and all those who supported and contributed their efforts from the home front during this extraordinary time in history.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and twenty-ninth.



[FR Doc. 05–9159
Filed 5–4–05; 9:15 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7894 of May 3, 2005

Asian/Pacific American Heritage Month, 2005

By the President of the United States of America

A Proclamation

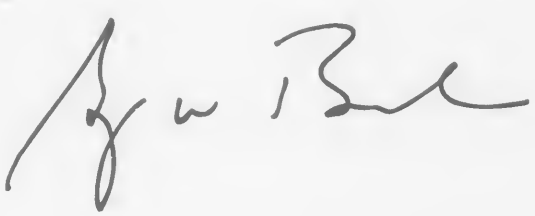
Millions of Americans proudly trace their ancestry to the many nations that make up Asia and the Pacific islands. For generations, Americans of Asian/Pacific heritage have strengthened our Nation through their achievements in all walks of life, including business, politics, education, community service, the arts, and science.

This month we honor Asian/Pacific Americans for their contributions to our Nation's growth and development and to the spread of freedom around the world. This year's theme, "Liberty and Freedom for All," honors the sacrifices of Asian/Pacific Americans in the defense of freedom and democracy. We remember the bravery of soldiers of Asian/Pacific descent who have served in our military. These proud patriots stepped forward and fought for the security of our country and the peace of the world, and they will always hold a cherished place in our history. As we confront the challenges of the 21st century and fight the war on terror, Americans of Asian/Pacific descent continue to serve in the Armed Forces and are working to secure our homeland and promote peace and liberty around the world. Their dedication and patriotism uphold the highest ideals of our country.

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 2005 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 many contributions to our Nation and to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and twenty-ninth.



[FR Doc. 05–9160
Filed 5–4–05; 9:15 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7895 of May 3, 2005

Older Americans Month, 2005

By the President of the United States of America

A Proclamation

Older Americans teach us the timeless lessons of courage, sacrifice, and love. By sharing their wisdom and experience, they serve as role models for future generations. During Older Americans Month, we pay tribute to our senior citizens and their contributions to our Nation.

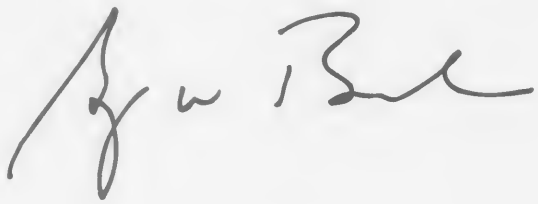
Our seniors deserve our greatest respect. Their example shows us how to persevere in the face of hardship, care for others in need, and take pride in our communities. Their patriotism, service, and leadership inspire Americans and shape the character and future of our country.

Millions of Americans are now living longer, more productive lives, and many are choosing to stay active in the workforce. Senior citizens are also giving their time and talents by volun teering in many ways—from mentoring youth and participating in environmental stewardship projects to serving the homeless and assisting in emergency preparedness. More than 500,000 senior citizens volunteer through Senior Corps, a network of programs that enables older Americans to meet the needs and challenges of their communities. Through the USA Freedom Corps and Senior Corps, older Americans are dedicating their time and energy to strengthening our Nation and serving a cause greater than themselves.

This year marks the 40th anniversary of the Older Americans Act of 1965, which was created to improve the welfare of our seniors. By treating older Americans with the dignity and respect they deserve, we honor their legacy and contributions to our Nation. Their guidance and love enrich our country and make America a better place for all.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 2005 as Older Americans Month. I commend our senior citizens for their many contributions to our society. I also commend the network of Federal, State, local, and tribal organizations, service and health care providers, caregivers, and dedicated volunteers who work on behalf of our senior citizens. I encourage all Americans to honor their elders, to care for those in need, and to publicly reaffirm our Nation's commitment to older Americans this month and throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and twenty-ninth.



[FR Doc. 05–9161
Filed 5–4–05; 9:15 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7896 of May 3, 2005

National Day of Prayer, 2005

By the President of the United States of America

A Proclamation

Since our Nation's earliest days, prayer has given strength and comfort to Americans of all faiths. Our Founding Fathers relied on their faith to guide them as they built our democracy. Today, we continue to be inspired by God's blessings, mercy, and boundless love. As we observe this National Day of Prayer, we humbly acknowledge our reliance on the Almighty, express our gratitude for His blessings, and seek His guidance in our daily lives.

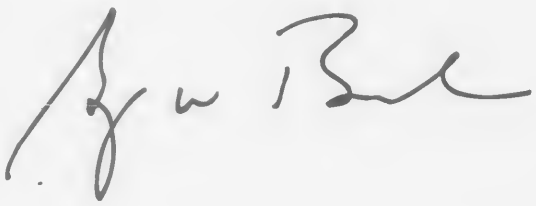
Throughout our history, our Nation has turned to prayer for strength and guidance in times of challenge and uncertainty. The Continental Congress, meeting in 1775, asked the colonies to pray for wisdom in forming a new Nation. Throughout the Civil War, President Abraham Lincoln issued exhortations to prayer, calling upon the American people to humble themselves before their Maker and to serve all those in need. At the height of World War II, President Franklin Roosevelt led our citizens in prayer over the radio, asking for God to protect our sons in battle. Today, our Nation prays for those who serve bravely in the United States Armed Forces in difficult missions around the world, and we pray for their families.

Across our country, Americans turn daily to God in reverence. We ask Him to care for all those who suffer or feel helpless, knowing that God sees their needs and calls on us to meet them. As our first President wrote in 1790, "May the father of all mercies scatter light and not darkness in our paths . . .". As we face the challenges of our times, God's purpose continues to guide us, and we continue to trust in the goodness of His plans.

The Congress by Public Law 100–307, as amended, has called on our citizens to reaffirm the role of prayer in our society and to honor the freedom of religion by recognizing annually a "National Day of Prayer."

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 5, 2005, as a National Day of Prayer. I ask the citizens of our Nation to give thanks, each according to his or her own faith, for the liberty and blessings we have received and for God's continued guidance and protection. I also urge all Americans to join in observing this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and twenty-ninth.



[FR Doc. 05–9162
Filed 5–4–05; 9:15 am]
Billing code 3195–01–P

Federal Register

Thursday,
May 5, 2005

Part III

The President

Memorandum of April 21, 2005—Effective Dates of Provisions in Title I of the Intelligence Reform and Terrorism Prevention Act of 2004

Federal Register
Vol. 70, No. 86
Thursday, May 5, 2005

Presidential Documents

Title 3—

The President

Memorandum of April 21, 2005

Effective Dates of Provisions in Title I of the Intelligence Reform and Terrorism Prevention Act of 2004

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Defense[,] the Attorney General[,] the Secretary of Energy[,] the Secretary of Homeland Security[,] the Director of the Office of Management and Budget[, and] the Director of National Intelligence

Subsection 1097(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458, December 17, 2004)(the Act) provides:

> (a) IN GENERAL- Except as otherwise expressly provided in this Act, this title and the amendments made by this title shall take effect not later than 6 months after the date of the enactment of this Act.

Subsection 1097(a) clearly contemplates that one or more of the provisions in Title I of the Act may take effect earlier than the date that is 6 months after the date of enactment of the Act, but does not state explicitly the mechanism for determining when such earlier effect shall occur, leaving it to the President in the execution of the Act. Moreover, given that section 1097(a) evinces a legislative intent to afford the President flexibility, and such flexibility is constitutionally appropriate with respect to intelligence matters (see *United States v. Curtiss-Wright Export Corporation*, 299 U.S. 304 (1936)), the executive branch shall construe section 1097(a) to authorize the President to select different effective dates that precede the 6-month deadline for different provisions in Title I.

Therefore, pursuant to the Constitution and the laws of the United States of America, including subsection 1097(a) of the Act, I hereby determine and direct:

1. Sections 1097(a) and 1103 of the Act, relating respectively to effective dates of provisions and to severability, shall take effect immediately upon the signing of this memorandum to any extent that they have not already taken effect.

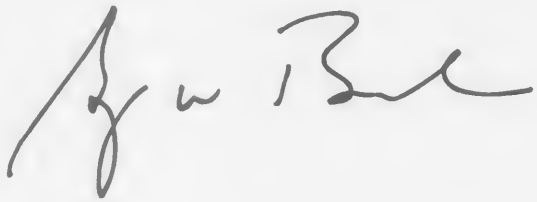
2. Provisions in Title I of the Act other than those addressed in numbered paragraph 1 of this memorandum shall take effect immediately upon the signing of this memorandum, except:

(a) any provision in Title I of the Act for which the Act expressly provides the date on which the provision shall take effect; and

(b) sections 1021 and 1092 of the Act, relating to the National Counterterrorism Center.

The taking of effect of a provision pursuant to section 1097(a) of the Act and this memorandum shall not affect the construction of such provision by the executive branch as set forth in my Statement of December 17, 2004, upon signing the Act into law.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, April 21, 2005.

[FR Doc. 05–9167
Filed 5–4–05; 10:02 am]
Billing code 3110–01–P

Reader Aids

Federal Register

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MAY 5, 2005

DEFENSE DEPARTMENT

Acquisition regulations:

Technical amendment; published 5-5-05

HOMELAND SECURITY DEPARTMENT

Coast Guard

Ports and waterways safety:

Portland Captain of Port Zone, OR; large passenger vessels protection; security and safety zones; published 4-20-05

HOMELAND SECURITY DEPARTMENT

U.S. Citizenship and Immigration Services

Nonimmigrant classes:

H-1B Visa Reform Act of 2004; additional H-1B visas allocation; published 5-5-05

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; published 3-31-05

General Electric Co.; correction; published 5-5-05

Rolls-Royce Ltd.; published 3-31-05

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cotton classing, testing and standards:

Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

Cotton classing, testing, and standards:

Classification services to growers; 2005 user fees; comments due by 5-11-05; published 4-26-05 [FR 05-08373]

Quality Systems Verification Programs; user-fee schedule; comments due by 5-9-05; published 4-7-05 [FR 05-06957]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Oriental fruit fly; comments due by 5-9-05; published 3-8-05 [FR 05-04350]

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Ready-to-eat meat and poultry products;

Risk assessments; comment request and meeting; comments due by 5-9-05; published 3-24-05 [FR 05-05951]

COMMERCE DEPARTMENT

International Trade Administration

Steel Import Monitoring and Analysis System; comments due by 5-10-05; published 3-11-05 [FR 05-04971]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Magnuson-Stevens Act provisions—

Pacific Coast groundfish; comments due by 5-9-05; published 4-8-05 [FR 05-07063]

COMMERCE DEPARTMENT

Patent and Trademark Office

Patent cases:

Trademark Electronic Application System filing; reduced fee requirement; comments due by 5-9-05; published 4-7-05 [FR 05-06947]

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

DEFENSE DEPARTMENT

Acquisition regulations:

Pilot Mentor-Protege Program; Open for comments until further notice; published 12-15-04 [FR 04-27351]

Federal Acquisition Regulation (FAR):

Architect-engineer services; contracting improvements; comments due by 5-9-05; published 3-9-05 [FR 05-04084]

Certain subcontract notification requirements; elimination; comments due by 5-9-05; published 3-9-05 [FR 05-04092]

Increased justification and approval threshold for DoD, NASA and Coast Guard; comments due by 5-9-05; published 3-9-05 [FR 05-04085]

Landscaping and pest control services added to Small Business Competitiveness Demonstration Program; comments due by 5-9-05; published 3-9-05 [FR 05-04087]

EDUCATION DEPARTMENT

Grants and cooperative agreements; availability, etc.:

Vocational and adult education—

Smaller Learning Communities Program; Open for comments until further notice; published 2-25-05 [FR E5-00767]

ENERGY DEPARTMENT

Meetings:

Environmental Management Site-Specific Advisory Board—

Oak Ridge Reservation, TN; Open for comments until further notice; published 11-19-04 [FR 04-25693]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Commercial and industrial equipment; energy efficiency program:

Test procedures and efficiency standards—

Commercial packaged boilers; Open for comments until further notice; published 10-21-04 [FR 04-17730]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric rate and corporate regulation filings:

Virginia Electric & Power Co. et al.; Open for comments until further notice; published 10-1-03 [FR 03-24818]

ENVIRONMENTAL PROTECTION AGENCY

Air programs:

Stratospheric ozone protection—

Refrigerant recycling; substitute refrigerants; comments due by 5-13-05; published 4-13-05 [FR 05-07406]

Refrigerant recycling; substitute refrigerants; comments due by 5-13-05; published 4-13-05 [FR 05-07407]

Air quality implementation plans; approval and promulgation; various States:

Georgia; comments due by 5-12-05; published 4-12-05 [FR 05-07307]

Indiana; comments due by 5-12-05; published 4-12-05 [FR 05-07328]

Texas; comments due by 5-9-05; published 4-7-05 [FR 05-06944]

Environmental statements; availability, etc.:

Coastal nonpoint pollution control program—

Minnesota and Texas; Open for comments until further notice; published 10-16-03 [FR 03-26087]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Clofentezine; comments due by 5-9-05; published 3-9-05 [FR 05-04335]

Fenbuconazole; comments due by 5-9-05; published 3-9-05 [FR 05-04474]

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 5-11-05; published 4-11-05 [FR 05-07230]

Water pollution control:

National Pollutant Discharge Elimination System—

Concentrated animal feeding operations in New Mexico and Oklahoma; general permit for discharges; Open for comments until further notice; published 12-7-04 [FR 04-26817]

Water pollution; effluent guidelines for point source categories:

Meat and poultry products processing facilities; Open for comments until further notice; published 9-8-04 [FR 04-12017]

FEDERAL COMMUNICATIONS COMMISSION

Committees; establishment, renewal, termination, etc.:

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H.R. 787/P.L. 109–10

To designate the United States courthouse located at 501 I Street in Sacramento, California, as the "Robert T. Matsui United States Courthouse". (Apr. 29, 2005; 119 Stat. 228)

Last List April 29, 2005

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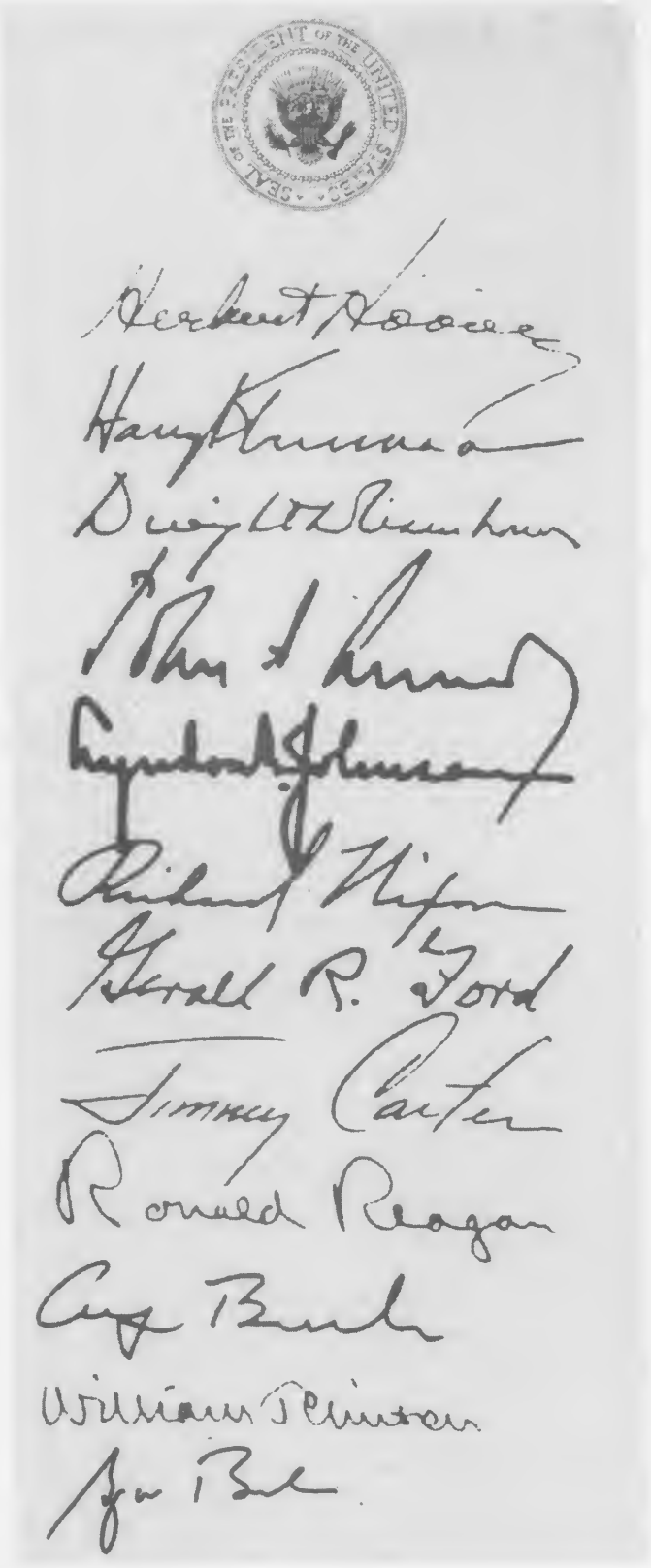

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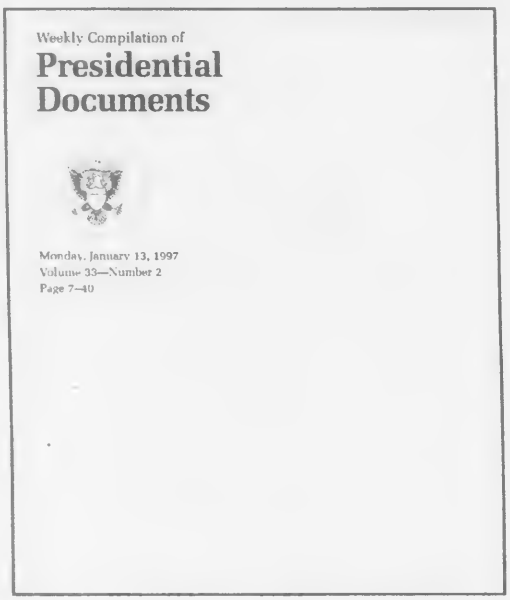

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