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6–3–05 Friday
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, July 19, 2005
9:00 a.m.–Noon

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Reader Aids
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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
Vol. 70, No. 106
Friday, June 3, 2005

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 958

[Docket No. FV05–958–1 IFR]

Onions Grown in Certain Designated Counties in Idaho, and Malheur County, OR; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rate established for the Idaho-Eastern Oregon Onion Committee (Committee) for the 2005–2006 and subsequent fiscal periods from $0.105 to $0.10 per hundredweight of onions handled. The Committee locally administers the marketing order which regulates the handling of onions grown in designated counties in Idaho, and Malheur County, Oregon. Authorization to assess onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins July 1 and ends June 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective June 4, 2005. Comments received by August 2, 2005, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; E-mail: *moab.docketclerk@usda.gov*; or Internet: *http://www.regulations.gov*. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Susan M. Hiller, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW. Third Avenue, Suite 385, Portland, Oregon 97204–2807; Telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 130 and Marketing Order No. 958, both as amended (7 CFR part 958), regulating the handling of onions grown in designated counties in Idaho, and Malheur County, Oregon, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Idaho-Eastern Oregon onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable onions beginning July 1, 2005, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule decreases the assessment rate established for the Committee for the 2005–2006 and subsequent fiscal periods from $0.105 per hundredweight to $0.10 per hundredweight of onions.

The Idaho-Eastern Oregon onion marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Idaho-Eastern Oregon onions. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2004–2005 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on April 14, 2005, and unanimously recommended 2005–2006 expenditures of $956,001 and an

assessment rate of $0.10 per hundredweight of onions. In comparison, last year's budgeted expenditures were $997,442. The recommended assessment rate of $0.10 is $0.005 lower than the rate currently in effect. The decreased assessment rate recommended by the Committee reflects the reduction in anticipated expenditures.

Both producers and handlers in the regulated production area expressed a need to decrease the assessment rate to help offset the lower prices received by the handlers. The National Agricultural Statistics Service (NASS) reported in the *Vegetables 2004 Summary*, published in January 2005, that the 2004 average F.O.B. price for the Idaho-Eastern Oregon onions was $8.14 per hundredweight. That price is $1.42 below the three year average F.O.B. price of $9.56 per hundredweight for this production area. The Committee considered assessment rates lower than $0.10 per hundredweight; however, it determined the lower rates would not generate the income necessary to sustain the current level of programs desired by the industry.

The major expenditures recommended by the Committee for the 2005–2006 year include $10,000 for committee expenses, $104,371 for salary expenses, $81,160 for travel/office expenses, $62,470 for production research expenses, $32,000 for export market development expenses, $616,000 for promotion expenses, and $50,000 for unforeseen marketing order contingencies. Budgeted expenses for these items in 2004–2005 were $10,000, $163,482, $81,960, $60,000, $32,000, $600,000, and $50,000, respectively.

The Committee based its recommended assessment rate decrease on the 2005–2006 crop estimate, the 2005–2006 program expenditure needs, and the current and projected size of its monetary reserve. The Committee estimated onion shipments for 2005–2006 at 8,464,000 hundredweight which should provide $846,400 in assessment income. Income derived from handler assessments, along with contributions ($73,600), interest income ($7,400), other income ($2,000), and funds from the Committee's authorized reserve ($26,601), should be adequate to cover budgeted expenses. The Committee estimates that its operating reserve will be approximately $596,074 at the end of the 2005–2006 fiscal period. Funds in the reserve will be kept within the maximum permitted by the order of approximately one fiscal year's operational expenses (§ 958.44).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2005–2006 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 233 producers of onions in the production area and approximately 37 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,000,000.

According to the NASS *Vegetables 2004 Summary*, the total F.O.B. value of onions in the regulated production area for 2004 was $110,355,000. Therefore, based on an industry of 233 producers and 37 handlers, it can be concluded that the majority of handlers and producers of Idaho-Eastern Oregon onions may be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2005–2006 and subsequent fiscal periods from $0.105 to $0.10 per hundredweight of onions. The Committee unanimously recommended 2005–2006 expenditures of $956,001 and an assessment rate of $0.10 per hundredweight. The recommended assessment rate of $0.10 is $0.005 lower than the current rate. The quantity of assessable onions for the 2005–2006 year is estimated at 8,464,000 hundredweight which should provide $846,400 in assessment income. Income derived from handler assessments, along with contributions ($73,600), interest income ($7,400), other income ($2,000), and funds from the Committee's authorized reserve ($26,601), should be adequate to cover budgeted expenses. The decreased assessment rate recommended by the Committee reflects the reduction in anticipated expenditures from $997,442 to $956,001.

Both producers and handlers in the regulated production area expressed a need to decrease the assessment rate to help offset the lower prices received by the handlers. The NASS reported in the *Vegetables 2004 Summary*, which was published in January 2005, that the 2004 average F.O.B. price for the Idaho-Eastern Oregon onions was $8.14 per hundredweight. That price is $1.42 below the three year average F.O.B. price of $9.56 per hundredweight for this production area. The Committee considered lower assessment rates; however, it determined that lower rates would not generate the income necessary to sustain the current level of programs desired by the industry.

The major expenditures recommended by the Committee for the 2005–2006 year include $10,000 for committee expenses, $104,371 for salary expenses, $81,160 for travel/office expenses, $62,470 for production research expenses, $32,000 for export market development expenses, $616,000 for promotion expenses, and $50,000 for unforeseen marketing order contingencies. Budgeted expenses for these items in 2004–2005 were $10,000, $163,482, $81,960, $60,000, $32,000, $600,000, and $50,000, respectively.

The Committee reviewed and unanimously recommended 2005–2006 expenditures of $956,001 which includes decreases in salary expenses and travel/office expenses, as well as increases in production research expenses and promotion expenses. Prior to arriving at this budget, the Committee considered information from various

sources, such as the Committee's Executive, Promotion, Research, and Export subcommittees. These subcommittees discussed alternative expenditure levels, based upon the relative value of various research and promotion projects to the onion industry. The assessment rate of $0.10 per hundredweight of assessable onions was then determined by taking into consideration the estimated level of assessable shipments, the current market situation, program expenditure needs, and the desire to sustain a monetary reserve at a viable level.

A review of historical information and preliminary information pertaining to the upcoming year indicates that the producer price for the 2005–2006 season could range between $5.50 and $8.00 per hundredweight of onions. Therefore, the estimated assessment revenue for the 2005–2006 year as a percentage of total producer revenue could range between 1.82 and 1.25 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Idaho-Eastern Oregon onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the April 14, 2005, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large Idaho-Eastern Oregon onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2005–2006 fiscal period begins on July 1, 2005, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (3) this action decreases the assessment rate for assessable onions beginning with the 2005–2006 fiscal period; (4) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (5) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 958

Onions, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 958 is amended as follows:

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

■ 1. The authority citation for 7 CFR part 958 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 958.240 is revised to read as follows:

§ 958.240 Assessment rate.

On and after July 1, 2005, an assessment rate of $0.10 per hundredweight is established for Idaho-Eastern Oregon onions.

Dated: May 27, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–11023 Filed 6–2–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–16–AD; Amendment 39–13970; AD 2005–03–14]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes

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

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in airworthiness directive (AD) 2005–03–14, which was published in the **Federal Register** on February 14, 2005 (70 FR 7384). The typographical error resulted in an incorrect reference to an AD number. This AD is applicable to certain Airbus Model A300 B2 and B4 series airplanes. This AD supersedes an existing AD that currently requires determining the part and amendment number of the variable lever arm (VLA) of the rudder control system to verify that the parts were installed using the correct standard, and corrective actions if necessary. For certain VLAs, this new AD requires repetitive inspections of the VLA and corrective action if necessary. This new AD also provides a terminating action for the repetitive inspections. Furthermore, this new AD reduces the applicability of affected airplanes.

DATES: Effective March 21, 2005.

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

SUPPLEMENTARY INFORMATION:

Airworthiness Directive (AD) 2005–03–14, amendment 39–13970, applicable to certain Airbus Model A300 B2 and B4 series airplanes, was published in the **Federal Register** on February 14, 2005 (70 FR 7384). That AD supersedes an existing AD that currently requires determining the part and amendment number of the variable lever arm (VLA)

of the rudder control system to verify the parts were installed using the correct standard, and corrective actions if necessary. For certain VLAs, this new AD requires repetitive inspections of the VLA and corrective action if necessary. This new AD also provides a terminating action for the repetitive inspections. Furthermore, this new AD reduces the applicability of affected airplanes.

As published, that final rule incorrectly specified the AD number for the superseded AD in a single location in the AD as "2002–08–13" instead of "2001–22–02."

Since no other part of the regulatory information has been changed, the final rule is not being republished in the **Federal Register**.

The effective date of this AD remains March 21, 2005.

§ 39.13 [Corrected]

■ On page 7385, in the third column, paragraph 2., of PART 39—AIRWORTHINESS DIRECTIVES is corrected to read as follows:

* * * * *

2005–03–14 Airbus: Docket 2003–NM–16–AD. Amendment 39–13970. Supersedes AD 2001–22–02, Amendment 39–12481.

* * * * *

Issued in Renton, Washington, on May 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11048 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–21329; Airspace Docket No. 05–AEA–13]

RIN 2120–AA66

Revocation of VOR Federal Airway V–623

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes VOR Federal Airway V–623 that extends from the Sparta, NJ, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) to the Carmel, NY, Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME). The FAA is taking this action due to unsatisfactory navigation signal coverage.

DATES: *Effective Date:* June 3, 2005.

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

SUPPLEMENTARY INFORMATION:

History

On February 7, 2005, the FAA published in the **Federal Register** a final rule establishing V–623 (70 FR 6336) with an effective date of May 12, 2005. However, navigation aid signal coverage problems have been identified which remain unresolved. As a result, the FAA has decided to revoke V–623.

The Rule

The FAA is amending title 14 Code of Federal Regulations (14 CFR) part 71 by revoking VOR Federal airway V–623. The FAA is taking this action due to unresolved navigation aid signal coverage problems along segments of the route.

VOR Federal Airways are published in paragraph 6010 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 FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (air).

The Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–623 [Revoked]

* * * * *

Issued in Washington, DC, on May 26, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05–11113 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission") announces that the current ranges of comparability required by the Appliance Labeling Rule ("Rule") for water heaters, room air conditioners, furnaces, boilers, and pool heaters will remain in effect until further notice. In addition, the Commission is revising Table 1 in § 305.9 of the Rule to incorporate the latest figures for average unit energy costs published by the Department of Energy ("DOE") this year and to update cost figures in Appendices H and I of the Rule. The Commission is also making technical amendments to § 305.9 and Appendix E of the Rule to clarify the applicability of the cost figures in Table 1 to products covered by the Rule.

DATES: The amendments published in this notice are effective September 1, 2005.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, 202–326–2889, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Commission issued a final rule in response to a directive in section 324 of the Energy Policy and Conservation Act ("EPCA"), 42 U.S.C. 6201. The Rule requires manufacturers of all covered appliances (*e.g.*, water heaters and room air conditioners) to disclose specific energy consumption or efficiency information derived from standard DOE test procedures at the point of sale in the form of an "EnergyGuide" label and in catalogs. It also requires manufacturers of furnaces and central air conditioners either to provide fact sheets showing additional cost information, or to provide that information in an industry directory. Manufacturers must include, on labels and fact sheets, a "range of comparability" which shows the highest and lowest energy consumption or efficiencies for all comparable appliance models. The Rule further requires that labels for some products display the estimated annual operating cost of the product based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial notification, to report certain information annually to the Commission by specified dates for each product type.[1] Each year the Commission reviews the submitted data and publishes new ranges of comparability if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Additional information about the Commission's Appliance Labeling Rule can be found at *www.ftc.gov/appliances*.

I. Review of 2005 Data Submissions (Room Air Conditioners, Water Heaters, Furnaces, and Pool Heaters)

Manufacturers have submitted data for water heaters (including storage-type, gas-fired instantaneous, and heat pump water heaters), room air conditioners, furnaces (including boilers), and pool heaters. The ranges of comparability for these products have not changed significantly. Therefore, the current ranges for these products will remain in effect until further notice.

Water heater manufacturers should continue to base the disclosures of estimated annual operating costs required at the bottom of the EnergyGuides for these products on the 2004 Representative Average Unit Costs of Energy for electricity (8.60¢ per kiloWatt-hour), natural gas (91.0¢ per therm), propane ($1.23 per gallon), and/or heating oil ($1.28 per gallon) (*see* 69 FR 42107 (July 14, 2004)).

Manufacturers of room air conditioners must continue to use the ranges for room air conditioners that were published on November 13, 1995 (60 FR 56945, at 56949). Manufacturers of room air conditioners must continue to base the disclosures of estimated annual operating cost required at the bottom of EnergyGuides for these products on the 1995 Representative Average Unit Costs of Energy for electricity (8.67¢ per kiloWatt-hour) that was published by the Commission on February 17, 1995 (60 FR 9295). The Commission is amending Appendix E (range information for room air conditioners) to clarify that this cost figure is applicable to room air conditioner labels.

II. Amendments to Table 1 and Section 305.9(a)

A. Table 1

Table 1 in § 305.9(a) of the Rule sets forth the representative average unit energy costs for the current year. As stated in § 305.9(b), the Table is to be revised periodically on the basis of updated information provided by DOE. On March 11, 2005, DOE published the most recent figures for representative average unit energy costs (70 FR 12210). The Commission is revising Table 1 in § 305.9 to reflect these latest cost figures.

B. Section 305.9(a)

In addition to revising the cost information in Table 1, the Commission is amending § 305.9(a) to clarify the applicability of that information to the Rule's requirements. Section 305.9(a) states that the representative unit energy costs in Table 1 should "be utilized for all requirements of this part." The Commission is changing this language because the cost data in Table 1 do not necessarily apply to all the Rule's requirements. Although the cost data apply to fact sheets and directories for furnaces and central air conditioners under § 305.11(b) and (c), manufacturers should not necessarily use the Table for calculating operating costs on EnergyGuide labels. Instead, as the Commission has routinely stated in the past when annually updating the cost figures,[2] manufacturers preparing EnergyGuide labels should use the cost figure that was applicable when the most recent ranges of comparability were published. For example, if the Commission published ranges of comparability for a given product in 2001, manufacturers should continue to use the 2001 DOE energy cost figures until the Commission announces otherwise. Paragraphs accompanying the range tables in the Rule's appendices contain the applicable operating costs that should be used on EnergyGuide labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, and room air conditioners. The Commission is changing the language in § 305.9(a) to clarify that, for purposes of Appliance Labeling Rule compliance, the costs in Table 1 apply to disclosures on fact sheets and in directories for furnaces and central air conditioners as required by § 305.11(b) and (c). This amendment should eliminate any confusion caused by the current language.

III. Operating Cost Information for Central Air Conditioners Disclosed on Fact Sheets and in Industry Directories

The Commission is amending the cost calculation formulas in Appendices H and I that manufacturers of central air conditioners must include on fact sheets and in directories to reflect this year's energy costs figures published by DOE.[3]

IV. Operating Cost Representations For Products Covered by EPCA but Not by the Commission's Rule

Manufacturers of products covered by section 323(c) of EPCA, 42 U.S.C. 6293(c), but not by the Appliance Labeling Rule (*e.g.*, clothes dryers, television sets, kitchen ranges and ovens, and space heaters) should use the 2005 DOE energy cost figures for their operating cost representations until the DOE publishes new figures in 2006.

[1] Annual reports for room air conditioners, heat pump water heaters, storage-type water heaters, gas-fired instantaneous water heaters, furnaces, boilers, and pool heaters are due May 1.

[2] *e.g.*, 68 FR 23584 (May 5, 2003), 67 FR 39269 (June 7, 2002), 64 FR 7783 (Feb. 17, 1999), 62 FR 5316 (Feb. 5, 1997), 60 FR 9295 (Feb. 17, 1995), and 57 FR 6071 (Feb. 20, 1992).

[3] Manufacturers of furnaces and central air conditioners may elect to disseminate information regarding the efficiencies and costs of operation of their products by means of a directory or similar publication instead of on fact sheets as long as they meet certain conditions specified in the Rule at § 305.11(c).

V. Labeling of Refrigerators, Refrigerator-Freezers, Freezers, Clothes Washers, Dishwashers, Water Heaters, and Room Air Conditioners

Manufacturers of these products must continue to use the DOE cost figures that were published and in effect the year the ranges of comparability last changed for the applicable covered product.[4] The cost figures currently applicable to these products are provided in the appendices to the Rule. Manufacturers must continue to use these figures until new ranges of comparability and cost information for an applicable product are published by the Commission. In addition, the text below the operating cost disclosure on the EnergyGuide label should identify the applicable energy cost figure used.

VI. Administrative Procedure Act

The amendments published in this notice involve routine, technical and minor, or conforming changes to the Rule's labeling requirements. These technical amendments merely provide a routine change to the cost information in the Rule and clarify the requirements in the Rule, without changing or imposing any new legal obligations on parties subject to the Rule. Accordingly, the Commission finds for good cause that public comment and a 30-day effective date for these technical, procedural amendments are impractical and unnecessary (5 U.S.C. 553(b)(A)(B) and (d)).

VII. Regulatory Flexibility Act

Regulatory Flexibility Act analysis provisions (5 U.S.C. 603–604) are not applicable to this proceeding to the extent that the amendments do not impose any new obligations on entities regulated by the Appliance Labeling Rule and are exempt from the Administrative Procedure Act's notice-and-comment requirements, as explained above. In any event, these technical amendments merely provide a routine change to the cost information in the Rule and clarify existing requirements. Thus, the amendments will not have a "significant economic impact on a substantial number of small entities." 5 U.S.C. 605. The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and, in any event, certifies, under section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities, to the extent, if any, that the Act applies.

VIII. Paperwork Reduction Act

In a 1988 notice (53 FR 22113), the Commission stated that the Rule contains disclosure and reporting requirements that constitute "information collection requirements" as defined by 5 CFR 1320.7(c), the regulation that implements the Paperwork Reduction Act.[5] The Commission noted that the Rule had been reviewed and approved in 1984 by the Office of Management and Budget ("OMB") and assigned OMB Control No. 3084–0068. OMB has extended its approval for its recordkeeping and reporting requirements until December 31, 2007. The amendments now being adopted do not change the substance or frequency of the recordkeeping, disclosure, or reporting requirements and, therefore, do not require further OMB clearance.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

■ Accordingly, 16 CFR part 305 is amended as follows:

PART 305—[AMENDED]

■ 1. The authority citation for part 305 continues to read:

Authority: 42 U.S.C. 6294.

■ 2. Section 305.9(a) is revised to read as follows:

§ 305.9 Representative average unit energy costs.

(a) Table 1, below, contains the representative unit energy costs to be utilized for operating cost disclosures for furnaces and central air conditioners on fact sheets or in directories as required by § 305.11(b)&(c) of this part.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (2005)

Type of energy	In commonly used terms	As required by DOE test procedure	Dollars per million Btu[1]
Electricity	9.06¢/kWh [2 3]	$0.0906/kWh	$26.55
Natural gas	$1.092/therm[4] or $11.23 MCF[5 6]	$0.00001092/Btu	10.92
No. 2 heating oil	$1.76/gallon[7]	$0.00001268/Btu	12.68
Propane	$1.55/gallon[8]	$0.00001694/Btu	16.94
Kerosene	$2.20/gallon[9]	$0.00001632/Btu	16.32

[1] Btu stands for British thermal unit.
[2] Wh stands for kiloWatt hour.
[3] 1 kWh = 3,412 Btu.
[4] 1 therm = 100,000 Btu. Natural gas prices include taxes.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,028 Btu.
[7] For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.
[8] For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.
[9] For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

* * * * *

■ 3. Appendix E to part 305 is revised to read as follows:

[4] Sections 305.11(a)(5)(i)(H)(2) and (3) of the Rule (16 CFR 305.11(a)(5)(i)(H)(2) and (3)) require that labels for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, water heaters, and room air conditioners contain a secondary energy usage disclosure in terms of an estimated annual operating cost (labels for clothes washers and dishwashers will show two such secondary disclosures—one based on operation with water heated by natural gas, and one based on operation with water heated by electricity). The labels also must disclose, below this secondary estimated annual operating cost, the fact that the estimated annual operating cost is based on the appropriate DOE energy cost figure, and must identify the year in which the cost figure was published.

[5] 44 U.S.C. 3501–3520.

APPENDIX E TO PART 305—ROOM AIR CONDITIONERS

[Range information]

Manufacturer's rated cooling capacity in Btu's/yr	Range of energy efficiency ratios (EERs)	
	Low	High
Without Reverse Cycle and with Louvered Sides:		
Less than 6,000 Btu	8.0	10.0
6,000 to 7,999 Btu	8.5	10.3
8,000 to 13,999 Btu	9.0	12.0
14,000 to 19,999 Btu.	8.8	10.7
20,000 and more Btu	8.2	10.0
Without Reverse Cycle and without Louvered Sides:		
Less than 6,000 Btu	(*)	(*)
6,000 to 7,999 Btu	8.5	9.6
8,000 to 13,999 Btu	8.5	9.2
14,000 to 19,999 Btu.	(*)	(*)
20,000 and more Btu	(*)	(*)
With Reverse Cycle and with Louvered Sides	8.5	11.5
With Reverse Cycle, without Louvered Sides	8.0	9.0

* No data submitted for units meeting Federal Minimum Efficiency Standards effective January 1, 1990.

Cost Information for Appendix E

When the ranges of comparability in Appendix E are used on EnergyGuide labels for room air conditioners, the estimated annual operating cost disclosure appearing in the box at the bottom of the labels must be derived using the 1995 Representative Average Unit Costs for electricity (8.67¢ per kiloWatt-hour) and the text below the box must identify the costs as such.

Appendix H to part 305 [Amended]

■ 4. In section 2 of Appendix H of Part 305, the text is amended by removing the figure "8.60¢" wherever it appears and by adding, in its place, the figure "9.06¢". In addition, the text in this section is amended by removing the figure "12.9¢" wherever it appears and by adding, in its place, the figure "13.6¢".

■ 5. The formula in section 2 of Appendix H of part 305 is revised to read as follows in both places that it appears:

Appendix H to Part 305—Cooling Performance and Cost for Central Air Conditioners

* * * * *

$$\text{Your estimated cost} = \text{Listed average annual operating cost } * \times \frac{\text{Your cooling load hours } **}{1{,}000} \times \frac{\text{Your electrical rate in cents per KWH}}{9.06¢}$$

* * * * *

Appendix I to Part 305 [Amended]

■ 6. In section 2 of Appendix I of part 305, the text is amended by removing the figure "8.60¢" wherever it appears and by adding, in its place, the figure "9.06¢". In addition, the text and formulas are amended by removing the figure "12.90¢" wherever it appears and by adding, in its place, the figure "13.6¢".

■ 7. In section 2 of Appendix I of part 305, the formula is revised to read as follows in both places that it appears:

Appendix I to Part 305—Heating Performance and Cost for Central Air Conditioners

* * * * *

$$\text{Your estimated cost} = \text{Listed annual heating cost } * \times \frac{\text{Your electrical cost in cents per KWH}}{9.06¢}$$

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 05–11026 Filed 6–2–05; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor's Name

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's name from Steris Laboratories, Inc., to Watson Laboratories, Inc.

DATES: This rule is effective June 3, 2005.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary

Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6967, e-mail: *david.newkirk@fda.gov*.

SUPPLEMENTARY INFORMATION: Steris Laboratories, Inc., 620 North 51st Ave., Phoenix, AZ 85043–4705, has informed FDA of a change of sponsor's name to Watson Laboratories, Inc. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c) to reflect the change.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for "Steris Laboratories, Inc." and by alphabetically adding an entry for "Watson Laboratories, Inc."; and in the table in paragraph (c)(2) by revising the entry for "000402" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Watson Laboratories, Inc., 620 North 51st Ave., Phoenix, AZ 85043–4705	000402
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
000402	Watson Laboratories, Inc., 620 North 51st Ave., Phoenix, AZ 85043–4705
* * * * *	

Dated: May 11, 2005.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 05–11030 Filed 6–2–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520, 522, and 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 16 approved new animal drug applications (NADAs) from Purina Mills, Inc., to Virbac AH, Inc.

DATES: This rule is effective June 3, 2005.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6967, e-mail: *david.newkirk@fda.gov*.

SUPPLEMENTARY INFORMATION: Purina Mills, Inc., P.O. Box 66812, St. Louis, MO 63166–6812, has informed FDA that it has transferred ownership of, and all rights and interest in, the following 16 approved NADAs to Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 76137:

TABLE 1.

NADA No.	21 CFR Section	Trade Name
011–779	522.940	Purina Pigemia 100
013–214	558.274	Purina Hygromix-Swine
013–663	520.100a	Purina Liquid Amprol
040–205	520.2380a	Purina Horse Wormer Medicated
042–116	558.185	Purina 6-Day Worm-Kill Feed
042–660	558.630	Purina Pork-Plus Medicated
043–387	558.625	Purina Hog Plus II

TABLE 1.—Continued

NADA No.	21 CFR Section	Trade Name
046–700	558.365	Statyl
049–729	520.2261a	Purina Sulfa
097–258	558.485	Purina Ban Worm For Pigs
099–767	558.630	Purina Tylan 40 Plus Sulfamethazine
113–748	520.1182	Purina Oral Pigemia
132–574	558.325	Purina Check-R-Ton LI
135–941	558.485	Check-E-Ton BM
136–116	520.905d	Purina Worm-A-Rest Litter Pack
140–869	520.1840	Purina Bloat Block; Purina Saf-T-Block BG

Accordingly, the agency is amending the regulations in parts 520, 522, and 558 (21 CFR parts 520, 522, and 558). Sections 520.100a, 520.905d, 520.1182, 520.1840, 520.2261a, 520.2380a, 522.940, 558.185, 558.274, 558.325, 558.365, 558.485, 558.625, and 558.630 will reflect the transfer of ownership and a current format. Sections 520.1182 and 522.940 are being revised to reflect a current format.

In addition, § 520.2380a is being revised to correct the citation for the approved indications for Virbac AH's thiabendazole dewormer approved under NADA 040–205. The citation was corrected in the **Federal Register** of March 3, 1976 (41 FR 9149), but an error was reintroduced in the 1978 printing of the Code of Federal Regulations. This action is being taken to improve the accuracy of the regulations.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Parts 520 and 522

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520, 522, and 558 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. Section 520.100a is amended by revising paragraph (b) to read as follows:

§ 520.100a Amprolium drinking water.

* * * * *

(b) *Sponsors.* See Nos. 050604 and 051311 in § 510.600(c) of this chapter.

* * * * *

§ 520.905d [Amended]

■ 3. Section 520.905d is amended in paragraph (b)(2) by removing "017800" and by adding in its place "051311".

■ 4. Section 520.1182 is revised to read as follows:

§ 520.1182 Iron dextran suspension.

(a) *Specifications.* Each milliliter (mL) of suspension contains 55.56 milligrams (mg) iron as ferric hydroxide in complex with a low molecular weight dextran.

(b) *Sponsor.* See No. 051311 in § 510.600(c) of this chapter.

(c) *Conditions of use in swine*—(1) *Amount.* Administer 100 mg (1.8 mL) orally by automatic dose dispenser.

(2) *Indications for use.* For the prevention of iron deficiency anemia in baby pigs.

(3) *Limitations.* Treat each pig within 24 hours of farrowing.

§ 520.1840 [Amended]

■ 5. Section 520.1840 is amended in paragraph (b)(2) by removing "017800" and by adding in its place "051311".

§ 520.2261a [Amended]

■ 6. Section 520.2261a is amended in paragraph (a) by removing "017800" and by adding in its place "051311".

■ 7. Section 520.2380a is amended by revising the section heading and paragraph (c) to read as follows:

§ 520.2380a Thiabendazole top dressing and mineral protein block.

* * * * *

(c) *Sponsors.* See sponsors in § 510.600(c) of this chapter for use as in paragraph (e) of this section.

(1) No. 051311 for use as in paragraph (e)(1)(i) of this section.

(2) No. 050604 for use as in paragraph (e)(1)(ii) of this section.

(3) No. 021930 for use as in paragraph (e)(2) of this section.

* * * * *

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 8. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 9. Section 522.940 is revised to read as follows:

§ 522.940 Ferric oxide injection.

(a) *Specifications.* Each milliliter (mL) contains colloidal ferric oxide equivalent to 100 milligrams of iron with a low-viscosity dextrin.

(b) *Sponsors.* See Nos. 051311 and 053501 in § 510.600(c) of this chapter.

(c) *Conditions of use in swine*—(1) For prevention of iron deficiency anemia, administer 1 mL by intramuscular injection at 2 to 5 days of age. Dosage may be repeated at 2 weeks of age.

(2) For treatment of iron deficiency anemia, administer 1 to 2 mL by intramuscular injection at 5 to 28 days of age.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 10. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

■ 11. Section 558.185 is amended by revising paragraph (b)(2); and by adding paragraph (b)(3) to read as follows:

§ 558.185 Coumaphos.

* * * * *

(b) * * *

(2) No. 017800 for use of Type A medicated articles containing 11.2 percent coumaphos as in paragraph (e)(1) of this section.

(3) No. 051311 for use of Type A medicated articles containing 1.12 percent coumaphos as in paragraph (e)(1) of this section.

* * * * *

§ 558.274 [Amended]

■ 12. Section 558.274 is amended in paragraph (a)(2) by removing "043733" and by adding in its place "Nos. 043733 and 051311"; and in the table in paragraph (c)(1)(ii) in the "Sponsor" column by adding in numerical sequence "051311".

§ 558.325 [Amended]

■ 13. Section 558.325 is amended in paragraph (a)(13) by removing "017800" and by adding in its place "051311"; and in paragraphs (d)(2)(ii)(1), (d)(2)(iii)(1), and (d)(2)(iv) in the table in the "Sponsor" column by removing "017800" and by adding in numerical sequence "051311".

§ 558.365 [Amended]

■ 14. Section 558.365 is amended in paragraph (a) by removing "017800" and by adding in its place "No. 051311".

§ 558.485 [Amended]

■ 15. Section 558.485 is amended in paragraph (b)(5) by removing "017800" and by adding in its place "051311".

§ 558.625 [Amended]

■ 16. Section 558.625 is amended in paragraph (b)(5) by removing "017800" and by adding in its place "No. 051311".

§ 558.630 [Amended]

■ 17. Section 558.630 is amended in paragraph (b)(5) by removing "017800" and by adding in its place "No. 051311".

Dated: May 11, 2005.

Steven D. Vaughn,

Director, Office of New animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 05–11031 Filed 6–2–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[TD 9194]

RIN 1545–BE22

Residence and Source Rules involving U.S. Possessions and Other Conforming Changes; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document corrects temporary regulations (TD 9194) that were published in the **Federal Register** on Monday, April 11, 2005 (70 FR 18920). The temporary regulations provide rules under section 937(a) of the Internal Revenue Code (Code) for determining whether an individual is a bona fide resident of the following U.S. possessions: American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the United States Virgin Islands. The temporary regulations also provide rules under section 937(b) for determining whether income is derived from sources within a U.S. possession and whether income is effectively connected with the conduct of a trade or business within a U.S. possession. In addition, the temporary regulations provide updated guidance under certain other Code sections to reflect changes made by the Tax Reform Act of 1986 and by the American Jobs Creation Act of 2004.

DATES: This correction is effective April 11, 2005.

FOR FURTHER INFORMATION CONTACT: J. David Varley (202) 435–5165 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (TD 9194) that is the subject of this correction are under section 937 of the Internal Revenue Code.

Need for Correction

As published, the temporary regulations (TD 9194) contains 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.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR parts 1 and 301 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 * * *

§ 1.934–1T [Corrected]

■ 1. Section 1.934–1T(d), *Example 1*, paragraph (iii), the formula is revised to read as follows: (20,000 + 10,000) × ((45,000 + 15,000) / (120,000)) – 10,000 × ((15,000) / (15,000 + 22,500)) = 30,000 × (.5) – 10,000 × (.4) = 15,000 minus; 4,000 = $11,000

§ 1.935–1T [Corrected]

■ 2. Section 1.935–1T(e)(1)(ii) is amended by removing the language "election filed" and adding the language "election is filed" in its place.

§ 1.937–1T [Corrected]

■ 3. Section 1.937–1T(c)(4)(ii)(B) is amended by removing the language "(c)(4)(B)" and adding the language "(c)(4)(i)(B)" in its place.

§ 1.937–3T [Corrected]

■ 4. Section 1.937–3T(b), second sentence, is amended by removing the language "under the rules of 1.937–2T)" and adding the language "under the rules of § 1.937–2T)" in its place.

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 2.** The authority citation for part 301 continues to read, in part, as follows:

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

§ 301.7701(b)–1T [Corrected]

■ 5. Section 301.7701(b)–1T is amended by removing the period at the end of the section heading and adding the language "(temporary)." in its place.

Cynthia Grigsby,

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

[FR Doc. 05–11029 Filed 6–2–05; 8:45 am]

BILLING CODE 4830–01–P

AMERICAN BATTLE MONUMENTS COMMISSION

36 CFR Parts 401, 402, and 403

American Battle Monuments Commission Policies on Overseas Memorials

AGENCY: American Battle Monuments Commission.

ACTION: Final regulation

SUMMARY: The American Battle Monuments Commission (ABMC) is updating its regulations on overseas memorials in order to reflect actual practice and current statutory requirements.

DATES: Effective June 3, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Sole, Director of Engineering and Maintenance, American Battle Monuments Commission, Suite 500, 2300 Clarendon Blvd, Arlington, VA, 22201–3367; telephone: (703) 696–6899; FAX: (703) 696–6666.

SUPPLEMENTARY INFORMATION:

I. Background

ABMC published the proposed regulation in the **Federal Register** on April 19, 2005 (see 70 FR 20324–20326) for a public comment period. Pursuant to Chapter 21, Title 36 United States Code, the ABMC is generally responsible for overseas memorials and monuments honoring the sacrifices of the American Armed Forces. ABMC's regulations on the performance of this function have not been updated since 1970. Since that time Congress has established within ABMC a Memorial Trust Fund Program the terms of which are codified at 36 U.S.C. 2106(b–e). The purpose of this final regulation is to set forth agency policy implementing 36 U.S.C. 2106(b–e) and to place all agency guidance on overseas memorial responsibilities in one comprehensive document. This part 401 supersedes existing part 401 and rescinds existing parts 402 and 403.

II. Comment

ABMC received one comment on the proposed regulation. That comment asserted that aspects of the evaluation criteria identified in section 401.9 for consideration in approving requests to construct a memorial deserved reconsideration. The commenter suggested that a process for exceptions in light of the unique circumstances that can arise in today's environment would be helpful.

Other than the criteria calling for a ten year waiting period, adequate funding, and host nation approval set forth in sections 401.9(a)–(c), the remaining criteria are not stated as absolute requirements. These other criteria are evaluated on a case by case basis with particular regard to the unique circumstances of each request. ABMC identified the ten year minimum waiting period requirement because this time period was established by Congress for approval of such memorials in the District of Columbia and its environs through the Commemorative Works Act as an appropriate period of time and there was no apparent reason to establish a different time frame for overseas memorials (see 40 U.S.C. section 8903(b)).

III. Final Regulation as Adopted

List of Subjects in 36 CFR Parts 401, 402, and 403

Monuments and memorials.

■ For the reasons set forth in the preamble, American Battle Monuments Commission amends 36 CFR Chapter IV as follows:

■ 1. Part 401 is revised to read as follows:

PART 401—MONUMENTS AND MEMORIALS

Sec.

Authority: 36 U.S.C 2105; 36 U.S.C. 2106

§ 401.1 Purpose.

This part provides guidance on the execution of the responsibilities given by Congress to the American Battle Monuments Commission (Commission) regarding memorials and monuments commemorating the service of American Armed Forces at locations outside the United States.

§ 401.2 Applicability and scope.

This part applies to all agencies of the United States Government, State and local governments of the United States and all American citizens, and private and public American organizations that have established or plan to establish any permanent memorial commemorating the service of American Armed Forces at a location outside the United States. This chapter does not address temporary monuments, plaques and other elements that deployed American Armed Forces wish to erect at a facility occupied by them outside the United States. Approval of any such temporary monument, plaque or other element is a matter to be determined by the concerned component of the Department of Defense consistent with host nation law and any other constraints applicable to the presence of American Armed Forces at the overseas location.

§ 401.3 Background.

Following World War I many American individuals, organizations and governmental entities sought to create memorials in Europe commemorating the service of American Armed Forces that participated in that war. Frequently such well-intended efforts were undertaken without adequate regard for many issues including host nation approvals, design adequacy, and funding for perpetual maintenance. As a result, in 1923 Congress created the American Battle Monuments Commission to generally oversee all memorials created by Americans or American entities to commemorate the service of American Armed Forces at locations outside the United States.

§ 401.4 Responsibility.

The Commission is responsible for building and maintaining appropriate memorials commemorating the service of American Armed Forces at any place outside the United States where Armed Forces have served since April 6, 1917.

§ 401.5 Control and supervision of materials, design, and building.

The Commission controls the design and prescribes regulations for the building of all memorial monuments and buildings commemorating the service of American Armed Forces that are built in a foreign country or political division of the foreign country that authorizes the Commission to carry out those duties and powers.

§ 401.6 Approval by National Commission of Fine Arts.

A design for a memorial to be constructed at the expense of the United States Government must be approved by the National Commission of Fine Arts before the Commission can accept it.

§ 401.7 Cooperation with other than Government entities.

The Commission has the discretion to cooperate with citizens of the United States, States, municipalities, or associations desiring to build war memorials outside the United States.

§ 401.8 Requirement for Commission approval.

No administrative agency of the United States Government may give assistance to build a memorial unless the plan for the memorial has been approved by the Commission. In deciding whether to approve a memorial request the Commission will apply the criteria set forth in § 401.9.

§ 401.9 Evaluation criteria.

Commission consideration of a request to approve a memorial will include, but not be limited to, evaluation of following criteria:

Criteria	Discussion
(a) How long has it been since the events to be honored took place?	Requests made during or immediately after an event are not generally subject to approval. The Commission will not approve a memorial until at least 10 years after the officially designated end of the event. It should be noted that this is the same period of time made applicable to the establishment of memorials in the District of Columbia and its environs by the Commemorative Works Act.
(b) How will the perpetual maintenance of the memorial be funded?	Available adequate funding or other specific arrangements addressing perpetual care are a prerequisite to any approval.
(c) Has the host nation consented?	Host nation approval is required.
(d) Is an overseas site appropriate for the proposed permanent memorial?	In many circumstances a memorial located within the United States will be more appropriate.
(e) Is the proposed memorial intended to honor an individual or small unit?	Memorials to elements smaller than a division or comparable unit or to an individual will not be approved unless the services of such unit or individual clearly were of such distinguished character as to warrant a separate memorial.
(f) Is the memorial historically accurate?	Representations should be supported by objective authorities.
(g) Is the proposed memorial intended to honor an organizational element of the American Armed Forces rather than soldiers from a geographical area of the United States?	As a general rule, memorials should be erected to organizations rather than to troops from a particular locality of the United States.
(h) Does the contribution of the element to be honored warrant a separate memorial?	The commemoration should normally be through a memorial that would have the affect of honoring all of the American Armed Forces personnel who participated rather than a select segment of the organizational participants.

§ 401.10 Monument Trust Fund Program.

Pursuant to the provisions of 36 U.S.C. 2106(d), the Commission operates a Monument Trust Fund Program (MTFP) in countries where there is a Commission presence. Under the MTFP, the Commission may assume both the sponsor's legal interests in the monument and responsibility for its maintenance. To be accepted in the Monument Trust Fund Program, an organization must develop an acceptable maintenance plan and transfer sufficient monies to the Commission to fully fund the maintenance plan for at least 30 years. to The Commission will put this money into a trust fund of United States Treasury instruments that earn interest. Prior to acceptance into the MTFP, the sponsor must perform any deferred maintenance necessary to bring the monument up to a mutually agreeable standard. At that time, the Commission

may assume the sponsoring organization's interest in the property and responsibility for all maintenance and other decisions concerning the monument. Once accepted into the program, the Commission will provide for all necessary maintenance of the monument and charge the cost to the trust fund. to The sponsoring organization or others interested in the monument may add to the trust fund at any time to insure that adequate funds remain available. to The Commission will maintain the monument for as long a period as the trust fund account permits.

§ 401.11 Demolition criteria.

As authorized by the provisions of 36 U.S.C. 2106(e), the Commission may take necessary action to demolish any war memorial built outside the United States by a citizen of the United States, a State, a political subdivision of a State, a governmental authority (except a department, agency, or instrumentality of the United States Government), a foreign agency, or a private association and to dispose of the site of the memorial in a way the Commission decides is proper, if—

(a) The appropriate foreign authorities agree to the demolition; and

(b)(1) The sponsor of the memorial consents to the demolition; or

(2) The memorial has fallen into disrepair and a reasonable effort by the Commission has failed—

(i) To persuade the sponsor to maintain the memorial at a standard acceptable to the Commission; or

(ii) To locate the sponsor.

PART 402—[REMOVED]

■ 2. Part 402 is removed.

PART 403—[REMOVED]

■ 3. Part 403 is removed.

Theodore Gloukhoff,

Director, Personnel and Administration.

[FR Doc. 05–11040 Filed 6–2–05; 8:45 am]

BILLING CODE 6120–01–P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM2005–3; Order No. 1439]

Negotiated Service Agreements

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: This document adopts rules on procedures related to negotiated service agreements. The rules are designed to assist in clarifying the type of requests that qualify as extensions and the type of conditions that constitute modifications. Relative to the proposed rules, the final set of rules reflect several changes based on consideration of comments. These changes include adoption of deadlines for issuance of a recommended decision.

DATES: Effective July 5, 2005.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, general counsel, at 202–789–6818.

SUPPLEMENTARY INFORMATION:

Regulatory History

68 FR 52552, September 4, 2003.
69 FR 7574, February 18, 2004.
70 FR 4802, January 31, 2005.
70 FR 7704, February 15, 2005.

I. Introduction

This Order concludes the rulemaking docket addressing rules applicable to: (1) Postal Service requests to extend the duration of previously recommended and currently in effect negotiated service agreements, and (2) Postal Service requests to make modifications to previously recommended and currently in effect negotiated service agreements. The final rules appear after the Secretary's signature in this Order.

A notice and order establishing this rulemaking docket was issued on February 10, 2005.[1] The notice and order proposed a set of applicable rules, and established a March 14, 2005, date for interested persons to submit comments. It also established an April 11, 2005, date for interested persons to submit reply comments. Initial comments were received from Bank One Corporation (Bank One), Discover Financial Services, Inc. (DFS), HSBC North America Holdings Inc. (HSBC), Office of the Consumer Advocate (OCA), the United States Postal Service (Postal Service), and Valpak Direct Marketing Systems Inc. and Valpak Dealers' Association, Inc. (Valpak).[2] Reply comments were received from Bank One Corporation, Discover Financial Services, Inc., Office of the Consumer Advocate, and the United States Postal Service.[3]

The Commission appreciates the efforts of the commenters that participated in the process of developing new rules applicable to requests to renew or modify negotiated service agreements. This process is ongoing, and the rules are subject to change as more experience is gained in reviewing requests predicated on negotiated service agreements. A number of comments that improve clarity or specify requirements that the Commission originally did not consider were incorporated into the rules. All comments were appreciated, whether or not they led to an actual modification of a proposed rule, because the comments provide different points of view that the Commission otherwise might not have considered. A discussion of notable comments follows.

II. Discussion

Role of the Commission. Bank One argues that "the Commission should adopt light-handed regulation of proposals to renew or modify existing NSAs as the presumptive starting point." This argument is prefaced by the statement: "A request to renew or modify an existing NSA involves, by definition, an agreement whose basic terms have already been found by the Commission to be profitable for the Postal Service, free of undue discrimination against competitors of the NSA partner, and unobjectionable on any other identifiable ground." Bank One Comments at 8.

A Commission recommendation of a negotiated service agreement is not as conclusive as characterized by Bank One. A Commission recommendation is based on a reasonable probability that the agreement will be profitable, and an appearance that the agreement will be free of undue discrimination against competitors of the negotiated service agreement's partner. These conclusions are reached after independently analyzing the agreement and weighing the arguments of all participants in the proceeding. A finding of actual profitability can only be estimated after

[1] Notice and Order Establishing Rulemaking Docket for Consideration of Proposed Rules Applicable to Requests to Renew or Modify Previously Recommended Negotiated Service Agreements, Order No. 1430, February 10, 2005; 70 FR 7704 (2005).

[2] Initial Comments of Bank One Corporation; Initial Comments of Discover Financial Services, Inc. (DFS); Initial Comments of HSBC North America Holdings Inc.; Office of the Consumer Advocate Comments in Response to Commission Order No. 1430; Initial Comments of the United States Postal Service; and Comments of Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. in Response to PRC Order No. 1430, all filed March 14, 2005.

[3] Reply Comments of Bank One Corporation; Reply Comments of Discover Financial Services, Inc. (DFS); Office of the Consumer Advocate Reply Comments in Response to Commission Order No. 1430; and Reply Comments of the United States Postal Service, all filed April 11, 2005.

the fact.[4] Similarly, an agreement that appears free of undue discrimination upon recommendation, could later exhibit undue discrimination in actual operation.

In regard to a request to renew an ongoing agreement, a review of the profitability of the initial agreement and consideration of any adverse effects that the agreement may have had on competitors and other mailers is required. It would be imprudent to renew an agreement without examining experience under the existing agreement. The burden initially falls on the proponents of the renewal request to demonstrate likely profitability during the extension, and past experience is an important consideration. Cost and revenue changes, along with the effect of any exogenous events that may have occurred since the original recommendation also must be considered. To support updated costs and volume projections, the proponents of the renewal request may rely on the accuracy of estimates in the existing agreement's docket.

The conclusiveness of Bank One's statement also implies that the Commission has, a priori, conclusively determined there is no risk from a negotiated service agreement. In most instances, this is impractical if not impossible.

The Commission strives to provide a forum for reviewing negotiated service agreements that is as expeditious and cost effective as achievable, while assuring that every agreement is in compliance with the requirements of the Act. With this in mind, the rules are designed to permit "light-handed" treatment consistent with the Commission's statutory obligations. The rules allow inquiry as necessary to meet the complexities presented by the actual request.

Bank One also suggests that "[i]n the absence of a showing of probable cause to believe that the modified or extended NSA terms would violate the Act, the Commission should terminate the proceeding and recommend implementation of the renewed or modified NSA forthwith." *Id.* at 14.

The implication of this statement is that if no participant raises an issue in regard to complying with a requirement of the Act, the Commission's inquiry is at an end. The only Commission function which remains would be to issue a recommendation to implement the agreement. This implication ignores the Commission's responsibility under the Act to issue recommended decisions that are in accordance with the requirements of the Act. To fulfill this responsibility, the Commission independently analyzes every Postal Service request. The Commission relies substantially on the efforts of participants, especially proponents, in informing its recommendations; however, the Commission will act sua sponte to fill in gaps in information required to reach its recommendations.

Role of OCA. In PRC Order No. 1430 at 3, the Commission stated: "The intent [of § 3001.197] is to limit use of the rule to instances where the proposed agreement and the existing agreement share substantially identical obligations. * * * In instances where there are no contested issues it should be possible for the Commission to issue its recommendation shortly after the prehearing conference."[5]

Valpak expresses a concern that almost no mailer would be motivated to spend the funds necessary to challenge the assertion that the NSA renewal was substantially identical to the original agreement. Valpak urges the Commission to charge the Office of the Consumer Advocate (OCA) with the responsibility for investigating these factual matters. Valpak Comments at 1–2. In a similar light, Valpak suggests that OCA also be tasked with investigating "intervening events" when those issues arise in a request. *Id.* at 3.

The Postal Service's expectation is that the Commission will appoint OCA to represent the general public in 39 CFR 3001.197 and 3001.198 proceedings, but argues that OCA can decide for itself how to allocate its resources. Postal Service Reply Comments at 6.

In a somewhat broader context, Bank One asserts "[u]nder the circumstances, a general requirement that the OCA launch a full blown investigation in every proceeding under Rule 197 or Rule 198 is likely to make society worse off by wasting the Commission's resources and deterring the establishment or renewal of arrangements that otherwise would have made both the Postal Service and third-party mailers better off." Bank One further asserts "[r]ather, the extent (if any) of any activity by the OCA in an NSA proceeding should be left to the professional judgment of the OCA itself." Bank One Reply Comments at 2–3.

OCA is in the unique position of being appointed, as opposed to intervening, to represent the interests of the general public in virtually every proceeding before the Commission. Not only does OCA frequently provide an important counterpoint to the proponents' arguments, as referred to by Valpak, it performs its own independent analysis which is useful in better informing the Commission. The Commission, in this instance, will not promulgate a rule specifically assigning or excluding a particular issue for OCA to examine. This preserves the OCA's ability to inform the Commission with an independent point of view, and allows OCA to allocate its resources as it believes necessary.

Burden of Proof. Bank One argues when a request for a renewal or a modification does not materially alter the terms of an existing negotiated service agreement, it not only warrants accelerated review, but a presumption that the modified agreement is just, reasonable, and otherwise lawful. It suggests that opponents of an agreement "should bear the burden of making a showing of probable cause that the modified terms would violate one or more provisions of the Postal Reorganization Act." Bank One Comments at 11–12. HSBC's comments parallel those of Bank One. HSBC Comments at 3.

OCA contends that in regard to requests for renewals, proponents should not have to support retention of existing provisions, absent changed circumstances, but should be required to demonstrate the immateriality of changes they do wish to make. OCA notes that it is the lack of significant change that permits expedition in the first place. In regard to requests for modifications, OCA argues that expedition is more difficult. It contends that the proponent should be required to explain why the needed modification was overlooked in the initial proceeding and why the Commission should believe that no other difficulties still exist. OCA Reply Comments at 2.

The Postal Service argues that where particular issues surrounding a negotiated service agreement have been litigated, or could have been litigated before the Commission when the agreement was first recommended, there should be a rebuttable presumption that the agreement would not violate the Act. However, if the renewal or modification involves a change in rates or classifications, the Postal Service would expect to bear the burden of justifying such changes. Postal Service Reply Comments at 4–5.

[4] This is the primary purpose of the data collection plans included in all recommendations thus far.

[5] Similarly, "[t]he intent of the rule [§ 3001.198] is to expedite proceedings where limited modifications are being proposed that do not materially alter the nature of the agreement." PRC Order No. 1430 at 6.

The Commission's starting point is that the Postal Service has the initial burden of demonstrating that all aspects of its requests are in compliance with all aspects of the Act.[6] In regard to requests for functionally equivalent agreements or requests to modify or extend existing agreements, the Postal Service is allowed to rely on (within limits) record testimony from previous dockets, and implicitly on the findings and conclusions of the Commission from those previous dockets. This reliance effectively creates a rebuttable presumption on the status of many issues that have been, or to some extent that could have been, previously litigated. Thus, the Postal Service fulfills much of its initial burden merely by referencing the applicable record testimony and Commission findings and conclusions.

The burden that remains is for the Postal Service to demonstrate that any change, internal or external, affecting an agreement does not cause the agreement to violate the Act. This obligation is broader than only justifying changes in rates or classifications. For example, if applicable new cost data or actual volumes become available during the span of the existing agreement, the Commission expects the Postal Service to incorporate such data into a request for renewal. Incorporation of these data may or may not lead to a rate or classification change. However, the proponents, including the Postal Service, still have the initial burden to demonstrate that the renewal agreement, with the new cost and volume data, continues to meet the requirements of the Act.

Normally, a prehearing conference is scheduled for the purpose of discussing issues in regard to Postal Service requests. At this conference, participants are required to address whether or not any material issues of fact exist that might require discovery or evidentiary hearings. Ideally, the information obtained at the conference allows the Commission to frame the issues open for discussion, and to limit discussion on issues that have been previously resolved or that are not relevant to the instant request. This limits the burden imposed on the proponents.

There is a distinct disadvantage in moving the initial burden to those that oppose a Postal Service request. Early in the process, interested persons may not be privy to sufficient information to make an informed decision on whether or not to challenge a request. This could lead to prolonged discovery because participants would have to probe every aspect of an agreement to determine the existence of issues. Because of the asymmetrical information advantage held by the proponents of the request, it is more expedient for the proponents to carry the initial burden, and to provide sufficient information with the request, so that other participants can make more informed decisions.

The Commission is not persuaded that the initial burden is onerous, or that it is improper to place this burden upon the Postal Service (and its co-proponents).

Scope of Proceeding. Bank One notes that the proposed rules are limited to proposals that do not materially alter the terms of an existing negotiated service agreement. It expresses concern that the three enumerated circumstances that could justify modifications to a negotiated service agreement may be too limiting. Bank One requests clarification that the list of allowable justifications is illustrative, and not exclusive. As an example of a desired modification that would not be allowed under the new rules, Bank One describes a change where "the nature and circumstances of the likely modification may be foreseeable from the outset, but the parties may want to defer considering the changes until after gaining experience from actual operation of the NSA." Bank One Comments at 10–11.

HSBC's comments parallel those of Bank One. HSBC Comments at 2–3. DFS also supports Bank One's position. DFS Reply Comments at 1–2. The Postal Service concurs that the list should be illustrative and not exhaustive. It asserts that participants will have adequate opportunities to oppose a request to modify an agreement should such a case arise. Postal Service Reply Comments at 4.

The breadth of the proposed rules is an area of concern for the Commission. The goal is to draft rules for cases involving minimal controversies so that expedition can be realized, and bureaucratic requirements minimized. The key to meeting this goal is to limit the allowable differences open for consideration between the renewal or modification agreement, and the ongoing agreement.

For 39 CFR 3001.197 renewal requests, the focus of the Commission is on the Postal Service's justification for requesting the extension of a presumably beneficial negotiated service agreement. Maximum expedition can be afforded if the only request is to extend the termination date of the existing agreement. However, the Commission realizes that a renewal provides an opportune time to allow for additional modifications for the purpose of bringing an agreement up to date. The rule explicitly requires that any additional modifications "do not alter the nature of the existing agreement." This is key to preserving the ability to expedite the procedure. The proposed rationale for updating an agreement could be to incorporate the effects of an intervening event into the agreement, or to incorporate new cost and volume information that might be used to update the schedule of rates and fees. These secondary modifications are in addition to extending the termination date. A third possibility, correction of a technical defect, is included because it would not be prudent to continue an agreement with a known technical error.[7]

For 39 CFR 3001.198 modification requests, the focus of the Commission is on the Postal Service's justification for requesting the modification. The requirement that the proposed modification does not materially alter the nature of the existing agreement is implicit, if the proceeding is to be expedited. The rule provides three rationales for modifying an existing agreement: To correct a technical defect, to account for unforeseen circumstances not apparent when the existing agreement was first recommended, or to account for an intervening event since the recommendation of the existing agreement. The stated reasons are sufficiently broad to allow for many types of modifications.

The Postal Service has several other options that it may choose to pursue if its request is broader than the scope of the proposed rules. For more extensive proposals, the Postal Service might find it appropriate to file under 39 CFR 3001.195 (new baseline proposal) or 39 CFR 3001.196 (functionally equivalent proposal).

Describing the allowable modifications as material versus immaterial, as suggested by Bank One, could be misleading. The Commission does not require that any of the allowable modifications be "immaterial." However, requests for modifications that do not change the nature of the original agreement will be afforded expedition because most issues will have been resolved in the original agreement's docket.

[6] In regard to requests predicated on negotiated service agreements, the Postal Service may rely on testimony from its co-proponents to meet this burden.

[7] The Commission also is open to considering proposals for clearly minor changes that are sufficiently documented and justified which do not alter the nature of the existing agreement, but which may not technically fall into one of the listed characterizations, under the expedited rules.

For example, assume that a negotiated service agreement partner merges with another entity, and would like to incorporate that entity's mail volumes under the existing agreement. Further assume that the combined entity's mail characteristics are different from those considered in reviewing the existing negotiated service agreement, and as a result, additional Postal Service cost savings can be demonstrated. The Postal Service and its partner could properly seek to modify the existing agreement. In this instance the modification would accommodate a material change, but it would not alter the overall nature of the original agreement.

The Bank One example of where a modification is foreseeable from the outset, but the parties desire to gain experience before making a change does not fall into the acceptable category of modifications. What Bank One describes is experimental in nature. A negotiated service agreement may contain an experiment, but the primary purpose of a negotiated service agreement should not be to "experiment." Negotiated service agreements should be based on sound financial analysis that indicates a likely win-win outcome from inception. If however, an intervening event might have been foreseeable, that fact does not prevent a modification to reflect the new situation that exists as a result of the intervening event.

The descriptions of allowable modifications in both rules fulfill the Commission's intent of narrowing the applicability of the rules such that expedition can be provided.

Establishing a Schedule. The Postal Service suggests that the Commission add language to proposed 39 CFR 3001.197(c) and 39 CFR 3001.198(c) requiring that: "a schedule will be established which allows a recommended decision to be issued not more than 60 days after the determination is made to proceed under § 3001.197 [or § 3001.198]." It argues that this language is in furtherance of the important objective for expedition, and is similar to the 39 CFR 3001.196(d)(1) language, which was helpful in expediting the proceedings in Docket Nos. MC2004–3 and MC2004–4.[8] Postal Service Comments at 2–3. Upon consideration of the initial comments from other commenters, the Postal Service modifies its position and suggests a 30- or 45-day schedule if there is no hearing, and a 90-day schedule if there is a hearing. Postal Service Reply Comments at 2–3.

Bank One contends that "litigation costs are a major deterrent to pursuing an NSA, and the absence of clear procedural deadlines is an invitation to open-ended delay during the heat of litigation." Because of the more limited scope of proceedings under 39 CFR 3001.197 or 3001.198, than anticipated under 39 CFR 3001.196, Bank One proposes a 45-day schedule if there is not a hearing, and a 90-day schedule if there is a hearing. Bank One Comments at 12–13. HSBC's comments are in agreement with Bank One, and suggest identical time periods. HSBC Comments at 3–4.

DFS expresses similar concerns by arguing that "[s]pecific time frames yield certainty." It submits that time frames of 30 days without a hearing, and 90 days with a hearing would be appropriate. DFS Comments at 3–5.

OCA argues that "[s]uch deadlines would actually create incentives for delay." It contends that if the proponents knew that the Commission is committed to issuing a decision in a certain, short time, they would have no incentive to submit detailed information up front and leave the Commission to reach a rapid decision on the basis of incomplete information. OCA Reply Comments at 3.

The Commission included a scheduling requirement in the rules for functionally equivalent negotiated service agreements partly because of the belief that requests for functionally equivalent agreements should be less complex to review than requests for new baseline agreements. The complexity should be less because most issues would have been litigated and resolved in the baseline docket, and the proponents of the functionally equivalent request would be allowed to rely on record testimony from the baseline docket. The perception that functionally equivalent requests are less complex to review allowed the Commission to be comfortable with including scheduling requirements. In practice, this expectation has been validated. Participants have identified and resolved issues within the applicable time periods.

The proposed rules for modifications and renewals are purposely designed to be applicable only in specific, limited circumstances, which appear more restrictive than a request for a functionally equivalent request. Most, if not all, policy and methodology issues should have been litigated and resolved in the original docket, and will be off the table with a modification or renewal request. Thus, the Commission finds it reasonable to include a scheduling requirement in the rules for modifications and renewals. The Commission will initially adopt a 45-day, 90-day scheduling requirement. The time frames can be revisited after actual experience is gained.

The Commission will strive to issue its decisions as expeditiously as possible consistent with due process and the statutory requirements; however, shorter time frames might not allow sufficient opportunity for analysis if issues do arise. In addressing the OCA's concern, if there is an absence of detail with the material submitted with the request, or complex issues do arise, the Commission will be able to adjust its schedule to allow participants adequate time to address relevant and material concerns, even if this means not meeting the self-imposed scheduling requirements.

DFS contends that it is not clear whether a participant can request a hearing in 39 CFR 3001.197 or 3001.198 when there are material questions of fact that need to be resolved. DFS Comments at 4.

Including a separate scheduling requirement for instances when a hearing is requested is a clear indication that participants may request a hearing on requests for either modification or renewal. As in all proceedings, discovery is available after notice of the request, and the filing of a notice of intervention. The Commission will add subsection (d) to rule 39 CFR 3001.197 as follows:

(d) The Commission will treat requests to renew negotiated service agreements as subject to accelerated review consistent with procedural fairness. If the Commission determines that it is appropriate to proceed under 39 CFR 3001.197, a schedule will be established which allows a recommended decision to be issued not more than: (1) 45 days after the determination is made to proceed under 39 CFR 3001.197, if no hearing is held; or (2) 90 days after the determination is made to proceed under 39 CFR 3001.197, if a hearing is scheduled.

The Commission will add subsection (d) to rule 39 CFR 3001.198 as follows:

(d) The Commission will treat requests to modify negotiated service agreements as subject to accelerated review consistent with procedural fairness. If the Commission determines that it is appropriate to proceed under § 3001.198, a schedule will be established which allows a recommended decision to be issued not

[8] For example, 39 CFR 3001.196(d)(1) (functionally equivalent request) requires that a schedule be established which allows a recommended decision to be issued not more than: (1) 60 days after the determination is made to proceed under 39 CFR 3001.196, if no hearing is held; or (2) 120 days after the determination is made to proceed under 39 CFR 3001.196, if a hearing is scheduled.

more than: (1) 45 days after the determination is made to proceed under § 3001.198, if no hearing is held; or (2) 90 days after the determination is made to proceed under § 3001.198, if a hearing is scheduled.

Additional Option to Proceed Under 39 CFR 3001.196. Following the prehearing conference, the Commission must decide which procedural path the request will follow. Several commenters argue that if the Commission determines it is not appropriate to proceed under 39 CFR 3001.197 (renewal request), it might be appropriate to proceed under 39 CFR 3001.196 (functionally equivalent request). The proposed rule only allows for proceeding under 39 CFR 3001.195 (new baseline request) in this instance. The commenters also argue for a similar change to the parallel terminology proposed for 39 CFR 3001.198 (modification request). Bank One Comments at 14–15; DFS Comments at 5–6; HSBC Comments at 5; Postal Service Comments at 3; and Valpak Comments at 3.

The Commission concurs that proceeding under 39 CFR 3001.196 (functionally equivalent request) is a viable option to proceeding under 39 CFR 3001.195 (new baseline request) when the Commission decides it is not appropriate to proceed either under 39 CFR 3001.197 (renewal request) or 39 CFR 3001.198 (modification request). The last sentence of 39 CFR 3001.197(c) will be changed to read: "If the Commission's decision is to not proceed under § 3001.197, the docket will proceed under § 3001.195 or § 3001.196, as appears appropriate." The last sentence of § 3001.198(c) will be changed to read: "If the Commission's decision is to not proceed under § 3001.198, the docket will proceed under § 3001.195 or § 3001.196, as appears appropriate."

Rule Specific Changes. The Postal Service proposes three rule specific changes. First, it notes that § 3001.197(a)(4) and § 3001.198(a)(4) request "[a]ll studies developing information pertinent to the request, whereas § 3001.196(a)(4), a parallel rule, references "special studies." The Postal Service proposes that the references to "studies" be changed to "special studies." Postal Service Comments at 3. Second, the Postal Service proposes to add the phrase "since the recommendation of the existing agreement" after the words "intervening event" in § 3001.198(a)(3) to clarify when an intervening event must occur, and to make this language consistent with § 3001.197(a)(3). *Id.* at 4.

Both proposals improve the consistency and clarity of the rules. Section 3001.197(a)(4) will be changed to: "All special studies developing information pertinent to the request completed since the recommendation of the existing agreement." Section 3001.198(a)(3) will be changed to: "A detailed description of the technical defect, unforeseen circumstance, or intervening event since the recommendation of the existing agreement, to substantiate the modifications proposed in (a)(2)." Section 3001.198(a)(4) will be changed to: "All special studies developing information pertinent to the request completed since the recommendation of the existing agreement."

The third Postal Service suggestion proposes to add the phrase "rationale for revising the schedule of rates or fees" to § 3001.198(a)(3) (modification request). It argues that there will be instances where a modification will involve this type of revision, for example, a request to modify a cap. *Id.* at 4.

The Commission assumes that if the Postal Service and its co-proponent request a modification, for example a modification of a stop-loss cap value, they will do so because they need to correct for a technical defect, account for an unforeseen circumstance not apparent when the existing agreement was first recommended, or account for an intervening event since the recommendation of the existing agreement as specified in § 3001.198(a). The technical defect, unforeseen circumstance, or intervening event provides the rationale for proposing the modification to the agreement. The above rationale might support a revision to the schedule of rates or fees; however, the desire to modify the schedule of rates or fees in itself is not a sufficient rationale to initiate a modification. Section 3001.198(a)(3) as proposed requires the Postal Service to describe the technical defect, unforeseen circumstance, or intervening event, which will focus the Commission's review on the rationale for proposing the modification. Including the Postal Service's proposed phrase "rationale for revising the schedule of rates or fees" in § 3001.198(a)(3) could be misinterpreted to imply that revising the schedule of rates or fees in itself is somehow a rationale for a modification. The Commission will not adopt this proposal.

Presentation of Spreadsheet Information. OCA comments that "the use of identical spreadsheets in a renewal or modification case as were used in the original request greatly enhances the ability of participants to evaluate the financial effect of new proposals." OCA Comments at 1.

DFS concurs that the use of similar spreadsheets makes sense, but does not concur that a specific requirement should be placed in the rules. DFS Reply Comments at 2. While the Postal Service acknowledges that it will often be helpful and expeditious to use parallel spreadsheets, it also believes there may be reasons not to do so. The Postal Service does not believe that this should be required by the rules. Postal Service Reply Comments at 5–6.

Presenting information in a similar format to what was provided in the original request could benefit an expedited review of the new request. However, the Commission will not require the use of "identical" spreadsheets. This is too restrictive and would not allow for change due to modifications in the agreement, or improvements in developing and presenting analyses. Also, the rules require that analyses be presented using the Commission's methodology, which may differ from what was presented in the original request. Use of the Commission's methodology is meant as a means for expediting the review process.

Miscellaneous Issues. DFS stresses the importance of coming to the prehearing conference prepared to discuss the appropriate rule under which to proceed, whether or not a hearing is necessary, and the basis of any disputed fact that requires further consideration. DFS asserts that this can be possible if parties start discovery immediately after the filing and notice of a request for a proposed negotiated service agreement. DFS Comments at 6–7.

The Commission concurs that it is critical for participants to come prepared to the prehearing conference. The information provided to the Commission either prior to or during the prehearing conference allows the Commission to decide the most appropriate, expeditious procedural path under the specific circumstances of the request. As soon as the Commission issues notice of a request and a participant files a notice of intervention, that participant may proceed with discovery to begin examining the issues. Nonetheless, potential participants may not be instantly aware of Postal Service requests, and time must be allowed to assure due process.

DFS questions whether parallel rules are required for extensions and modifications, or whether one combined rule would be simpler. *Id.* at 7. The Commission considered combining the separate rules for extensions and modifications into one rule, but opted

for two parallel rules because of the clear signal that will be sent to potential participants as to the context of each proceeding. Separate rules also add flexibility to modifying one rule, but not the other.

III. Ordering Paragraphs

It is ordered:

1. Any suggestion for modification of the proposed rule not specifically addressed by this order is not accepted for incorporation into the final rule.

2. The Commission hereby adopts the final amendments to rules 197 and 198 that follow the Secretary's signature into the Commission's Rules of Practice and Procedure appearing in 39 CFR Part 3001.

3. The Secretary shall arrange for publication of this Order Establishing Rules Applicable to Requests to Renew or Modify Previously Recommended Negotiated Service Agreements in the **Federal Register**. These changes will take effect 30 days after publication in the **Federal Register**.

By the Commission.

Garry J. Sikora,

Acting Secretary.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal service.

■ For the reasons discussed above, the Commission amends 39 CFR part 3001 as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b); 3603; 3622–24; 3661, 3662, 3663.

■ 2. Revise § 3001.197 to read as follows:

§ 3001.197 Requests to renew previously recommended negotiated service agreements with existing participant(s).

(a) This section governs Postal Service requests for a recommended decision seeking to extend the duration of a previously recommended and currently in effect negotiated service agreement (existing agreement). The purpose of this section is to establish procedures that provide for accelerated review of Postal Service requests to extend the duration of an existing agreement under substantially identical obligations. In addition to extending the duration of the existing agreement, modifications may be entertained that do not materially alter the nature of the existing agreement for the purposes of: correcting a technical defect, updating the schedule of rates and fees, or accounting for an intervening event since the recommendation of the existing agreement. The Postal Service request shall include:

(1) Identification of the record testimony from the existing agreement docket, or any other previously concluded docket, on which the Postal Service proposes to rely, including citation to the locations of such testimony;

(2) A detailed description of all proposed modifications to the existing agreement;

(3) A detailed description of any technical defect, rationale for revising the schedule of rates and fees, or intervening event since the recommendation of the existing agreement, to substantiate the modifications proposed in paragraph (a)(2) of this section;

(4) All special studies developing information pertinent to the request completed since the recommendation of the existing agreement;

(5) A comparison of the analysis presented in § 3001.193(e)(1)(ii) and § 3001.193(e)(2)(iii) applicable to the existing agreement with the actual results ascertained from implementation of the existing agreement, together with the most recent available projections for the remaining portion of the existing agreement, compared on an annual or more frequent basis;

(6) The financial impact of the proposed negotiated service agreement on the Postal Service in accordance with § 3001.193(e) over the extended duration of the agreement utilizing the methodology employed by the Commission in its recommendation of the existing agreement; and

(7) If applicable, the identification of circumstances unique to the request.

(b) When the Postal Service submits a request to renew a negotiated service agreement, it shall provide written notice of its request, either by hand delivery or by First-Class Mail, to all participants in the Commission docket established to consider the original agreement.

(c) The Commission will schedule a prehearing conference for each request. Participants shall be prepared to address at that time whether or not it is appropriate to proceed under § 3001.197, and whether or not any material issues of fact exist that require discovery or evidentiary hearings. After consideration of the material presented in support of the request, and the argument presented by the participants, if any, the Commission shall promptly issue a decision on whether or not to proceed under § 3001.197. If the Commission's decision is to not proceed under § 3001.197, the docket will proceed under § 3001.195 or § 3001.196, as appears appropriate.

(d) The Commission will treat requests to renew negotiated service agreements as subject to accelerated review consistent with procedural fairness. If the Commission determines that it is appropriate to proceed under § 3001.197, a schedule will be established which allows a recommended decision to be issued not more than:

(1) Forty-five (45) days after the determination is made to proceed under § 3001.197, if no hearing is held; or

(2) Ninety (90) days after the determination is made to proceed under § 3001.197, if a hearing is scheduled.

■ 3. Revise § 3001.198 to read as follows:

§ 3001.198 Requests to modify previously recommended negotiated service agreements.

(a) This section governs Postal Service requests for a recommended decision seeking a modification to a previously recommended and currently in effect negotiated service agreement (existing agreement). The purpose of this section is to establish procedures that provide for accelerated review of Postal Service requests to modify an existing agreement where the modification is necessary to correct a technical defect, to account for unforeseen circumstances not apparent when the existing agreement was first recommended, or to account for an intervening event since the recommendation of the existing agreement. This section is not applicable to requests to extend the duration of a negotiated service agreement. The Postal Service request shall include:

(1) Identification of the record testimony from the existing agreement docket, or any other previously concluded docket, on which the Postal Service proposes to rely, including citation to the locations of such testimony;

(2) A detailed description of all proposed modifications to the existing agreement;

(3) A detailed description of the technical defect, unforeseen circumstance, or intervening event since the recommendation of the existing agreement, to substantiate the modifications proposed in paragraph (a)(2) of this section;

(4) All special studies developing information pertinent to the request completed since the recommendation of the existing agreement;

(5) If applicable, an update of the financial impact of the negotiated service agreement on the Postal Service

in accordance with § 3001.193(e) over the duration of the agreement utilizing the methodology employed by the Commission in its recommendation of the existing agreement; and

(6) If applicable, the identification of circumstances unique to the request.

(b) When the Postal Service submits a request to modify a negotiated service agreement, it shall provide written notice of its request, either by hand delivery or by First-Class Mail, to all participants in the Commission docket established to consider the original agreement.

(c) The Commission will schedule a prehearing conference for each request. Participants shall be prepared to address at that time whether or not it is appropriate to proceed under § 3001.198, and whether or not any material issues of fact exist that require discovery or evidentiary hearings. After consideration of the material presented in support of the request, and the argument presented by the participants, if any, the Commission shall promptly issue a decision on whether or not to proceed under § 3001.198. If the Commission's decision is to not proceed under § 3001.198, the docket will proceed under § 3001.195 or § 3001.196, as appears appropriate.

(d) The Commission will treat requests to modify negotiated service agreements as subject to accelerated review consistent with procedural fairness. If the Commission determines that it is appropriate to proceed under § 3001.198, a schedule will be established which allows a recommended decision to be issued not more than:

(1) Forty-five (45) days after the determination is made to proceed under § 3001.198, if no hearing is held; or

(2) Ninety (90) days after the determination is made to proceed under § 3001.198, if a hearing is scheduled.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–7919–9]

Ocean Disposal; Designation of Dredged Material Disposal Sites in Central and Western Long Island Sound, CT

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: With the publication of this final rule, EPA is designating two open-water dredged material disposal sites, Central Long Island Sound (CLIS) and Western Long Island Sound (WLIS), for the disposal of dredged material from harbors and navigation channels in the Long Island Sound vicinity in the states of Connecticut and New York. This action is necessary to provide long-term, open-water, dredged material disposal sites as an alternative for the possible future disposal of such material. The basis for this action is described in a Final Environmental Impact Statement (FEIS) published by EPA in March 2004. The FEIS identifies designation of the CLIS and WLIS dredged material disposal sites as the preferred alternatives from the range of options considered. On September 12, 2003, EPA published in the **Federal Register** a proposed rule and a notice of availability of a Draft EIS (DEIS) for this action. These disposal site designations are subject to various restrictions designed to support the goal of terminating or reducing the disposal of dredged material into Long Island Sound, as explained below in subsection E. 3 of the Supplementary Information section.

EPA has conducted the disposal site designation process consistent with the requirements of the Marine Protection, Research, and Sanctuaries Act (MPRSA), the Clean Water Act (CWA), the National Environmental Policy Act (NEPA), the Coastal Zone Management Act (CZMA), and other relevant statutes and regulations. Under NEPA, federal agencies prepare a public record of decision (ROD) at the time of their decision on any action for which an FEIS has been prepared. This **Federal Register** notice for the final rule will also serve as EPA's ROD for the site designations.

The site designations are intended to be effective for an indefinite period of time. EPA has agreed, however, that use of the sites pursuant to these designations may be suspended or terminated in accordance with the Restrictions included in the final rule.

The designation of these two disposal sites does not by itself authorize the disposal of dredged material from any particular dredging project at either site. The designation of the CLIS and WLIS disposal sites simply makes those sites available for use for the dredged material from a specific project if no environmentally preferable, practicable alternative for managing that dredged material exists, and if analysis of the dredged material indicates that it is suitable for open-water disposal.

Thus, each proposed dredging project will be evaluated to determine whether there are practicable, environmentally preferable alternatives to open-water disposal. In addition, the dredged material from each proposed disposal project will be subjected to MPRSA and/or CWA sediment testing requirements to determine its suitability for possible open-water disposal at an approved site. Alternatives to open-water disposal that will be considered include upland disposal and beneficial uses such as beach nourishment. If environmentally preferable, practicable disposal alternatives exist, open-water disposal will not be allowed. In addition, the dredged material will undergo physical, chemical, and biological analysis to determine its suitability for open-water disposal. EPA will not approve dredged material for open-water disposal if it determines that the material has the potential to cause unacceptable adverse effects to the marine environment or human health. The review process for proposed disposal projects is discussed in more detail below and in the FEIS.

As dredged material disposal sites designated by EPA under the MPRSA, CLIS and WLIS also will be subject to newly developed, detailed management and monitoring protocols to track site conditions and prevent the occurrence of unacceptable adverse effects. These management and monitoring protocols are described in the CLIS and WLIS Site Management and Monitoring Plans (SMMPs), which are incorporated in the FEIS as Appendix J. EPA is authorized to close or limit the use of these sites to further disposal activity if their use causes unacceptable adverse impacts to the marine environment or human health.

DATES: This final regulation is effective on July 5, 2005.

ADDRESSES: EPA has established a file supporting this action that includes the Federal **Register** notice for this final rule, the FEIS and its appendices, including the SMMPs and responses to public comments, and other supporting documents.

1. *In person.* The file is available for inspection at the following location: EPA New England Library, One Congress St., Suite 1100, Boston, MA 02114–2023. For access to the documents, call Peg Nelson at (617) 918–1991 between 10 a.m. and 3 p.m. Monday through Thursday, excluding legal holidays, for an appointment.

2. *Electronically.* You also may review and/or obtain electronic copies of the rule, FEIS, and various support documents from the EPA home page at *http://www.epa.gov/fedrgstr/*, or on the

EPA Region 1 homepage at *http://www.epa.gov/region1/eco/lisdreg/*.

The **Federal Register** notice for this final rule and the responses to public comments on the FEIS also are available for review by the public at the following locations. The DEIS and FEIS and its appendices, including the SMMPs and responses to public comments on the DEIS, also were provided to most of these sources at the time of their publication, and may still be available for review there.

1. *In person.* A. Cold Spring Harbor Library, Goose Hill Rd., Cold Spring Harbor, NY. B. East Hampton Library, 159 Main St., East Hampton, NY. C. Mamaroneck Public Library Inc., 136 Prospect Ave., Mamaroneck, NY. D. Montauk Library, 871 Montauk Highway, Montauk, NY. E. New York State Library, Cultural Education Center 6th Floor, Empire State Center, Albany, NY. F. Northport Library, 151 Laurel Ave., Northport, NY. G. Port Jefferson Free Library, 100 Thompson St., Port Jefferson, NY. H. Port Washington Public Library, 1 Library Dr., Port Washington, NY. I. Riverhead Free Library, 330 Court St., Riverhead, NY. J. Bridgeport Public Library, 925 Broad St., Bridgeport, CT. K. Connecticut State Library, Information Service Division, 231 Capital Ave., Hartford, CT. L. Milford City Library, 57 New Haven Ave., Milford, CT. M. New Haven Free Public Library, 133 Elm St., New Haven, CT. N. New London Public Library, 63 Huntington St., New London, CT. O. Norwalk Public Library, 1 Belden Ave., Norwalk, CT. P. Acton Public Library, 60 Old Boston Post Rd., Old Saybrook, CT. Q. Ferguson Library, 752 High Ridge Road, Stamford, CT. R. Boston Public Library, 700 Boylston St., Copley Square, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Ms. Jean Brochi, U.S. Environmental Protection Agency, One Congress St., Suite 1100 (COP), Boston, MA 02114–2023; telephone number: (617) 918–1070; fax number: (617) 918–1505; e-mail address: *Brochi_Jeanlis@epa.gov*.

SUPPLEMENTARY INFORMATION:

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A. Purpose

The two dredged material disposal sites in Long Island Sound designated by this action are necessary to provide long-term, environmentally acceptable disposal options for potential use by the U.S. Army Corps of Engineers (USACE, or Corps) and other federal, state, municipal and private entities who must dredge channels, harbors, marinas and other aquatic areas in the Long Island Sound vicinity in order to maintain conditions for safe navigation for the purposes of marine commerce and recreation.

B. Potentially Affected Entities

Entities potentially affected by this action are persons, organizations, or government bodies seeking to dispose of dredged material in waters of Long Island Sound, subject to the requirements of the MPRSA and/or the CWA and their implementing regulations. This final rule is expected to be primarily of relevance to: (a) Parties seeking permits from the USACE to transport more than 25,000 cubic yards of dredged material for the purpose of disposal into the waters of the central and western regions of Long Island Sound; (b) to the Corps itself for its own dredged material disposal projects; and (c) to other federal agencies seeking to dispose of dredged material in the central and western regions of Long Island Sound. Potentially affected categories and entities that may seek to use the dredged material disposal sites and would be subject to this final rule may include:

Category	Examples of potentially affected entities
Federal Government.	U.S. Army Corps of Engineers Civil Works Projects, and other federal agencies.
Industry and General Public.	Port authorities, harbors, shipyards, marine repair facilities, marinas, yacht clubs, and berth owners.
State, local and tribal governments.	Governments owning and/or responsible for ports, harbors, and/or berths, government agencies requiring disposal of dredged material associated with public works projects.

This table lists the types of entities that could potentially be affected by this final rule. EPA notes that nothing in this final rule alters the jurisdiction or authority of EPA or the types of entities regulated under the MPRSA and/or CWA. Questions regarding the applicability of this final rule to a particular entity should be directed to the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

C. Disposal Site Descriptions

The following site descriptions are based on information in section 3.4.3 of the FEIS and supporting documents.

1. Central Long Island Sound (CLIS)

The CLIS site has been used for the disposal of dredged material from central and western Long Island Sound since the early 1940s and possibly earlier. An actively used site, CLIS has received close to 14 million cubic yards since 1941. Predecessors to the CLIS site in the same general vicinity received dredged material since the late 1800s. Between 1982 and 2001, CLIS received approximately seven million cubic yards, with an average annual volume of 350,000 cubic yards.

In recent years, dredged material disposal at CLIS has been conducted pursuant to either the Corps' short-term site selection authority under section 103(b) of the MPRSA or, for small (25,000 cubic yards or less), non-federal dredging projects, the Corps' CWA section 404 permitting authority. Prior disposal activity dating back to 1941 and possibly earlier was conducted under other applicable federal and state legal requirements. The availability of CLIS for use by the USACE under its most recent short-term site selection expired on February 18, 2004. Under MPRSA section 103(b), the term of the Corps site selection may not be extended. Therefore, the CLIS site is currently available only for disposal from non-federal projects generating 25,000 cubic yards or less of dredged material that satisfy CWA section 404 requirements.

The CLIS disposal site is a 1.1 by 2.2 nautical mile (nmi) rectangular area, about 2.4 square nautical miles (nmi^2) in size. It is located 5.6 nmi south of South End Point near East Haven, Connecticut, and over 10 nmi north of Shoreham Beach, New York, in water depths ranging from 56 to 77 feet (17 to 23.5 meters). The site is entirely within Connecticut state waters, approximately 2.5 nmi north of the New York state border.

This final rule designates the CLIS site with boundaries slightly reconfigured from those of the current site. The northern boundary was extended 700 feet (213 meters) to the north, and the eastern boundary was extended 1,230 feet (375 meters) to the east, to encompass two historic disposal mounds, the FVP and CS2 mounds, that lie outside the current site boundaries. This reconfiguration will allow for management and monitoring of these two mounds. The coordinates (North

American Datum 1983: NAD 83) for the CLIS site are as follows:

41° 9.5′ N 72° 54.4′ W
41° 9.5′ N 72° 51.5′ W
41° 8.4′ N 72° 54.4′ W
41° 8.4′ N 72° 51.5′ W

The sediments at the site are predominantly clayey silt, with areas of mixed sand, clay, and silt. These sediments are typical of those found in central Long Island Sound, which is generally a fine-grained depositional environment. In addition to the ambient silts from this region, the site also contains deposits of material of mixed grain sizes dredged from harbors and navigation channels throughout the central and western Long Island Sound region.

2. Western Long Island Sound (WLIS)

The WLIS site has been used for dredged material disposal since 1982 when it was identified by the Corps in an EIS as the preferred alternative for a regional dredged material disposal site to serve the dredging needs of western Long Island Sound. Between 1982 and 2001, WLIS received 1.7 million cubic yards, with an average annual volume of 85,000 cubic yards. Prior to 1982, sites in the immediate vicinity of WLIS, including the Eaton's Neck, Stamford, and Norwalk historical disposal sites, served the dredging needs of the western Sound. In recent years, the WLIS site has been used pursuant to the Corps' short-term site selection authority under MPRSA section 103(b). Under that authority, the site could potentially be used for an additional five years starting with its next use for a project regulated under the MPRSA.

The WLIS disposal site is a 1.2 by 1.3 nmi rectangular area, about 1.56 nmi^2 in size. It is located 2.5 nmi south of Long Neck Point near Noroton, Connecticut, and two nmi north of Lloyd Point, New York, in water depths of 79 to 118 feet (24 to 36 meters). The site is entirely within Connecticut state waters, approximately 200 yards north of the New York state border.

This final rule designates the WLIS site with boundaries that have been slightly reconfigured from its existing location. The entire site has been shifted to the west by approximately 1,106 feet (337 meters) and to the north by 607 feet (185 meters). This shift will move the WLIS site out of a rapidly shoaling area in the southeast portion of the existing site. The coordinates (North American Datum 1983: NAD 83) for the reconfigured WLIS site are as follows:

41° 00.1′ N 73° 29.8′ W
41° 00.1′ N 73° 28.1′ W
40° 58.9′ N 73° 29.8′ W
40° 58.9′ N 73° 28.1′ W

The sediments at the site are heterogeneous, with clayey silt in the northeast corner and a mixture of sand-silt-clay in the center and southeast corner. These sediments are typical of those found in the western basin of Long Island Sound, which is generally a fine-grained depositional environment. In addition to the ambient silts from this region, the site also contains deposits of material of mixed grain sizes dredged from harbors and navigation channels throughout the western Long Island Sound region.

D. Statutory and Regulatory Authorities

The dredged material disposal site designation process has been conducted consistent with the requirements of the Marine Protection, Research, and Sanctuaries Act (MPRSA), the Clean Water Act (CWA), the National Environmental Policy Act (NEPA), the Coastal Zone Management Act (CZMA), the Endangered Species Act (ESA), the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), and any other applicable legal requirements.

1. Marine Protection, Research, and Sanctuaries Act (MPRSA); Clean Water Act (CWA)

The primary statutes governing the aquatic disposal of dredged material in the United States are the MPRSA, 33 U.S.C. 1401, *et seq.*, and the CWA, 33 U.S.C. 1251, *et seq.* The waters of Long Island Sound are landward of the baseline from which the territorial sea of the United States is measured. As with other waters lying landward of the baseline, all dredged material disposal activities in Long Island Sound, whether from federal or non-federal projects of any size, are subject to the requirements of section 404 of the CWA, 33 U.S.C. 1344. The MPRSA generally only applies to dredged material disposal in waters seaward of the baseline and would not apply to Long Island Sound but for the 1980 amendment that added section 106(f) to the statute, 33 U.S.C. 1416(f). This provision—commonly referred to as the "Ambro Amendment" after former New York Congressman Jerome Ambro—requires that the disposal of dredged material in Long Island Sound from federal projects (projects carried out under the USACE civil works program or by other federal agencies) and non-federal projects involving more than 25,000 cubic yards of material, must be carried out to comply with the requirements of both CWA section 404 and the MPRSA. This applies to both the authorization of specific disposal sites and the assessment of the suitability of specific dredged material for disposal. Disposal from non-federal projects involving 25,000 cubic yards or less of dredged material, however, is subject only to CWA section 404.

Section 102(c) of the MPRSA, as amended, 33 U.S.C. 1412(c), *et seq.*, gives the Administrator of EPA authority to designate sites where ocean disposal of dredged material, among other things, may be permitted. *See also* 33 U.S.C. 1413(b) and 40 CFR 228.4(e). The statute places no specific time limit on the term for use of an EPA-designated disposal site. Thus, an EPA site designation can be for an indefinite term, and are generally thought of as long-term designations, but EPA may place restrictions or limits on the use of the site based on the site's capacity to receive dredged material or other environmental concerns. *See* 33 U.S.C. 1412(c). On October 1, 1986, the Administrator delegated authority to designate dredged material disposal sites to the Regional Administrator of the EPA Region in which the sites are located. The CLIS and WLIS sites are located in Connecticut waters in Long Island Sound and, therefore, are subject to the site designation authority of the Regional Administrator of the EPA New England Regional Office.

Section 103(b) of the MPRSA, 33 U.S.C. 1413(b), provides that any ocean disposal of dredged material should occur at EPA-designated sites when feasible. In the absence of an available EPA-designated site, however, the Corps is authorized to "select" appropriate disposal sites. In 1992, Congress amended MPRSA section 103(b) to place maximum time limits on the use of Corps-selected disposal sites. Specifically, the statute restricted the use of such sites to two separate five-year terms. Thus, open-water disposal in Long Island Sound of dredged material from projects subject to MPRSA requirements under section 106(f) of the statute (*i.e.*, federal projects or private projects involving more than 25,000 cubic yards of material) has been conducted at sites used pursuant to the Corps' site selection authority. The CLIS disposal site can no longer be used under this authority, however, because the second five-year term for the site under the Corps' most recent site selection expired on February 18, 2004. (The site can still be used if approved under CWA section 404 for non-federal projects involving less than 25,000 cubic yards of dredged material.) Meanwhile, the first five-year Corps site selection for the WLIS site has expired and use of the site under a Corps site

selection will be limited to five years from the date of the next such selection.

The Ocean Dumping Regulations prescribe general and specific criteria at 40 CFR 228.5 and 228.6, respectively, to guide the selection of disposal sites for final designation. EPA regulations at 40 CFR 228.4(e)(1) provide, among other things, that EPA will designate any disposal sites by promulgation in 40 CFR part 228. Ocean dumping sites designated on a final basis are promulgated at 40 CFR 228.15. Section 102(c) of the MPRSA and 40 CFR 228.3 also establish requirements for EPA's ongoing management and monitoring, in conjunction with the USACE, of the disposal sites designated by EPA to ensure that unacceptable, adverse environmental impacts do not occur. Examples of such management and monitoring include the following: regulating the times, rates, and methods of disposal, as well as the quantities and types of material that may be disposed; conducting pre- and post-disposal monitoring of sites; conducting disposal site evaluation and designation studies; and recommending modification of site use and/or designation conditions and restrictions. *See also* 40 CFR 228.7, 228.8, 228.9.

Finally, a disposal site designation by EPA does not actually authorize any dredged material to be disposed of at that site. It only makes use of that site available as a possible management option if various other conditions are met first. Authorization to use the site for dredged material disposal must be provided by the Corps under MPRSA section 103(b), subject to EPA review, and such disposal at the site can only be authorized if: (1) It is determined that there is a need for open-water disposal for that project (*i.e.*, that there are no practicable alternatives to such disposal that would cause less harm to the environment); and (2) the dredged material satisfies the applicable environmental impact criteria specified in EPA's regulations at 40 CFR part 227. Furthermore, the authorization for disposal is also subject to review for compliance with other applicable legal requirements, including the ESA, the MSFCMA, the CWA (including any applicable state water quality standards), NEPA, and the CZMA.

EPA's evaluation of CLIS and WLIS pursuant to the applicable site evaluation criteria, and its compliance with site management and monitoring requirements, are described below in the Compliance with Statutory and Regulatory Requirements section.

2. National Environmental Policy Act (NEPA)

NEPA, 42 U.S.C. 4321, *et seq.*, requires the public analysis of the potential environmental effects of proposed federal agency actions and reasonable alternative courses of action to ensure that these effects, and the differences in effects among the different alternatives, are understood in order to ensure high quality, informed decision-making and to facilitate avoiding or minimizing any adverse effects of proposed actions, and to help restore and enhance environmental quality. *See* 40 CFR 6.100(a) and 1500.1(c) and 1500.2(d)–(f). NEPA requires substantial public involvement throughout the decision-making process. *See* 40 CFR 6.400(a) and 40 CFR part 1503 and 1501.7, 1506.6.

Section 102(c) of NEPA, 42 U.S.C. 4321, *et seq.*, requires federal agencies to prepare an EIS for major federal actions significantly affecting the quality of the human environment. An EIS should assess: (1) The environmental impact of the proposed action; (2) any adverse environmental effects that cannot be avoided should the proposal be implemented; (3) alternatives to the proposed action; (4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and (5) any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. The required content of an EIS is further described in regulations promulgated by the President's Council on Environmental Quality (CEQ). *See* 40 CFR part 1502.

EPA disposal site designation evaluations conducted by EPA under the MPRSA have been determined to be "functionally equivalent" to NEPA reviews, so that they are not subject to NEPA analysis requirements as a matter of law. Nevertheless, as a matter of policy, EPA voluntarily uses NEPA procedures when evaluating the potential designation of ocean dumping sites. *See* 63 FR 58045 (Notice of Policy and Procedures for Voluntary Preparation of National Environmental Policy Act Documents, October 29, 1998). While EPA voluntarily uses NEPA review procedures in conducting MPRSA disposal site designation evaluations, EPA also has explained that "[t]he voluntary preparation of these documents in no way legally subjects the Agency to NEPA's requirements" (63 FR 58046).

In this case, EPA prepared an EIS to evaluate the possibility of designating open-water disposal sites in the central and western regions of Long Island Sound. As part of the NEPA EIS process, federal agencies prepare a public record of decision (ROD) at the time of their decision on any action for which an FEIS has been prepared. In this case, this final rule will serve as EPA's ROD for the site designations. *See* 40 CFR 1505.2 and 1506.4 (the ROD may be integrated into any other agency document prepared in carrying out its action). EPA's use of NEPA procedures to evaluate this action is further described in the following section, Compliance with Statutory and Regulatory Requirements.

3. Coastal Zone Management Act (CZMA)

The CZMA, 16 U.S.C. 1451, *et seq.*, authorizes states to establish coastal zone management programs to develop and enforce policies to protect their coastal resources and promote uses of those resources that are desired by the state. Sections 307(c)(1)(A) and (C) of the CZMA require federal agencies to provide relevant states with a determination that each federal agency activity, whether taking place within or outside the coastal zone, that affects any land or water use or natural resource of the state's coastal zone, will be carried out in a manner consistent to the maximum extent practicable with the enforceable policies of the state's approved coastal zone management program. EPA's compliance with the CZMA is described in the following section, Compliance with Statutory and Regulatory Requirements.

4. Endangered Species Act (ESA)

Under section 7(a)(2) of the Endangered Species Act, 16 U.S.C. 1536(a)(2), federal agencies are required to ensure that their actions are "not likely to jeopardize the continued existence of any endangered species or result in the destruction or adverse modification of habitat of such species which is determined * * * to be critical * * *." Depending on the species involved, a federal agency is required to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) if the agency's action "may affect" an endangered or threatened species or its critical habitat (50 CFR 402.14(a)). EPA's compliance with the ESA is described in the following section, Compliance with Statutory and Regulatory Requirements.

5. Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA)

The 1996 Sustainable Fisheries Act amendments to the MSFCMA, 16 U.S.C. 1801, *et seq.*, require the designation of essential fish habitat (EFH) for federally managed species of fish and shellfish. Pursuant to section 305(b)(2) of the MSFCMA, federal agencies are required to consult with the NMFS regarding any action they authorize, fund, or undertake that may adversely affect EFH. An adverse effect has been defined by the Act as, "[a]ny impact which reduces the quality and/or quantity of EFH [and] may include direct (*e.g.*, contamination or physical disruption), indirect (*e.g.*, loss of prey, reduction in species' fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions" (50 CFR 600.810(a)). EPA's compliance with the MSFCMA is described in the following section, Compliance with Statutory and Regulatory Requirements.

E. Compliance With Statutory and Regulatory Requirements

1. Marine Protection, Research, and Sanctuaries Act (MPRSA)

EPA undertook its evaluation of whether to designate any dredged material disposal sites in the central and western portions of Long Island Sound pursuant to its authority under MPRSA section 102(c) in response to several factors. These factors include the following:

- The prohibition on further use of the CLIS disposal site pursuant to the Corps' site selection authority under MPRSA section 103(b);
- The five-year cap on any future use of the WLIS disposal site pursuant to the Corps' site selection authority under MPRSA section 103(b);
- The understanding that in the absence of an EPA-designated disposal site or sites, any necessary open-water disposal would either be stymied or the USACE would have to undertake additional short-term site selections, perhaps many of them, in the future;
- The clear Congressional preference expressed in MPRSA section 103(b) that any open-water disposal of dredged material take place at EPA-designated sites, if feasible; and
- EPA's policy view that it is generally environmentally preferable to concentrate any open-water disposal at sites that have been used historically and at fewer sites, *see* 40 CFR 228.5(e).

EPA's evaluation considered whether there was a need for any disposal site designations for long-term dredged material disposal, including an assessment of whether other dredged material management methods could reasonably be judged to obviate the need for such designations. Having concluded that there was a need for open-water disposal sites, EPA then assessed whether there were sites that would satisfy the applicable environmental criteria to support a site designation under MPRSA section 102(c).

The MPRSA and EPA regulations promulgated thereunder impose a number of requirements related to the designation of dredged material disposal sites. These include procedural requirements, specification of criteria for use in site evaluations, and the requirement that a Site Management and Monitoring Plan (SMMP) must be developed for all designated sites. As discussed below, EPA complied with each of these requirements in designating the CLIS and WLIS disposal sites.

a. Procedural Requirements

MPRSA sections 102(c) and 103(b) indicate that EPA may designate ocean disposal sites, including for dredged material. EPA regulations at 40 CFR 228.4(e) specify that dredged material disposal sites will be "designated by EPA promulgation in this [40 CFR] part 228 * * *." EPA regulations at 40 CFR 228.6(b) direct that when an EIS is prepared under EPA policy in order to assess the proposed designation of one or more disposal sites, that EIS should include the results of an environmental evaluation of the proposed disposal site(s) and the Draft EIS (DEIS) should be presented to the public along with a proposed rule concerning the disposal site designations. According to 40 CFR 228.6(b), a Final EIS (FEIS) should be provided at the time of final rulemaking for the site designation.

EPA complied with all of these procedural requirements. The Agency prepared a thorough environmental evaluation of both the sites proposed for designation and other alternative sites and courses of action (other than designating open-water disposal sites). This evaluation was presented in a DEIS (and related documents) and a proposed rule for promulgation of the disposal sites. EPA published the proposed rule (68 FR 53687) and a notice of availability of the DEIS (68 FR 53730) for public review and comment in September 2003. In addition, EPA went beyond the requirements of 40 CFR 228.6(b) by publishing a FEIS for public review in April 2004, more than a year before issuance of this final rule, thus giving the public an additional opportunity to comment on the proposed site designations, and giving EPA further opportunity to consider public input, before the final rulemaking for the site designations. By this final rule, EPA is now completing the designation of these disposal sites by promulgation in 40 CFR part 228.

Finally, MPRSA sections 102(c)(3) and (4) dictate that EPA must, in conjunction with the USACE, develop a site management plan for each dredged material disposal site it proposes to designate. MPRSA section 102(c)(3) also states that in the course of developing such management plans, EPA and the Corps must provide an opportunity for public comment. EPA and the Corps also met this obligation by publishing for public review and comment Draft SMMPs for both the CLIS and WLIS sites. The Draft SMMPs were published together with the Draft EIS (as Appendices J–1 and J–2, respectively) and the proposed rule in September 2003. After considering public comments regarding the SMMPs, EPA and the Corps published the Final SMMPs for the two disposal sites in April 2004 as Appendices J–1 and J–2 of the FEIS.

b. Disposal Site Selection Criteria

EPA regulations under the MPRSA identify five general criteria and 11 specific criteria for use in evaluating locations for the potential designation of dredged material disposal sites. *See* 40 CFR 228.4(e), 228.5 and 228.6. The evaluation of the CLIS and WLIS disposal sites with respect to the five general and 11 specific criteria is discussed in detail in the FEIS and supporting documents and is summarized below.

General Criteria (40 CFR 228.5)

As described in the FEIS, and summarized below, EPA has determined that the CLIS and WLIS disposal sites satisfy the five general criteria specified in 40 CFR 228.5. This is discussed in Chapter 5 and summarized in Table 5–13, "Summary of Impacts at the Alternative Sites," of the FEIS.

1. Sites must be selected to minimize interference with other activities in the marine environment, particularly avoiding areas of existing fisheries or shellfisheries, and regions of heavy commercial or recreational navigation (40 CFR 228.5(a)).

EPA's evaluation demonstrated that both the CLIS and WLIS disposal sites would cause minimal interference with the aquatic activities identified in the criterion. The sites were selected because they are not located in shipping

lanes or other major navigation areas and are expected to cause minimal interference with fisheries, shellfisheries, and regions of commercial or recreational navigation. EPA used Geographic Information System (GIS) software to overlay the locations of various uses and natural resources of the marine environment on the disposal site locations and surrounding areas (including their bathymetry). Analysis of this data indicated that use of each site would have minimal potential for interfering with other existing or ongoing uses of the marine environment in and around the site locations, including lobstering or fishing activities. Furthermore, the locations of the two sites should minimize any interference with navigation since they lie outside areas of heavy commercial or recreational navigation. In addition, both the CLIS and WLIS sites have been used for dredged material disposal for many years and their use has not significantly interfered with the uses identified in the criterion, and mariners in the area are accustomed to use of the sites. Finally, time-of-year restrictions (also known as "environmental windows") imposed in order to protect fishery resources will typically limit dredged material disposal activities to the months of October through April, thus further minimizing any possibility of interference with the various activities specified in the criterion.

2. Sites must be situated such that temporary perturbations to water quality or other environmental conditions during initial mixing caused by disposal operations would be reduced to normal ambient levels or to undetectable contaminant concentrations or effects before reaching any beach, shoreline, marine sanctuary, or known geographically limited fishery or shellfishery (40 CFR 228.5(b)).

EPA's analysis concluded that both the CLIS and WLIS sites satisfy this criterion. First, both sites are significant distances from any beach, shoreline, marine sanctuary (in fact, there are no federally-designated marine sanctuaries designated in Long Island Sound), or known geographically limited fishery or shellfishery. Second, the sites will be used only for the disposal of dredged material determined to be suitable for open-water disposal by application of the MPRSA ocean dumping criteria. *See* 40 CFR part 227. These criteria include provisions related to water quality and accounting for initial mixing. *See* 40 CFR 227.4, 227.5(d), 227.6(b) and (c), 227.13(c), 227.27, and 227.29. Data evaluated during development of the EIS, including data from monitoring conducted during and after past disposal activities, indicates that any temporary perturbations in water quality or other environmental conditions at the site during initial mixing from disposal operations will be limited to the immediate area of the site and will neither cause any significant environmental degradation nor reach any beach, shoreline, marine sanctuary, or other important natural resource area.

3. If site designation studies show that any interim disposal sites do not meet the site selection criteria, use of such sites shall be terminated as soon as an alternate site can be designated (40 CFR 228.5(c)).

There are no interim sites in central and western Long Island Sound as defined under the Ocean Dumping Regulations (40 CFR 228.14). Neither the CLIS nor WLIS sites have ever been subject to an interim site designation by EPA. Therefore, this criterion is not applicable to the present disposal site designations. While the CLIS site has been used for dredged material disposal for many decades, it has never been an interim designated site. Prior to the 1980 Ambro Amendment, the MPRSA did not apply to Long Island Sound, and disposal was regulated under the Clean Water Act and/or other applicable authorities. Since the Ambro Amendment, both the CLIS and WLIS disposal sites have been used pursuant to the Corps' site selection authority under MPRSA section 103(b) for federal projects and large private projects (*i.e.*, those involving more than 25,000 cubic yards of material). Both sites also have been used for smaller private projects under CWA section 404 authority. Furthermore, EPA's evaluation concludes that both the CLIS and WLIS sites satisfy the applicable site selection criteria. Therefore, even if this criterion applied, the CLIS and WLIS sites would satisfy it.

4. The sizes of disposal sites will be limited in order to localize for identification and control any immediate adverse impacts, and to permit the implementation of effective monitoring and surveillance to prevent adverse long-range impacts. Size, configuration, and location are to be determined as part of the disposal site evaluation (40 CFR 228.5(d)).

EPA has determined, based on the information presented in the FEIS, that the CLIS and WLIS sites are limited in size to localize for identification and control any immediate adverse impacts, and to permit the implementation of effective monitoring and surveillance to prevent adverse long-range impacts. The combined size of the two sites is approximately 3.96 nmi^2, which is just half of one-percent of the 675 square miles that comprise the entire central and western Long Island Sound regions that comprised the study area for the EIS. As discussed in the FEIS, both sites are located in depositional areas, meaning the material placed in them will tend to stay there. As a result, any short-term impacts will be localized and this, together with other regulatory requirements (*e.g.*, application of sediment testing and MPRSA criteria), will facilitate control of any such impacts. The information presented in the FEIS indicates that historical disposal at these sites over many years has neither resulted in significant long-term adverse environmental effects nor had any significant effect outside the sites themselves.

Furthermore, due to their past use for dredged material disposal, these sites have been monitored for many years under the Corps' Disposal Area Monitoring System (DAMOS). Thus, experience indicates that the site configurations will enable effective short-term and long-term monitoring. In addition, as described above in the Disposal Site Descriptions section, the existing site boundaries of the CLIS site have been reconfigured to include two historical disposal mounds outside of the existing boundary so that they could be managed and monitored along with the rest of the site. As previously described, the WLIS site also has been reconfigured from its historical boundaries by shifting the entire site to the northwest to exclude a rapidly shoaling area within those prior site boundaries. Thus, EPA developed the site configurations in conjunction with, and in response to, the substance of the site evaluations. The sites are identified by specific coordinates spelled out in the regulations promulgated by this rulemaking, and the use of precision navigation equipment in both dredged material disposal operations and monitoring efforts will enable accurate disposal operations and contribute to effective management and monitoring of the sites. Detailed plans for the management and monitoring of the two sites are described in the SMMPs (Appendix J of the FEIS).

5. EPA will, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and other such sites where historical disposal has occurred (40 CFR 228.5(e)).

EPA evaluated sites beyond the edge of the continental shelf as well as historical disposal sites in Long Island Sound as part of the alternatives analysis conducted for the EIS. This evaluation determined that the long distances and travel times between the

dredging locations in central and western Long Island Sound and the continental shelf (*e.g.*, 140 miles from Mamaroneck Harbor in Westchester County, NY) posed significant environmental, operational, safety, and financial concerns, rendering such options unreasonable. Environmental concerns include increased risk of encountering endangered species during transit, increased fuel consumption and air emissions, and greater potential for accidents in transit that could lead to dredged material being spilled in unintended areas. As described in the Disposal Site Descriptions section, the CLIS and WLIS disposal sites both encompass the footprint of historically used sites. Long-term monitoring of these sites has shown minimal adverse impacts to the adjacent marine environment and rapid recovery of the benthic community in the disposal mounds. While there are also other historically used disposal sites in the Sound, the analysis in the FEIS concluded that the CLIS and WLIS sites were the preferable locations. Thus, the designation of the CLIS and WLIS disposal sites is consistent with this criterion.

Specific Criteria (40 CFR 228.6)

In addition to the five general criteria discussed above, 40 CFR 228.6(a) lists eleven specific factors to be used in evaluating the impact of the use of the site(s) for disposal under the MPRSA. Compliance with the criteria is described in detail in Chapter 5 and summarized in Table 5–13, "Summary of Impacts at the Alternative Sites," of the FEIS, and is summarized below.

1. Geographical Position, Depth of Water, Bottom Topography and Distance From Coast (40 CFR 228.6(a)(1))

Based on analyses described in the FEIS, EPA has concluded that the geographical position (*i.e.*, location), water depth, bottom topography (*i.e.*, bathymetry), and distance from coastlines of the two sites will facilitate containment of dredged material within site boundaries, and reduce the likelihood of material being transported to the adjacent sea floor or any areas of special environmental concern. As described in the preceding Disposal Sites Description section and above regarding compliance with general criteria 3 and 4 (40 CFR 2285(c) and (d)), both sites are located far enough from shore, are deep enough, and have appropriate bathymetry to prevent adverse effects to the marine environment and coastlines. The CLIS site is located 5.6 nmi south of South End Point near East Haven, Connecticut, and more than ten nmi north of Shoreham Beach, New York, in water depths ranging from 56 to 77 feet (17 to 23.5 meters). The WLIS site is located 2.5 nmi south of Long Neck Point near Noroton, Connecticut, and two nmi north of Lloyd Point, New York, in water depths of 79 to 118 feet (24 to 36 meters). As discussed in the FEIS, long-term monitoring of disposal sites in Long Island Sound found that creating mounds above a depth of 46 feet (14 meters) can result in material being removed from the mounds by currents (FEIS, p. 3–17). Both sites are of a sufficient depth to allow the disposal of the amount of material that is projected over the 20-year planning horizon without exceeding this depth threshold. As was also discussed in the FEIS, both sites are located in depositional areas, meaning the material placed in them will tend to stay there. As a result, any short-term impacts will be localized and this, together with other regulatory requirements described elsewhere in this document, will facilitate control of any such impacts.

2. Location in Relation To Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases (40 CFR 228.6(a)(2))

EPA considered the proposed CLIS and WLIS disposal sites in relation to breeding, spawning, nursery, feeding, or passage areas for adult and juvenile phases (*i.e.*, life stages) of living resources in Long Island Sound. From this analysis, EPA concluded that, while disposal of suitable dredged material at the CLIS and WLIS sites would cause some short-term, localized adverse effects, overall it would not cause unacceptable or unreasonable adverse effects to the habitat functions and living resources specified in the above criterion. The combined size of the two sites is approximately 3.96 nmi2, which is just half of one-percent of the 675 square miles that comprise the entire central and western Long Island Sound regions that comprised the study area for the EIS.

Generally, there are three primary ways that dredged material disposal can adversely affect marine resources. First, disposal can cause physical impacts by injuring or burying less mobile fish, shellfish, and benthic organisms, as well as their eggs and larvae. Second, tug and barge traffic transporting the dredged material to a disposal site may collide or otherwise interfere with marine mammals and reptiles. Third, contaminants in the dredged material may bioaccumulate through the food chain. However, EPA and the other federal and state agencies involved with regulating dredging and dredged material disposal have adopted management techniques that greatly reduce the potential for these impacts to occur.

One such technique is the use of environmental windows, or time-of-year restrictions, for both dredging and dredged material disposal. This type of restriction has been a standard practice for more than a decade in Long Island Sound, and New England generally, and is incorporated in Corps permits or authorizations in response to consultation with federal and state natural resource agencies (*e.g.*, NMFS). Dredged material disposal in Long Island Sound is generally limited to the period between October 1 and April 30, but dredging windows are often shorter depending on the location of specific dredging projects in relation to certain fish and shellfish species. For example, dredging in nearshore areas where winter flounder spawning occurs is generally prohibited between February 1–April 1, dredging that may interfere with anadromous fish runs is generally prohibited between April 1–May 15, and dredging that may adversely affect shellfish is prohibited between June 1–September 30. These dredging windows, in effect, serve to further restrict periods during which dredged material would be disposed.

Another benefit of using environmental windows is that they reduce the likelihood of dredged material disposal activities interfering with marine mammals and reptiles. While there are several species, such as harbor porpoises, long-finned pilot whales, seals, and sea turtles, that either inhabit or migrate through Long Island Sound, most of them either leave the Sound during the winter months for warmer waters to the south or are less active and remain near the shore. There also are many other mobile species of fish (*e.g.*, striped bass, bluefish, scup) and invertebrates (*e.g.*, squid) that leave the Sound during the winter for either deeper water or warmer waters to the south, thus avoiding the time of year when most dredging and dredged material disposal occurs. The use of environmental windows has been refined over time and is now considered an effective management tool to minimize impacts to marine resources.

There will be some localized impacts to fish, shellfish, and benthic organisms, such as clams and worms, that are present at a disposal site (or in the water column directly above the site) during a disposal event. The sediment plume may entrain and smother some fish in the water column, and may bury some fish, shellfish, and other marine

organisms on the sea floor. There usually is a short-term loss of forage habitat in the immediate disposal area, but the DAMOS program has documented the recolonization of disposal mounds by benthic infauna within 1–3 years after disposal.

To further reduce potential environmental impacts associated with dredged material disposal, the dredged material from each proposed dredging project will be subjected to the MPRSA sediment testing requirements set forth at 40 CFR part 227 to determine its suitability for open-water disposal. Suitability for open-water disposal is determined by testing the proposed dredged material for toxicity and bioaccumulation and by quantifying the risk to human health from consuming marine organisms that are exposed to dredged material and its associated contaminants using a risk assessment model. If it is determined that the sediment is unsuitable for open-water disposal—that is it may unreasonably degrade or endanger human health or the marine environment—it cannot be disposed at disposal sites designated under the MPRSA. *See* 40 CFR 227.6.

EPA complied with the ESA by consulting with and receiving concurrence from the NMFS and USFWS that the designation of WLIS and CLIS was not likely to adversely affect federally listed species under its jurisdiction. Additionally, EPA consulted with NMFS under the MSFCMA on potential impacts to essential fish habitat (EFH). NMFS determined that the use of environmental windows and the stringent testing requirements were sufficient steps to minimize impacts to EFH and did not offer any additional conservation recommendations. Further details on these consultations are provided in the FEIS and the section below describing compliance with the ESA and MSFCMA.

EPA recognizes that dredged material disposal causes some short-term, localized adverse effects to marine organisms in the immediate vicinity of each disposal event. But because disposal is restricted to two small sites (see above regarding compliance with general criteria 5 (40 CFR 2285(e)) and to only several months of the year, EPA concludes that designating WLIS and CLIS will not cause unacceptable or unreasonable adverse impacts to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases.

3. Location in Relation to Beaches and Other Amenity Areas (40 CFR 228.6(a)(3))

EPA's analysis concluded that both the CLIS and WLIS sites satisfy this criterion. Both sites are far enough away from beaches, parks, wildlife refuges, and other areas of special concern to prevent adverse impacts to these amenities and, as previously noted, there are no marine sanctuaries in Long Island Sound. As previously described, the CLIS and WLIS disposal sites are 5.6 nmi and two nmi from the nearest shore, respectively. Therefore, the closest beaches, parks, wildlife refuges, or other areas of special concern are at least two nmi from either of the two disposal sites. Based on modeling results that are presented in section 5.5.3 of the FEIS, and past monitoring of actual disposal activities, this distance is beyond any expected transport of dredged material due to tidal motion or currents. As noted above, any temporary perturbations in water quality or other environmental conditions at the site during initial mixing from disposal operations will be limited to the immediate area of the site and will not reach any beach, parks, wildlife refuges, or other areas of special concern.

Thus, EPA does not anticipate that the continued use of the CLIS and WLIS disposal sites will cause any adverse impacts to beaches or other amenity areas.

4. Types and Quantities of Wastes Proposed To Be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, if Any (40 CFR 228.6(a)(4))

The typical composition of dredged material to be disposed at the sites is expected to range from predominantly "clay-silt" to "mostly sand." This expectation is based on data from historical dredging projects from the central and western regions of Long Island Sound. For federal dredging projects and private projects generating more 25,000 cubic yards of dredged material, EPA and the USACE will conduct suitability determinations following applicable criteria for testing and evaluating dredged material under 40 CFR part 227 and further guidance in the "Regional Implementation Manual for the Evaluation of Dredged Material Proposed for Disposal in New England Waters' (EPA, 2004), before authorizing disposal under the MPRSA. Private dredging projects generating up to 25,000 cubic yards will continue to be regulated under CWA section 404. The requirements under the MPRSA and the CWA are discussed in detail in the EIS. The CLIS and WLIS sites would receive dredged material that is transported by either government or private contractor hopper dredges or oceangoing bottom-dump barges towed by tugboat. Both types of equipment release the material at or very near the surface, which is the standard operating procedure for this activity. The disposal of this material will occur at specific coordinates marked by buoys and will be placed so as to concentrate material from each disposal project. This concentrated placement is expected to help minimize bottom impacts to benthic organisms. In addition, there are no plans to pack or package dredged material prior to disposal.

Furthermore, it should be emphasized that the CLIS and WLIS sites are only being designated for the disposal of dredged material; disposal of other types of material will not be allowed at these sites. It also should be noted that the disposal of certain other types of material is expressly prohibited by the MPRSA and EPA regulations (*e.g.*, industrial waste, sewage sludge, chemical warfare agents, inadequately characterized materials) (33 U.S.C. 1414b; 40 CFR 227.5). For all of these reasons, no significant adverse impacts are expected to be associated with the types and quantities of dredged material that may be disposed at the sites.

5. Feasibility of Surveillance and Monitoring (40 CFR 228.6(a)(5))

Monitoring and surveillance are expected to be feasible at both sites. Both sites are readily accessible for bathymetric and side-scan sonar surveys and have been successfully monitored by the Corps over the past 20 years under the DAMOS program. Upon designation of the sites, monitoring will continue under the DAMOS program in accordance with the most current approved Site Management and Monitoring Plan (SMMP) for each site. A Draft SMMP for each site was issued for public comment in conjunction with the DEIS and was incorporated as Appendix J to the DEIS, while Final SMMPs were then completed and incorporated as Appendix J to the FEIS. The SMMPs may be subject to periodic revisions based on the results of site monitoring and other new information. Any such revisions will be closely coordinated with other federal and state resource management agencies and other stakeholders during the review and approval process, and will become final only when approved by EPA in conjunction with the USACE. *See* 33 U.S.C. 1413 (c)(3).

6. Dispersal, Horizontal Transport and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if Any (40 CFR 228.6(a)(6))

Although the interactions of bathymetry, wind-generated waves, and river and ocean currents in Long Island Sound are complex, the CLIS and WLIS sites are located in areas that are generally calm except during storms, when dredging and dredged material disposal would not be occurring anyway. Past monitoring of disposal activity at these two sites has revealed minimal drift of sediment out of the disposal site as it passed through the water column, and disposal site monitoring has confirmed that peak wave-induced bottom current velocities are not sufficient to cause significant erosion of dredged material placed at either of the two sites. Monitoring has indicated that the CLIS and WLIS sites are depositional locations that collect, rather than disperse, sediment. For these reasons, EPA has determined that the dispersal, horizontal transport, and vertical mixing characteristics, as well as the current velocities and directions at the CLIS and WLIS sites are appropriate to support their designation as dredged material disposal sites.

7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) (40 CFR 228.6(a)(7))

As previously described in the Disposal Sites Descriptions section, the CLIS site has received close to 14 million cubic yards of dredged material since 1941, and predecessors to the CLIS site in the same general vicinity received dredged material since the late 1800s (with no reliable records of volumes disposed). The WLIS site has been used for dredged material disposal since 1982, receiving 1.7 million cubic yards since then. Prior to 1982, sites in the immediate vicinity of WLIS, including the Eaton's Neck, Stamford, and Norwalk historical disposal sites, served the dredging needs of the western Sound.

Until the passage of the CWA in 1972, dredged material disposal was not a heavily regulated activity. Since 1972, open-water disposal in Long Island Sound has been subject to the sediment testing and alternatives analysis provisions of section 404 of the CWA. With passage of the first Ambro Amendment in 1980, dredged material disposal from all federal projects and non-federal projects generating more than 25,000 cubic yards of material became subject to the requirements of both CWA section 404 and the MPRSA. The result of these increasingly stringent regulatory requirements for dredged material disposal is that there has been a steady, measurable improvement in the quality of material that has been placed at the CLIS and WLIS disposal site over the past 33 years.

The CLIS and WLIS disposal sites have both been used on a consistent basis since the early 1980s pursuant to the Corps' short-term site selection authority under section 103(b) of the MPRSA (33 U.S.C. 1413(b)). Since then, disposal operations at these sites have been carefully managed and the material disposed there has been monitored. Past use of these sites generally makes them preferable to more pristine sites that have either not been used or have been used in the more distant past. *See* 40 CFR 228.5(e). Beyond this, however, EPA's evaluation of data and modeling results indicates that these past disposal operations have not resulted in unacceptable or unreasonable environmental degradation, and that there should be no such adverse effects in the future from the projected use of the CLIS and WLIS disposal sites. As part of this conclusion, discussed in detail in the FEIS, EPA found that there should be no significant adverse cumulative environmental effects from continuing to use these sites on a long-term basis for dredged material disposal in compliance with all applicable regulatory requirements regarding sediment quality and site usage.

8. Interference With Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance and Other Legitimate Uses of the Ocean (40 CFR 228.6(a)(8))

In evaluating whether disposal activity at the sites could interfere with shipping, fishing, recreation, mineral extraction, desalination, fish or shellfish culture, areas of scientific importance and other legitimate uses of the ocean, EPA considered both the effects of placing dredged material on the bottom of the Sound at the CLIS and WLIS sites and any effects from vessel traffic associated with transporting the dredged material to the disposal sites. From this evaluation, EPA concluded there would be no unacceptable or unreasonable adverse effects on the considerations noted in this criterion. Some of the factors listed in this criterion have already been discussed above due to its overlap with aspects of certain other criteria. Nevertheless, EPA will address each point below.

The disposal sites are not located in shipping lanes, and the vessel traffic generated by disposal activity is expected to be similar to that which has occurred over the past 20 years without interfering with other shipping activity. Moreover, research by EPA and the USACE concluded that after disposal at the sites, resulting water depths will be sufficient to permit navigation in the area without interference. (And by providing an open-water disposal alternative for use in the absence of environmentally preferable practicable alternatives, the sites are likely to facilitate navigation in many of the harbors, bays, rivers and channels around the Sound.) A U.S. Coast Guard (USCG) lightering area currently overlaps the northeast corner of the CLIS site, which could have resulted in anchors disturbing disposal mounds and causing sediment resuspension, but the USCG has agreed to shift the designated lightering area boundary to ensure that existing mounds and future disposed dredged material will not be disturbed. This shift is also not expected to have any adverse effect on local navigation. Moreover, as discussed above, dredged material disposal at the site will only occur in a limited number of months during each year to due to environmental windows that restrict when dredging and related disposal may occur.

EPA carefully evaluated the potential effects on commercial and recreational fishing for both finfish and shellfish (including lobster) of designating the CLIS and WLIS sites for dredged material disposal and concluded that there would be no unreasonable or unacceptable adverse effects. As discussed above in relation to other site evaluation criteria, dredged material disposal will only have incidental, insignificant effects on organisms in the disposal sites and no appreciable effects beyond the sites. Indeed, since past dredged material disposal has been determined to have no significant adverse effects on fishing, the similar projected levels of future disposal activities at the designated sites also are not expected to have any significant adverse effects. The following are the four main reasons why EPA came to the conclusion of no unacceptable adverse effects.

First, as discussed above, EPA has concluded that any contaminants in material permitted for disposal—having satisfied the dredged material criteria in the regulations that restrict any toxicity and bioaccumulation—will not cause any significant adverse effects on fish, shellfish, or other aquatic organisms. Furthermore, because both the CLIS and

WLIS sites are depositional, dredged material disposed at the sites is expected to remain there. Second, as also discussed above, the disposal sites do not encompass any especially important, sensitive, or limited habitat for the Sound's fish and shellfish, such as key spawning or nursery habitat for species of finfish. Furthermore, while some commenters in the EIS process expressed the concern that dredged material disposal has caused or contributed to the recent "die-off" of lobster in the western region of the Sound, or recent increases in the incidence of shell disease in the eastern portion of the Sound, EPA explained in detail in the EIS and Responses to Comments why dredged material disposal is not regarded to have caused or contributed significantly to either problem.

Third, while EPA found that a small number of demersal fish (*e.g.*, winter flounder), shellfish (*e.g.*, clams and lobsters), benthic organisms (*e.g.*, worms), and zooplankton and phytoplankton could be lost due to the physical effects of disposal (*e.g.*, burial of organisms on the bottom by dredged material and entrainment of plankton in the water column by dredged material upon its release from a disposal barge), EPA also determined that these minor adverse effects would be neither unreasonable nor unacceptable. This determination was based on EPA's conclusion that the numbers of organisms potentially affected represent only a minuscule percentage of those in the central and western regions of the Sound, and the Corps' disposal site monitoring showing the rapid recovery of the benthic community in an area covered with dredged material. In addition, any physical effects will be limited by the relatively few months in which disposal is permitted by the "environmental window" restrictions.

Fourth, EPA has determined that vessel traffic associated with dredged material disposal will not have any unreasonable or unacceptable adverse effects on fishing. As explained above, environmental window restrictions will limit any disposal to the period between October 1 and April 30, and often fewer months depending on species-specific dredging windows for each dredging project, each year. Moreover, there is generally far less vessel traffic in the months when disposal would occur due to the seasonal nature of recreational and commercial boating.

There currently are no mineral extraction activities or desalinization facilities in the central and western Long Island Sound region with which disposal activity could potentially interfere. Energy transmission pipelines and cables are located near the sites, but none are within their boundaries. While at the time of this evaluation only three pipelines were in place, development of several new pipelines is anticipated in the future and will be prohibited from traversing the sites.

No fish farming currently takes place in Long Island Sound, and the only form of shellfish culture in the area, oyster production, occurs in nearshore locations far enough away from the two designated disposal sites that it should not be impacted in any manner by this action. Finally, neither site is in an area of special scientific importance; in fact, areas with such characteristics were screened out very early in the alternatives screening process.

Accordingly, depositing dredged material at the sites will not interfere with any of the activities described in this criterion or other legitimate uses of Long Island Sound.

9. The Existing Water Quality and Ecology of the Sites as Determined by Available Data or by Trend Assessment or Baseline Surveys (40 CFR 228.6(a)(9))

EPA's analysis of existing water quality and ecological conditions at the site in light of available data, trend assessments and baseline surveys indicates that use of the designated disposal sites will cause no unacceptable or unreasonable adverse environmental effects. Considerations related to water quality and various ecological factors (*e.g.*, sediment quality, benthic organisms, fish and shellfish) have already been discussed above in relation to other site selection criteria, and are discussed in detail in the FEIS and supporting documents. In considering this criterion, EPA took into account existing water quality and sediment quality data collected at the disposal sites, including from the Corps' DAMOS site monitoring program. Furthermore, EPA and the Corps have, following solicitation of public comments, prepared Final SMMPs for both the CLIS and WLIS sites to guide future monitoring of site conditions.

10. Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Sites (40 CFR 228.6(a)(10))

Monitoring at disposal sites in Long Island Sound over the past 20 years has shown no recruitment of nuisance species capable of harming human health or the marine ecosystem and no such adverse effects are expected to occur at the CLIS and WLIS sites in the future. EPA and the USACE will continue to monitor the sites under the SMMPs, which include a "management focus" on "changes in composition in numbers of pelagic, demersal, or benthic biota at or near the disposal sites" (see section 6.1.5 of the SMMPs, Appendix J of the FEIS).

11. Existence at or in Close Proximity to the Sites of Any Significant Natural or Cultural Feature of Historical Importance (40 CFR 228.6(a)(11))

Due to the location of the two sites in the waters of central and western Long Island Sound, the cultural resources that have the greatest potential for being impacted are shipwrecks. A review of the current NOAA and Warren C. Reiss Marine Shipwrecks databases revealed a total of 39 shipwrecks throughout the Sound, but none are located within the disposal site boundaries, a fact confirmed by the Connecticut State Historic Preservation Office. While none of the known shipwrecks of historic significance are located within the sites, the central and western regions of Long Island Sound are known to have at least 12 and four shipwrecks, respectively. It is possible that there are other as yet undiscovered shipwrecks in the area. As additional side-scan sonar surveys are conducted at the disposal sites in the future under the SMMPs, and if potential shipwrecks are identified, EPA will take appropriate action in cooperation with federal and state historic preservation officials in response to any significant cultural resources.

The Connecticut State Historic Preservation Office also determined that there are no known aboriginal artifacts at the CLIS and WLIS disposal sites. Two of the region's Indian tribes (the Eastern Pequot Indians of Connecticut and Narragansett Indian Tribe) participated as cooperating agencies during the development of the EIS, and neither of them identified any natural nor cultural features of historical significance at either site.

c. Disposal Site Management (40 CFR 228.3, 228.7, 228.8 and 228.9)

The CLIS and WLIS disposal sites will be subject to specific management requirements to ensure that unacceptable adverse environmental impacts do not occur. Examples of these requirements include: Restricting the use of the sites to the disposal of dredged material that has been determined to be suitable for ocean disposal following MPRSA and/or CWA requirements in accordance with the provisions of MPRSA section 106(f); monitoring the disposal sites and their associated reference sites, which are not used for dredged material disposal, to assess potential impacts to the marine

environment by providing a point of comparison to an area unaffected by dredged material disposal; and retaining the right to limit or close these sites to further disposal activity if monitoring or other information reveals evidence of unacceptable adverse impacts to the marine environment. In addition, although not technically a site management requirement, disposal activity at the sites will generally be limited to the period between October 1 and April 30, but often less depending on dredging windows to protect certain species, as described above. EPA and the Corps have managed and monitored dredged material disposal activities at the CLIS and WLIS sites since the early 1980s. Site monitoring has been conducted under the Corps' DAMOS disposal site monitoring program.

In accordance with the requirements of MPRSA section 102(c) and 40 CFR 228.3, EPA and the Corps developed Site Management and Monitoring Plans (SMMPs) for both the CLIS and WLIS sites. Draft SMMPs for both sites were issued for public review and comment in conjunction with the DEIS and incorporated in the DEIS as Appendix J. After considering public comment, the agencies issued the Final SMMPs in conjunction with the FEIS and incorporated them in the FEIS as Appendix J. The SMMPs describe in detail the specific management and monitoring requirements for both sites. With respect to site monitoring, the SMMPs build on the Corps' existing DAMOS monitoring program, which will continue to provide the backbone of the site monitoring effort.

2. National Environmental Policy Act (NEPA)

Public Involvement

Consistent with its voluntary NEPA policy, as described and referenced above, EPA has followed the NEPA process and undertaken NEPA analyses as part of its decision-making process for the disposal site designations. EPA published a Notice of Intent to prepare an EIS, held public meetings regarding the scope of issues to be addressed by the EIS, published a Draft EIS for public review and comment in September 2003, and published a Final EIS in March 2004, including responses to public comments on the Draft EIS. The FEIS, entitled, "Final Environmental Impact Statement for the Designation of Dredged Material Disposal Sites in Central and Western Long Island Sound, Connecticut and New York," assesses and compares the effects, including the environmental effects, of designating dredged material disposal sites in central and western Long Island Sound, and of various alternative approaches to managing dredging needs, including the "no action" alternative (*i.e.*, the alternative of not designating any open-water disposal sites). *See* 40 CFR 1502.14.

EPA is the agency authorized by the MPRSA to designate dredged material disposal sites and was responsible for the EIS. The U.S. Army Corps of Engineers (USACE, or Corps) was a cooperating agency in the development of the EIS, *see* 40 CFR. 1508.5, because of its knowledge concerning the region's dredging needs, its technical expertise in monitoring and assessing the environmental effects of dredging and dredged material disposal, its history in the regulation of dredged material disposal in Long Island Sound and elsewhere, and its legal role in regulating dredged material disposal and managing and monitoring disposal sites. *See* MPRSA sections 102(c) and 103 and 40 CFR part 225 and 40 CFR 228.4(e). The Corps also brought significant financial and human resources to bear on this large and complex project. To take advantage of expertise held by other entities, and to ensure compliance with all applicable legal requirements, EPA also worked in close coordination with other federal agencies, including NMFS and USFWS, state environmental and coastal zone management agencies, local governments, and Indian Tribal governments. The NMFS, Connecticut Department of Environmental Protection (CT DEP), New York Department of Environmental Conservation (NY DEC), Eastern Pequot Indians of Connecticut, and Narragansett Indian Tribe participated as "cooperating agencies" in preparation of the EIS.

Consistent with the public participation provisions of the NEPA regulations, EPA and the Corps conducted an extensive public involvement program throughout the development of the FEIS. The agencies formed a "working group" comprising stakeholders from the Long Island Sound region and held numerous public meetings and workshops to provide the public with information on the EIS process and the results of studies conducted in support of the EIS, and to give the public ample opportunity to provide input to the NEPA review effort. The following discussion summarizes the extensive public participation program conducted by EPA and the Corps; detailed descriptions are provided in Chapter 7 and Appendix A of the FEIS.

On June 3, 1999, EPA published a Notice of Intent in the **Federal Register** (64 FR 29865) and mailed the notice to approximately 7000 interested individuals and organizations registered in the Long Island Sound EIS mailing list. The notice stated EPA's intent to prepare an EIS to, "consider the potential designation of one or more dredged material disposal sites in Long Island Sound," pursuant to MPRSA and CWA requirements. It further stated that the EIS would evaluate the four existing dredged material disposal sites that were active at the time (CLIS, WLIS, Cornfield Shoals, and New London), "as well as additional alternatives including other open-water disposal sites, other types of dredged material disposal and management, and the no-action alternative." It also announced three public scoping meetings to be held later that month to explain the EIS process and solicit public input.

Accordingly, in June 1999, EPA and the USACE held three public scoping meetings in Connecticut and New York to: (1) To inform the public about the project; (2) explain the respective roles of EPA and the Corps and the other cooperating or coordinating federal, state and tribal agencies, and the public, and (3) request comments on the draft scope of work for the EIS and related studies (detailed in Appendix A of the FEIS). The scoping meetings also served to identify and record public views regarding issues and environmental considerations for potential examination and analysis in the EIS. A total of approximately 130 people attended the three public scoping meetings.

EPA and the Corps also conducted two series of public workshops in October 1999 and April 2000 in Connecticut and New York to discuss, and seek public input concerning, the development of the EIS. Topics covered at the workshops included: Identification of dredged material management alternatives; the process for screening and evaluating all the alternatives; and a review of existing data and data collection needs. A total of approximately 200 people attended the four public workshops.

In 2000, EPA and the Corps established a volunteer public "working group" comprising individuals representing marine industries, boaters, environmental groups, fishing interests, and local governments to provide guidance in the development of the EIS. Five working group meetings were held between July 2000 and November 2002; attendance at these meetings ranged from 27 to 44 individuals, including agency staff and contractors. Topics addressed by the working group sessions included: Potential environmental impacts to be assessed in

the EIS; the results of field studies for lobster, fish, and benthic resources; fishing activities; upland disposal alternatives; dredging needs; economic analyses; and Geographic Information System (GIS) meta-databases.

Throughout the EIS development process, EPA and the Corps also met with other federal and state agencies to keep them apprized of progress on the project and to solicit input. Other agencies that participated regularly throughout the process include the NMFS, USFWS, CT DEP, NY DEC, and the New York Department of State (NY DOS). Ten interagency meetings and teleconferences were held between March 1999 and January 2003 to review progress and get feedback, and EPA and the Corps were in regular contact with representatives of these agencies throughout the EIS process.

As one of the first steps in the EIS process, EPA and the Corps, in cooperation with other federal and state agencies delineated a "Zone of Siting Feasibility" (ZSF). The ZSF is the geographic area from which reasonable and practicable open-water dredged material disposal site alternatives should be selected for evaluation. EPA's 1986 site designation guidance manual describes the factors that should be considered in delineating the ZSF, and recommends locating open-water disposal sites within an economically and operationally feasible radius from areas where dredging occurs. Other factors to be considered include navigational restrictions. political or other jurisdictional boundaries, distance to the edge of the continental shelf, the feasibility of surveillance and monitoring, and operation and transportation costs. Consistent with the guidance, in 1999, EPA, in cooperation with the other agencies, established the ZSF to include the entire Long Island Sound, from Throgs Neck at the western end to a line from Montauk Point to Block Island and a line from Block Island due north to the Rhode Island shoreline on the eastern end.

In March 2002, however, EPA published an Environmental News Notice announcing its intent to modify the ZSF and the scope of the EIS in order to assess the need for open-water disposal sites in Long Island Sound in two phases, with the first EIS to address the central and western regions of the Sound and a later Supplemental EIS to address the eastern region of the Sound. The ZSF boundaries were then modified to address only the central and western regions of Long Island Sound, with boundaries on the western end that extend from the confluence of the East and Harlem rivers at Hell's Gate and boundaries on the eastern end that extend from Mulberry Point in Guilford, CT, to Mattituck Point in Mattituck, NY.

The primary reasons for this modification in the scope of the EIS were: (1) The need to assess in a timely manner the appropriateness of maintaining continued use of a site in the central Long Island Sound region, given the February 2004 termination date for use of the CLIS disposal site pursuant to the Corps' site selection authority; (2) the geographical and environmental independence of the dredging and disposal needs, and alternatives for meeting those needs, of the central and western regions of Long Island Sound from those of eastern Long Island Sound; and (3) the fact that the change in scope would not preclude consideration of a comprehensive range of disposal alternatives, or otherwise predetermine the conclusions, for either the current EIS or for a future supplemental EIS to address eastern Long Island Sound.

EPA completed the "Draft Environmental Impact Statement for the Designation of Dredged Material Disposal Sites in Central and Western Long Island Sound, Connecticut and New York" (DEIS) in early September 2003. The DEIS identified the designation of CLIS and WLIS as long-term dredged material disposal sites under the MPRSA as EPA's preferred alternative. On September 12, 2003, EPA published in the **Federal Register** the proposed rule to designate the CLIS and WLIS disposal sites (68 FR 53687), together with a notice of availability of the DEIS and Draft SMMPs (68 FR 53730).

EPA provided for a 45-day public review and comment period, until October 27, 2003. EPA also posted these documents on the EPA New England web site, and mailed notices and copies of the DEIS and supporting material to a large mailing list of agencies, tribes, organizations, members of Congress, and individual members of the public. The **Federal Register** notice also announced that EPA would hold four public hearings—afternoon and evening sessions on September 30, 2003 in Stony Brook, NY, and on October 1, 2003 in Stamford, CT—to present information on the DEIS and solicit oral and written comments.

On October 9, 2003, in response to several requests from the public to extend the comment period and hold another public hearing, EPA published a notice extending the public comment period by 21 days, to November 17, 2003 (68 FR 58296), and held another public hearing on November 13, 2003 in Stamford, CT. On November 28, 2003 in response to requests from two members of Congress to extend the comment period and hold additional public hearings, EPA published a notice extending the public comment period by another 28 days, to December 15, 2003 (68 FR 66825). EPA also held another public hearing on December 10, 2003 in Stony Brook, NY.

The comment period closed on December 15, 2003. In addition to the oral testimony transcribed at the public hearings, EPA received written comments concerning the DEIS from approximately 350 individuals and organizations. EPA carefully considered the comments concerning the DEIS and responded to them in Appendix L of the FEIS. EPA also made certain revisions to its NEPA analysis, including improvements to the explanations of the purpose and need for the site designations and the alternatives analysis, based on the comments and information provided during the public comment period.

On April 9, 2004, EPA published a notice of availability of the FEIS in the **Federal Register** for a 30-day public review and comment period, ending on May 10, 2004 (69 FR 18898). EPA then published an amended notice extending the comment period to May 17, 2004 (69 FR 26818). EPA also issued a press release announcing the availability of the FEIS for public comment, posted the FEIS on the EPA New England web site, and mailed notices and/or copies of the FEIS and supporting material to a large mailing list of agencies, tribes, organizations, elected officials, and individual members of the public. EPA and the Corps also held two public information meetings, on May 4, 2004, in Islandia, NY, and May 5, 2004, in Stamford, CT, to explain how comments on the DEIS were addressed in the FEIS, and to answer questions about the decision. Although federal agencies are not required to solicit comment on a FEIS, EPA nonetheless did so to provide the public with further opportunity to comment on the decision and to ensure that the agency had every opportunity to consider the views of the public.

In response to requests from the public, EPA announced at the two public information meetings, and through a press release issued on May 4, 2004, that it was extending the comment period by 15 days, to June 1, 2004. EPA also sent letters to members of the New York and Connecticut congressional delegations informing them of the extension because of the interest in the timing of the comment period expressed by certain members of those delegations.

The comment period for the FEIS closed on June 1, 2004. EPA received written comments from approximately 2900 individuals and organizations. EPA has given careful consideration to these comments, as well as to concerns raised by the NY DOS and other agencies, in reaching a final decision to designate the proposed CLIS and WLIS dredged material disposal sites. EPA responded to comments it received concerning the FEIS in a publicly available "Response to Comments" document, as described below in the Public Comments section.

Environmental Impact Statement

The FEIS evaluates whether—and, if so, which—open-water dredged material disposal sites should be designated in the central and western regions of Long Island Sound. The FEIS describes the purpose and need for any such designations, evaluates several alternatives to this action, including the option of "no action" (*i.e.*, no designation), and concludes that EPA designation of the CLIS and WLIS disposal sites under the MPRSA is the preferred alternative. The purpose of these designations is to provide long-term, open-water dredged material disposal sites as potential options for the future disposal of such material. The action is necessary because periodic dredging and dredged material disposal is unavoidably necessary to maintain safe navigation and marine commerce in Long Island Sound.

As previously noted, dredging in the central and western regions of Long Island Sound is projected to generate approximately 20 million cubic yards of dredged material over the next 20 years. EPA evaluated potential alternatives to open-water disposal in Long Island Sound but determined that they were insufficient to meet the regional dredging needs. In accordance with EPA regulations, *see* 40 CFR 227.16, use of alternatives to open-water disposal will be required when they provide a practicable, environmentally preferable option for the dredged material from any particular disposal project. EPA's designation of the CLIS and WLIS disposal sites, however, will provide open-water disposal sites as potential options for dredged material regulated under the MPRSA that has been tested and determined to be environmentally suitable for open-water disposal. Sediments found to be unsuitable for open-water disposal will be required to seek alternatives other than the CLIS and WLIS disposal sites.

EPA's initial screening of alternatives, which involved input from other federal and state agencies, local governments, and the public, led to the determination that the open-water disposal sites were the most environmentally sound, cost-effective, and operationally feasible options for the large amount of dredged material expected to be found suitable for open-water disposal over the 20-year planning horizon. EPA's analysis of alternatives for disposing of dredged material from navigation channels and harbors in central and western Long Island Sound evaluated several different potential alternatives, including open-water disposal sites, upland disposal, beneficial uses, sediment treatment, and the no-action alternative. From this analysis, EPA determined that open-water disposal sites, such as CLIS and WLIS, were the only alternatives that would provide sufficient practicable disposal capacity to meet long-term regional dredged material disposal needs. Again, this analysis also acknowledged that options for dredged material management other than open-water disposal might be identified and required for specific dredged material disposal projects in the future.

EPA also evaluated several open-water disposal site alternatives other than the CLIS and WLIS sites. This evaluation considered multiple factors, such as reasonable distances to transport dredged material, the potential for adverse effects on important natural resources, and other measures indicating incompatibility for use as a disposal site. Specific factors evaluated included the sensitivity and value of natural resources, geographically limited habitats, fisheries and shellfisheries, shipping and navigation lanes, physical and environmental parameters, and economic and operational feasibility. The analysis was carried out in a tiered process. The final tier involved a detailed analysis of the no-action alternative and the following four open-water alternative sites: CLIS, Milford, Bridgeport, and WLIS. Based on this analysis, the CLIS and WLIS sites were identified as the preferred alternatives for designation as open-water dredged material disposal sites. Management and monitoring strategies were developed for each site and are described in the SMMPs.

As stated above, for this action, this final rule and preamble also serve as EPA's record of decision under NEPA.

3. Coastal Zone Management Act (CZMA)

Based on the evaluations presented in the FEIS and supporting documents, and a review of the federally approved Connecticut and New York coastal zone programs and policies, EPA has determined that designation of the CLIS and WLIS sites for open-water dredged material disposal under the MPRSA is consistent with the enforceable policies of the coastal zone management programs of Connecticut and New York. EPA provided a written determination to this effect to each state. Thus, EPA has satisfied the CZMA's requirement that federal agencies provide relevant state(s) with a determination that each federal agency activity affecting the uses or natural resources of a state's coastal zone is consistent to the maximum extent practicable with the enforceable policies of the state's coastal zone management program.

In the EPA's view, there are several broad reasons why the disposal site designations are consistent with the applicable, enforceable policies of both states' coastal zone programs. First, the designations are not expected to cause any significant adverse impacts to the marine environment, coastal resources, or uses of the coastal zone. Indeed, EPA expects the designations to benefit uses involving navigation and berthing of vessels by facilitating needed dredging, and to benefit the environment by concentrating any open-water dredged material disposal at a small number of environmentally appropriate sites designated by EPA and subject to the previously described SMMPs. Second, designation of the sites does not actually authorize the disposal of any dredged material at the sites, since any proposal to dispose dredged material from a particular project at a designated site will only be allowed if: (a) The material satisfies the sediment quality requirements of the MPRSA and the CWA; (b) no practicable alternative method of management with less adverse environmental impact can be identified; and (c) the disposal complies with the site restrictions set forth in today's final rule. Third, the designated disposal sites will be managed and monitored pursuant to an SMMP and, if adverse impacts are identified, use of the sites will be modified to reduce or eliminate those impacts. Such modification could further restrict, or even terminate, use of the sites, if appropriate. *See* 40 CFR 228.3, 228.11.

On January 22, 2004, EPA submitted its coastal zone consistency determination to the CT DEP Office of Long Island Sound Programs, which administers the state's coastal zone management program. CT DEP concurred with EPA's determination in a letter dated April 5, 2004.

On March 8, 2004, EPA submitted a coastal zone consistency determination to the Division of Coastal Resources in the New York Department of State (NY DOS). On June 3, 2004, EPA received a

letter from the NY DOS objecting to EPA's designation of the CLIS and WLIS disposal sites on the basis of its view that either EPA had provided insufficient information to support a CZMA consistency determination or, based on the information provided, the action was inconsistent with the enforceable policies of New York's Coastal Management Program (CMP).

EPA gave careful consideration to the issues raised by NY DOS and, after consultation with NY DOS and CT DEP, agreed to include certain additional Restrictions on the use of the sites that respond to the NY DOS's objections under the CZMA. These additional restrictions have enabled NY DOS to withdraw its CZMA objection to the disposal site designations, by letter dated May 13, 2005. EPA continues to hold the view that the site designations without the additional restrictions would still be consistent with the enforceable policies of New York's CMP. Nevertheless, EPA agrees that the additional site Restrictions place reasonable conditions on when the disposal sites may be used that provide enhanced assurance that the requirements of the CZMA, the MPRSA, and NEPA are met.

Moreover, adding these site use Restrictions represents a reasonable course of action lying between the alternatives of not designating any disposal sites at all, and designating sites for an indefinite term without the Restrictions. Both these alternatives, and others, were evaluated in the EIS supporting this action. Furthermore, the added site use Restrictions arise out of comments submitted by NY DOS and other parties and are consistent with EPA's environmental analysis and proposed action.

Summary of Restrictions

There is a total of fourteen paragraphs of Restrictions in the final rule. These Restrictions apply to all disposal subject to the MPRSA at the designated sites pursuant to this final rule. Thus, the Restrictions apply to all federal projects, and non-federal projects generating more than 25,000 cubic yards of dredged material. They do not apply to smaller non-federal projects since, as a matter of law, such projects are not subject to MPRSA requirements. Rather, any such disposal will be subject to whatever restrictions are imposed on a case by case basis through permits issued under Clean Water Act section 404.

The Restrictions apply both to all MPRSA permittees (*i.e.*, private parties and governmental agencies other than the USACE), and to the USACE itself which disposes of dredged material pursuant to authorizations rather than permits. The USACE is "deemed" to be a permittee by today's rule so as to make it subject to the site Restrictions. The intention of the final rule is to apply the Restrictions to all persons who may seek to dispose of dredged material at the sites under MPRSA.

The Restrictions in paragraph 1 are the same as in the proposed rule. They limit disposal to dredged material from Long Island Sound and vicinity. Dredged material will be considered to have come from Long Island Sound and vicinity so long as it come from harbors and navigation channels either on or near Long Island Sound.

The Restrictions in paragraph 2 require compliance with the Site Management and Monitoring Plans (SMMPs) that have been developed for the two sites. These SMMPs are set out as Appendix J to the FEIS—they have not changed since the time that the FEIS was published. These SMMPs may be changed in the future, as provided in MPRSA section 102(c)(3). Proposed changes will be subject to public comment consistent with MPRSA section 102(c)(3). The EPA will utilize the section 102(c)(3) procedures, rather than proposing changes to this designation rule every time there is a change to an SMMP.

The Restrictions in paragraphs 3–14 were added by the EPA (in response to comments) in order to enhance compliance with the MPRSA, and to address the issues raised by New York under the CZMA. The EPA consulted with both affected states, and the conditions have been agreed to by both the NY DOS and the CT DEP. They are designed to support the common goal of New York and Connecticut to reduce or eliminate the disposal of dredged material in Long Island Sound. To support this goal, the Restrictions contemplate that there will be a regional dredged material management plan (DMMP) for Long Island Sound that will guide the use of dredged material for projects which occur after the DMMP is completed. DMMPs are comprehensive studies carried out by the USACE, in consultation with the EPA and the affected states, to help manage dredged material in a cost-effective and environmentally acceptable manner. The Governors of New York and Connecticut have jointly requested the USACE to develop a DMMP for Long Island Sound. Consistent with the two states' requests, today's rule contemplates that the DMMP for Long Island Sound will include the identification of alternatives to open-water disposal and the development of procedures and standards for the use of practicable alternatives to open-water disposal, so as to reduce wherever practicable the open-water disposal of dredged material. The DMMP also may contain recommendations regarding the use of the sites themselves. In addition, the final rule contemplates that a Regional Dredging Team will be established to identify practicable alternatives to open-water disposal and recommend their use to the extent practicable, for projects proposed while the DMMP is being prepared (other than three already permitted and authorized projects).

In order to ensure that long-term disposal does not occur at the sites pursuant to today's designation absent restrictions to be developed by the DMMP, the final rule specifies that the use of the sites must be suspended or terminated under certain circumstances. First, paragraph 3 provides that, except as provided in paragraphs 4 and 5, the disposal of dredged material may not occur at the sites beginning eight years after the effective date of today's designations, unless a DMMP has been completed by the USACE. This eight-year deadline is subject to extension under paragraph 4 by agreement of various parties expected to participate in the development of the DMMP, namely the USACE, the EPA, the state of Connecticut and the state of New York. This deadline also is subject to extension by the EPA under paragraph 5, without agreement from other parties, if the EPA determines that the parties participating in the development of the DMMP have attempted in good faith to meet the deadline, but that the deadline has not been met due to factors beyond the parties' control (including funding). Such an extension may occur in addition to any extensions granted under paragraph 4, but may be only for one additional year. For example, if all parties agree to a one year extension, and the EPA later grants a one year extension, then the DMMP process could take a total of ten years (without the use of the sites being suspended or terminated).

If the final deadline set pursuant to paragraphs 3, 4 and 5 is missed, use of the sites will be prohibited for a year. If at the end of that year, a DMMP still has not been completed, use of the sites pursuant to today's designation will terminate.

Paragraph 3 of the final rule also specifies that use of the sites will be suspended or terminated if following the completion of the DMMP within the eight-year (plus extensions) time frame, the EPA does not thereafter amend today's rule to incorporate procedures

and standards that are consistent with those recommended in the DMMP. Paragraph 7 gives the EPA 120 days from the completion of the DMMP to adopt such procedures and standards. If the EPA misses the deadline specified in paragraph 7, use of the sites will be suspended until the EPA issues a final amended rule. If the EPA makes a final determination and adopts procedures and standards consistent with the DMMP's recommendations, then use of the sites will continue (but will be restricted in accordance with the adopted DMMP recommendations). If the EPA makes a final determination not to adopt procedures and standards consistent with the DMMP recommendations, then use of the sites pursuant to today's rule will be terminated. The EPA notes that it hopes to be able to support the DMMP recommendations. However, the EPA cannot commit in advance to do so, but rather must preserve its discretion, in response to public comments, not to adopt the DMMP recommendations.

The amended EPA rule need not be identical to the DMMP recommendations. If the amended EPA rule is not identical to the DMMP recommendations, but the EPA has adopted substantially all of the procedures and standards for the use of the sites and the use of practicable alternatives to open-water disposal recommended in the DMMP, the use of the sites will not terminate. In addition, the amended EPA rule will be considered "consistent" even if the EPA has not adopted a recommendation (or recommendations) of the DMMP that are not consistent with applicable law. Of course, the amended EPA rule will be considered "consistent" even if the EPA goes beyond the recommendations of the DMMP and adopts stricter standards.

In addition, it is not the intention of today's final rule to have use of the sites terminate simply because of a good faith error by the EPA. Thus, if a party believes that EPA's final amended rule does not contain substantially all procedures and standards recommended in the DMMP, that party will have the obligation to first petition the EPA prior to filing any court action, so as to give the EPA the opportunity to correct any inadvertent omission or to reaffirm its determination that it has adopted substantially all procedures and standards in the DMMP. A party will be able to go directly to court to seek termination of the use of the sites only if it can show that the EPA, in amending the rule, did not make a good faith attempt to adopt procedures and standards that were consistent with those recommended in the DMMP.

The final rule contemplates that the USACE will develop through the DMMP process procedures and standards to reduce or eliminate disposal of dredged material in Long Island Sound to the greatest extent practicable. If any party is not satisfied that the final DMMP recommends such procedures and standards, then paragraph 7 of the Restrictions in today's rule specifies that any person may petition the EPA to do a rulemaking to amend these designations to establish different or additional standards.[1] The EPA also may initiate such a rulemaking on its own initiative. While the use of the sites will not automatically terminate if it is the view of NY DOS or others that the DMMP does not recommend sufficient measures, the EPA recognizes that such a conclusion by the NY DOS or others could lead to a revival of the past objections by the NY DOS and others to the continued use of these sites. At minimum, any failure to recommend sufficient measures could have the unfortunate effect of creating the need to revisit issues in a petition process. Thus, the EPA will work with the USACE, and the states of New York and Connecticut, to try to ensure that this does not occur.

While any DMMP will be carried out by the USACE, active support and cooperation will be needed from other parties, including the states of Connecticut and New York. EPA believes that there has been such support and cooperation and fully expects that this will continue. However, to help ensure that any DMMP process moves forward expeditiously, paragraph 6 of the Restrictions specifies that the EPA will conduct an annual review of progress in developing the DMMP. If the EPA finds that the DMMP is being unreasonably delayed by one or more parties, paragraph 6 specifies that the EPA may as appropriate: (i) Suspend use of the sites (through a rulemaking amending today's site designations) even prior to the deadlines established in paragraphs 3–5 of the Restrictions, or (ii) exercise (again through rulemaking) its statutory and regulatory authorities regarding designation of ocean disposal sites (which could include new site designations without including the requirement that there be a DMMP). Of course, EPA expects all parties to continue to cooperate in fostering a DMMP, so that use of the above measures by the EPA may never be necessary.

The final rule contemplates that there will be a three staged process for supporting the goal of reducing or eliminating the disposal of dredged material in Long Island Sound. At all times, site use will be limited by the need to comply with all applicable statutory and regulatory requirements, including the prohibition on open-water disposal if there is a "practicable alternative" under 40 CFR 227.16. However, over time, compliance with 40 CFR 227.16 and today's final rule will be achieved in three different ways. First, pursuant to paragraph 8 of the Restrictions, disposal from three enumerated projects that already have been authorized or permitted will be allowed without having to follow any additional particular procedures or standards. Such disposal must meet all applicable statutory and regulatory requirements.[2] Second, for projects initiated other than those projects but before completion of the DMMP, the requirements of paragraph 9 will apply. In particular, each project will be subject to review by a Regional Dredging Team, which will work to identify practicable land-based alternatives and to ensure their use to the maximum extent practicable. Third, for projects initiated after completion of the DMMP, the requirements of paragraph 7 will apply. As discussed above, the final rule contemplates that the DMMP will develop and the EPA will adopt (subject to consideration of public comments) procedures and standards for the use of practicable alternatives to open-water disposal. The EPA hopes that the combined efforts of the Regional Dredging Team and the parties participating in the DMMP will lead to a continual reduction in the use of the sites over time.

It should be noted that even after the EPA adopts procedures and standards consistent with the DMMP recommendations, the decision regarding whether there is a "practicable alternative" will continue to be made on a case by case basis, in connection with the permitting process. However, any case-by-case determinations will at a minimum need

[1] The EPA must act on any petition within 120 days, by either granting the petition (and proposing a rule change) or denying the petition. Disposal may continue while a petition is pending, but any disposal occurring after a rule change adopted in response to a petition will be subject to any additional requirements imposed pursuant to the granting of the petition and any resulting rule change.

[2] All phases of these projects are to be initiated within four years of today's designations. For the Norwalk project, dredged material management measures required by the Connecticut state certification are not considered to be a separate phase but rather will be part of the second phase.

to comply with any procedures and standards included in the site designations restrictions.

Paragraph 9 also emphasizes two points, consistently with the way in which the EPA interprets 40 CFR 227.16. First, "practicable alternatives" (as defined in 40 CFR 227.16) must be used for the maximum volume of dredged material practicable. That is, even if a practicable alternative is not available for all of the dredged material from a project, if a practicable alternative is available for a portion of the dredged material, it must be used for disposal of that portion of the material in order to at least reduce the use of the sites being designated today.

Second, the final rule recognizes that use of practicable alternatives may mean that there will be additional costs (in comparison to open-water disposal). Paragraph 9 incorporates by reference 40 CFR 227.16(b) of the EPA's ocean disposal regulations, which defines "practicable alternative" as an alternative which is, "available at reasonable incremental cost and energy expenditures, which need not be competitive with the costs of ocean dumping, taking into account the environmental benefits derived from such activity, including the relative adverse environmental impacts associated with the use of alternatives to ocean dumping." Thus the final rule emphasizes that the designated sites may not be used whenever a "practicable alternative" is available even when this means added reasonable incremental costs. Under paragraph 9 and the general ocean dumping regulations, the USACE (the permitting agency) must make the initial determination of whether this test has been met, but the USACE decision is subject to review and possible objection by the EPA. Also, paragraph 9 is a restriction in an EPA site designation. Therefore, if the EPA objects to any USACE determination, use of the designated sites will be prohibited unless and until the EPA objection is resolved. This EPA oversight established by today's rule is in addition to the EPA's statutory and regulatory authority to review and object to USACE permits.

By definition, the requirement that projects use "practicable alternatives" will not impose unreasonably higher costs. Also, if an alternative does not have less adverse environmental impact or potential risk to other parts of the environment than use of the Sound, today's rule will not require that it be used. However, the EPA recognizes that even where use of Long Island Sound has been determined to be environmentally acceptable, there may be alternatives (*e.g.*, those involving beneficial use) that are environmentally preferable to use of the Sound. When such preferable alternatives are identified, they will need to be used if they are available at "reasonable incremental cost."

Today's final rule does not attempt to specify in advance how the "reasonable incremental cost" standard will be applied in any particular case. The regulation contemplates a balancing test, and the EPA believes that the determination is best made on a case-by-case basis. The final rule also does not attempt to specify who will need to pay for any reasonable incremental costs. Rather, the share of such costs (if any) to be borne by private parties, state government, local government, or the federal government also will need to be worked out in response to actual situations. It should be understood, however, that if the use of a practicable alternative is required in the future pursuant to today's rule (and 40 CFR 227.16), and no entity is willing to pay the reasonable incremental costs, then use of the sites will be prohibited for such projects even when this means that planned projects must be stopped.

Paragraph 10 of the Restrictions simply repeats the statutory and regulatory requirement that disposal at these sites will be limited to dredged sediments that comply with the Ocean Dumping Regulations. Under 33 U.S.C. 1413(d), the USACE may request and the EPA may grant a waiver allowing otherwise unsuitable materials to be disposed at open-water disposal sites. The EPA notes that no dredged material has ever been disposed under such a waiver at any open-water disposal site. However, paragraph 11 of the Restrictions provides for advance notice to the Governors of Connecticut and New York, in the unlikely event that there is a future request for such a waiver at these sites.

Paragraph 12 restricts use of the sites during severe weather conditions, in order to reduce the risk of spillage.

Paragraphs 13 and 14 of the Restrictions list various legal restrictions on what the EPA may agree to in a rule. These legal restrictions would apply even if they were not stated in today's final rule. First, as noted in paragraph 13, the parties participating in the DMMP will need to seek additional federal and state funding in order to develop the DMMP. The EPA cannot guarantee that federal funds will be made available to the USACE. Paragraph 13 also specifies that the sole remedy for any failure to meet the conditions specified in today's final rule shall be restriction of the authority to dispose of dredged material at these sites pursuant to today's designations. Thus, for example, if funding is not provided, neither the EPA nor the USACE nor any other party may be sued for failing to carry out the DMMP. Rather, the remedy if a DMMP is not developed is that the use of the sites pursuant to today's final rule will be terminated.

Paragraph 14 specifies that nothing in today's final rule precludes the EPA from designating other ocean disposal sites, not subject to the restrictions in this final rule, or taking any subsequent action to modify today's site designations, provided that the EPA makes any such designations or takes such subsequent action through a separate rulemaking in accordance with all applicable legal requirements. Under the MPRSA, the EPA cannot agree in advance that it will never (under any circumstances) designate other ocean disposal sites or that it will never change today's final rule. Notwithstanding this statement of legal rights, the EPA emphasizes that it is fully committed to development of a DMMP for Long Island Sound, and believes that the best environmental result will be to have the DMMP develop recommendations for the management of dredged material subject to the MPRSA throughout Long Island Sound. The EPA also recognizes that if it takes a subsequent action to designate an ocean disposal site in Long Island Sound not subject to the Restrictions set forth in today's final rule, the NY DOS (or others) could renew their past objections and challenge such an action.

Paragraph 14 also provides that this final rule shall not be interpreted to restrict the EPA's authorities under the MPRSA or the implementing regulations, or to amend the implementing regulations. The statute and regulations establish minimum requirements with which the EPA and others must comply. While this final rule contains additional provisions designed to address issues raised under the CZMA, and enhance compliance with the MPRSA, these provisions do not excuse any non-compliance with the general ongoing requirements of the MPRSA. In addition, while the final rule contains provisions designed to better implement regulatory requirements (such as the "practicable alternatives" requirement), it does not amend any existing regulatory requirement.

4. Endangered Species Act (ESA)

During the EIS development process, EPA consulted under the federal Endangered Species Act (ESA) with the

NMFS and the USFWS regarding the potential for the designation and use of any of the alternative open-water disposal sites to jeopardize the continued existence of any federally listed threatened or endangered species, or result in the adverse modification of any critical habitat of such species. EPA initiated consultations regarding the proposed CLIS and WLIS disposal sites with both the NMFS and the USFWS on February 13, 2003. This consultation process is fully documented in the FEIS. EPA provided the NMFS and the USFWS with EPA's conclusion that the proposed disposal site designations for the CLIS and WLIS sites were not likely to adversely affect any federally listed endangered or threatened species or designated critical habitat of any such species.

On February 5, 2004, NMFS sent a letter concurring with EPA's proposed action, stating that the designation of CLIS and WLIS, "is not likely to adversely affect listed species under the jurisdiction of NOAA Fisheries." NMFS also noted that, "no further consultation pursuant to section 7 of the ESA is required."

On February 12, 2004, USFWS also concurred with the findings of the EIS that designation of the disposal sites was not likely to adversely affect any federally listed species under its jurisdiction. The letter further stated that "no habitat in the project impact areas is currently designated or proposed critical habitat under provisions of the [ESA]" (87 Stat. 884 as amended; 16 U.S.C. 1531 *et seq.*). Copies of these letters are provided in Appendices K and L of the FEIS.

5. Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA)

On February 13, 2003, EPA initiated consultation with the NMFS under the Essential Fish Habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act. This consultation addressed the potential for the designation of any of the alternative ocean disposal sites being evaluated to adversely affect EFH. In a letter dated January 28, 2004, NMFS concurred with EPA's determination that the designation of the CLIS and WLIS disposal sites would not adversely affect EFH. This consultation process is fully documented in the FEIS.

F. Public Comments

Dredging and dredged material disposal in Long Island Sound has long presented controversial and complex issues. Considering that fact, it is not surprising that EPA received many comments both supporting and opposing the designation of long-term, open-water dredged material disposal sites in the Sound.

As discussed above, EPA issued a Draft EIS and a Proposed Rule for the disposal site designations in September 2003. *See* 68 FR 53687 (Sept. 12, 2003) (Proposed Rule); 68 FR 53730 (Sept. 12, 2003) (Notice of Availability of the Draft EIS and Draft SMMPs for Public Review). EPA received numerous comments addressing the DEIS, but none specifically directed at the proposed rule. These public comments were submitted both in writing and in oral testimony at the six public hearings held by EPA and the Corps concerning the DEIS and the proposed disposal site designations. EPA considered all these comments, as required by NEPA, responded to them in Appendix L to the Final EIS issued by the Agency in April 2004. *See* 69 FR 18898 (April 9, 2004) (Notice of Availability of the FEIS for public review). EPA will not repeat those comments and responses here and, instead, urge interested readers to review Appendix L of the FEIS.

Although not required to do so by NEPA, *see* 40 CFR 1503.1(b), EPA opened a comment period on the FEIS and requested any comments from the public. Numerous public comments were submitted regarding the FEIS. In reaching its final decisions regarding the present action, as presented in this final rule, which also constitutes the record of decision (ROD) for NEPA purposes, EPA reviewed and considered all the written comments as well as the oral comments received at various public meetings held concerning the FEIS. Although NEPA does not require that federal agencies provide responses to public comments concerning a Final EIS, EPA has in this instance produced a separate Response to Comments document addressing the public comments on the FEIS. These responses to comments will not be repeated here, but the Response to Comments document is available on EPA's Web site at *http://www.epa.gov/region1/eco/lisdreg/* and EPA mailed copies of the document to elected officials, federal and state agencies, libraries, and other repositories in Connecticut and New York. EPA also mailed a "letter of availability" with instructions on how to access the Response to Comments document to a mailing list of approximately 2800 addresses. As explained in the Responses to Comments, EPA believes that its final action, as presented in this final rule, properly addresses the issues raised in the public comments.

G. Action

EPA is publishing this final rule designating the Central Long Island Sound (CLIS) and Western Long Island Sound (WLIS) open-water dredged material disposal sites for the purpose of providing environmentally sound open-water disposal options for possible use in managing dredged material from harbors and navigation channels in Long Island Sound and its vicinity in the states of Connecticut and New York. Without these dredged material disposal site designations, there is presently no open-water disposal site available in the central region of Long Island Sound, while the existing disposal site in the western region of the Sound would only be available for five more years of use pursuant to the Corps' site selection authority under MPRSA section 103(b).

The site designation process has been conducted consistent with the requirements of the MPRSA, CWA, NEPA, CZMA, and other applicable federal and state statutes and regulations. The basis for this federal action is further described in an FEIS published by EPA in April 2004 that identifies EPA designation of the CLIS and WLIS disposal sites as the preferred alternatives. This rule also serves as EPA's ROD in the NEPA review supporting the designation of these sites. The sites are subject to management and monitoring protocols to prevent the occurrence of unacceptable adverse environmental impacts. These protocols are spelled out in Site Management and Monitoring Plans (SMMPs) for each site. The two SMMPs are included as Appendix J to the FEIS. Under 40 CFR 228.3(b), the Regional Administrator of EPA Region 1 is responsible for the overall management of these sites.

As previously explained, the designation of these disposal sites does not constitute or imply EPA's approval of open-water disposal at either site of dredged material from any specific project. Any proposal to dispose of dredged material at one of the sites must first receive proper authorization from the USACE under MPRSA section 103. In addition, any such authorization by the Corps is subject to EPA review under MPRSA section 103(c), and EPA may condition or "veto" the authorization as a result of such review in accordance with MPRSA section 103(c). In order to properly obtain authorization to dispose of dredged material at either the CLIS or WLIS disposal sites under the MPRSA, the dredged material proposed for disposal must first satisfy the applicable criteria for testing and evaluating dredged

material specified in EPA regulations at 40 CFR part 227, and it must be determined in accordance with EPA regulations at 40 CFR part 227, subpart C, that there is no practicable alternative to open-water disposal with less adverse environmental impact. In addition, any proposal to dispose of dredged material under the MPRSA at the designated sites will need to satisfy all the site Restrictions included in this final rule as part of the site designations. *See* 40 CFR 228.8 and 228.15(b)(3) and (4).

H. Supporting Documents

1. CT DEP. 1998. Long Island Sound Dredged Material Management Approach. A study report prepared by SAIC for the State of Connecticut, Department of Environmental Protection, Office of Long Island Sound Programs, Hartford, CT. August 1998.

2. EPA Region 1/USACE NAE. 2005. Response to Comments on the Final Environmental Impact Statement for the Designation of Dredged Material Disposal Sites in Central and Western Long Island Sound, Connecticut and New York. U.S. Environmental Protection Agency, Region 1, Boston, MA. and U.S. Army Corps of Engineers, New England District, Concord, MA. April 2005.

3. EPA Region 1. 2005. Memorandum to the File Responding to the Letter from the New York Department of State Objecting to EPA's Federal Consistency Determination for the Dredged Material Disposal Site Designations. U.S. Environmental Protection Agency, Region 1, Boston, MA. May 2005.

4. EPA Region 1/USACE NAE. 2004. Final Environmental Impact Statement for the Designation of Dredged Material Disposal Sites in Central and Western Long Island Sound, Connecticut and New York. U.S. Environmental Protection Agency, Region 1, Boston, MA and U.S. Army Corps of Engineers, New England District, Concord, MA. March 2004.

5. EPA Region 1/USACE NAE. 2004. Regional Implementation Manual for the Evaluation of Dredged Material Proposed for Disposal in New England Waters. U.S. Environmental Protection Agency, Region 1, Boston, MA. and U.S. Army Corps of Engineers, New England District, Concord, MA. April 2004.

6. EPA Region 2/USACE NAN. 1992. Guidance for Performing Tests on Dredged Material Proposed for Ocean Disposal. U.S. Environmental Protection Agency, Region 2, New York, NY and U.S. Army Corps of Engineers, New York District, New York, NY. Draft Release. December 1992.

7. EPA/USACE. 1991. Evaluation of Dredged Material Proposed for Ocean Disposal-Testing Manual. U.S. Environmental Protection Agency, Washington, DC, and U.S. Army Corps of Engineers, Washington, DC. EPA–503/8–91/001. February 1991.

8. EPA Region 1/USACE NAE. 1991. Guidance for Performing Tests on Dredged Material Proposed for Ocean Disposal. U.S. Army Corps of Engineers, New England District and U.S. Environmental Protection Agency, Region 1, Boston, MA. Draft Release. December 1991.

9. Long Island Sound Study. 1994. Comprehensive Conservation and Management Plan for Long Island Sound. Long Island Sound Management Conference. September 1994.

10. NY DEC and CT DEP. 2000. A total maximum daily load analysis to achieve water quality standards for dissolved oxygen in Long Island Sound. Prepared in conformance with section 303(d) of the Clean Water Act and the Long Island Sound Study. New York State Department of Environmental Conservation, Albany, NY and Connecticut Department of Environmental Protection, Hartford, CT. December 2000.

J. Statutory and Executive Order Reviews

1. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), the Agency must determine whether its regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(A) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities;

(B) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(C) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(D) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed action is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

2. Paperwork Reduction Act (PRA)

Revised in 1995, the PRA is managed by the Office of Management and Budget through its approval of Information Collection Requests (ICRs) submitted by federal agencies. The statute was written and revised to reduce the information collection burden on the public.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a request for the collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a request for the collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) because it would not require persons to obtain, maintain, retain, report, or publicly disclose information to or for a federal agency.

3. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996, (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act, or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. For the purposes of assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business based on the Small Business Administration's (SBA) size standards; (2) a small governmental jurisdiction that is the government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any

not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Examples of the types of small entities that could be subject to today's rule include small marinas and small municipal governments that might be responsible for conducting dredging and dredged material disposal (*see* section B, Potentially Affected Entities, above).

EPA has determined that this action will not have a significant impact on a substantial number of small entities. These dredged material disposal site designations under the MPRSA are only relevant for dredged material disposal projects subject to the MPRSA. Non-federal projects involving 25,000 cubic yards or less of material are not subject to the MPRSA and, instead, are regulated under CWA section 404. This action will, therefore, have no effect on such projects, other than perhaps to reduce expenses for such entities by providing a wealth of environmental data for use in determining whether disposing of dredged material from particular small, non-federal projects would be appropriate at the CLIS or WLIS disposal sites. "Small entities" under the RFA, as amended by SBREFA, are most likely to be involved with smaller projects not covered by the MPRSA. Therefore, EPA does not believe a substantial number of small entities will be affected by today's rule.

EPA also does not expect this action to have a significant effect on any small entities that are affected by the rule (*i.e.*, small, non-federal entities that propose to dispose of more than 25,000 cubic yards of material). These disposal site designations have the effect of providing long-term, environmentally acceptable open-water disposal options for dredged material subject to the MPRSA. These disposal options can only be utilized, however, by projects whose material meets the MPRSA sediment testing criteria and for which there is no practicable alternative means of management with less adverse environmental effects. *See* 40 CFR part 227, subparts A, B and C.

While dredged material disposal has been carried out under these requirements in the past in Long Island Sound, it has occurred at sites selected for short-term use by the Corps under its MPRSA section 103(b) site selection authority, rather than at sites designated for long-term use by EPA. Use of the Corps-selected site in the central region of the Sound has presently expired, and use of the site in western region of the Sound may only continue for five more years. In other words, without these designations, there would be no presently authorized open-water disposal site in the central region of the Sound and the sole site in the western region would only be available for five more years of use. Thus, if anything, designating these sites is likely to reduce expenses for small entities by providing cost-effective dredged material disposal options for appropriate projects, as well as by reducing expenses by providing current environmental information that can contribute to the environmental evaluation of future projects.

EPA recognizes that the Corps, the states, and EPA have agreed to try to develop a dredged material management plan (DMMP) for Long Island Sound and that EPA has placed restrictions on the use of the disposal sites for MPRSA projects, including termination of site use, if the DMMP is not completed in a timely way. EPA also recognizes that a goal of the DMMP will be to try to identify practicable alternatives to open-water disposal that may have less adverse environmental impacts, provided that they do not add an unreasonable amount of cost. EPA also recognizes that there will be interim procedures for identifying and utilizing practicable alternatives to ocean disposal, which will apply while the DMMP is being developed. Taking the site restrictions into account, EPA still does not believe this action will have a significant effect on a substantial number of small entities for four reasons. First, as explained above, EPA has concluded that this rule will not have a significant impact on a substantial number of small entities. Second, without these site designations there are no open-water sites at all authorized for long-term use under the MPRSA. Therefore, the designations do not impose adverse impact to the situation without the designation, but rather provide additional dredged material management options. Third, EPA expects that the DMMP will take into account reasonable incremental costs for small entities in developing any procedures and standards related to the assessment and use of alternative management methods and will not, therefore, result in significant economic effects to them. In this regard, it must also be remembered that the existing MPRSA regulations already require that alternatives to open-water disposal be utilized if there are practicable alternatives with less adverse environmental effects. Alternatives are defined to be practicable when they involve "reasonable incremental cost and energy expenditures, which need not be competitive with the costs of ocean dumping, taking into account the environmental benefits derived from such activity * * * (40 CFR 227.16(b)). Fourth, before amending the site restrictions to reflect the DMMP, EPA will consider any public comments, including on whether there is continuing compliance with the RFA at that time.

Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

4. The Unfunded Mandates Reform Act and Executive Order 12875

Title II of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the financial burden of complying with their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal Mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this action contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for state, local and tribal governments or the private sector. It imposes no new enforceable duty on

any state, local or tribal governments or the private sector. Moreover, it will not result in expenditures by state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Rather, this action makes presently unavailable long-term disposal sites available as potential options for future use if certain conditions are met. Similarly, EPA also has determined that this action contains no regulatory requirements that might significantly or uniquely affect small government entities. Thus, the requirements of sections 203 and 205 of the UMRA do not apply to this rule.

5. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government."

The final rule does not have federalism implications within the meaning of the Executive Order. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final rule designates open-water sites in Long Island Sound for the potential disposal of dredged material and sets certain conditions on such use. This proposed action neither creates new obligations for, nor alters existing authorizations of, any state, local, or other governmental entities. Thus, Executive Order 13132 does not apply to this rule.

Although section 6 of the Executive Order 13132 does not apply to this final rule, EPA did extensively consult with representatives of state and local governments in developing this rule. In addition, and consistent with Executive Order 13132 and EPA policy to promote communications between EPA and state and local governments, EPA specifically solicited comments on the proposed rule from state and local officials and met with such officials on many occasions. The nature of these communications is discussed elsewhere in this preamble and in EPA's FEIS and supporting administrative record.

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications." "Policies that have Tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian Tribes, on the relationship between the federal government and the Indian Tribes, or on the distribution of power and responsibilities between the federal government and Indian Tribes."

The final rule does not have Tribal implications, as specified in Executive Order 13175. The designation of these disposal sites will not have substantial direct effects on Indian Tribes, on the relationship between the federal government and Indian Tribes, or on the distribution of power and responsibilities between the federal government and Indian Tribes, as specified in Executive Order 13175. This final rule designates open-water dredged material disposal sites and does not establish any regulatory policy with tribal implications. Thus, Executive Order 13175 does not apply to this rule.

Although Executive Order 13175 does not apply to this rule, EPA consulted with tribal officials in developing this rule, particularly as it relates to potential impacts to historic or cultural resources. EPA specifically solicited additional comment on the proposed rule from tribal officials and invited tribes in the area around Long Island Sound to consider participating as "cooperating agencies" in development of the EIS. The Eastern Pequots and Narragansetts decided to participate in that role.

7. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe might have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health and safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to this Executive Order because it is not economically significant as defined in Executive Order 12866, and because EPA does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate effect on children. The designation of open-water, dredged material disposal sites in Long Island Sound does not authorize the disposal of any such material. Such authorizations are granted on a project-specific basis, and material that is determined to be unsuitable for ocean disposal—that is, it may cause unacceptable, adverse environmental impacts—would not be allowed to be disposed at these sites. Long-term monitoring of these sites, which have been used under short-term site selections since the early 1980s, has documented minimal adverse impacts to the marine environment, and by extension, public health. Therefore, it is not subject to Executive Order 13045.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This final rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Although Executive Order 13211 does not apply to this rule, the designation of dredged material disposal sites will facilitate shipping of energy-related products by providing an environmentally acceptable, cost-effective option for the disposal of material dredged from navigation channels and harbors in the central and western regions of Long Island Sound. Furthermore, by providing a potential dredged material management option in the central and western regions of the Sound, energy expenditures for hauling dredged material for disposal or reuse over water or land will be minimized.

9. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*,

materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This final rule does not involve the development of technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards and the Executive Order does not apply to this action.

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each federal agency must make achieving environmental justice part of its mission. Executive Order 12898 provides that each federal agency must conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin.

No action from this final rule will have a disproportionately high and adverse human health and environmental effect on any particular segment of the population. In addition, this rule does not impose substantial direct compliance costs on those communities. Accordingly, the requirements of Executive Order 12898 do not apply.

11. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A "major rule" cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a major rule as defined by 5 U.S.C. 804(2). This rule will be effective July 5, 2005.

12. Plain Language Directive

Executive Order 12866 requires each agency to write all rules in plain language. EPA has written this final rule in plain language to make this final rule easier to understand.

13. Executive Order 13158: Marine Protected Areas

Executive Order 13158 (65 FR 34909, May 31, 2000) requires EPA to "expeditiously propose new science-based regulations, as necessary, to ensure appropriate levels of protection for the marine environment." EPA may take action to enhance or expand protection of existing marine protected areas and to establish or recommend, as appropriate, new marine protected areas. The purpose of the Executive Order is to protect the significant natural and cultural resources within the marine environment, which means, "those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands thereunder, over which the United States exercises jurisdiction, consistent with international law."

EPA expects that this final rule will afford additional protection of aquatic organisms at individual, population, community, or ecosystem levels of ecological structures. Only suitable material under MPRSA requirements, and for which there is no other practicable alternative with less adverse environmental effects, will be allowed to be disposed at the designated sites. Also, these sites will be monitored and managed according to the SMMPs (Appendix J of the FEIS) and, as discussed in the FEIS, use of the sites should not impact any marine protected areas. In addition, EPA, the Corps, and other relevant federal and state resource management agencies will meet annually to discuss the management of these sites. Therefore, EPA expects today's final rule will advance the objective of the Executive Order to protect marine areas.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Dated: May 19, 2005.

Robert W. Varney,

Regional Administrator, EPA New England.

■ In consideration of the foregoing, EPA is amending part 228, chapter I of title 40 of the Code of Federal Regulations as follows:

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

■ 1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

■ 2. Section 228.15 is amended by adding paragraphs (b)(4) and (b)(5) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(b) * * *

(4) Central Long Island Sound Dredged Material Disposal Site (CLIS).

(i) *Location:* Corner Coordinates (NAD 1983) 41°9.5′ N., 72°54.4′ W.; 41°9.5′ N., 72°51.5′ W.; 41°08.4′ N., 72°54.4′ W.; 41°08.4′ N., 72°51.5′ W.

(ii) *Size:* A 1.1 by 2.2 nautical mile rectangular area, about 2.42 square nautical miles in size.

(iii) *Depth:* Ranges from 56 to 77 feet (17 to 23.5 meters).

(iv) *Primary use:* Dredged material disposal.

(v) *Period of use:* Continuing use, except as provided in paragraph (b)(4)(vi) of this section.

(vi) *Restrictions:* The designation in this paragraph (b)(4) sets forth conditions for the use of Central Long Island Sound (CLIS) and Western Long Island Sound (WLIS) Dredged Material Disposal Sites. These conditions apply to all disposal subject to the MPRSA, namely all federal projects and non-federal projects greater than 25,000 cubic yards. All references to "permittees" shall be deemed to include the Army Corps of Engineers (USACE) when it is authorizing its own dredged material disposal from a USACE dredging project. The conditions for this designation are as follows:

(A) Disposal shall be limited to dredged material from Long Island Sound and vicinity.

(B) Disposal shall comply with conditions set forth in the most recent approved Site Management and Monitoring Plan.

(C) Except as provided in paragraphs (b)(4)(vi)(D) and (E) of this section, the disposal of dredged material at the CLIS and WLIS sites pursuant to this designation shall not be allowed beginning eight (8) years after July 5, 2005 unless a regional dredged material management plan (DMMP) for Long Island Sound has been completed by the North Atlantic Division of the USACE, in consultation with the State of New York, State of Connecticut and EPA, with a goal of reducing or eliminating the disposal of dredged material in Long

Island Sound, and the EPA thereafter amends this site designation to incorporate procedures and standards that are consistent with those recommended in the DMMP.[1] Completion of the DMMP means finishing the items listed in the work plan (except for any ongoing long-term studies), including the identification of alternatives to open-water disposal, and the development of procedures and standards for the use of practicable alternatives to open-water disposal. If the completion of the DMMP does not occur within eight years of July 5, 2005 (plus any extensions under paragraphs (b)(4)(vi)(D) and (E) of this section), use of the sites shall be prohibited. However, if the DMMP is thereafter completed within one year, disposal of dredged material at the sites may resume.

(D) The EPA may extend the eight-year deadline in paragraph (b)(4)(vi)(C) of this section for any reasonable period (on one or more occasions) if it obtains the written agreement of the USACE, the State of Connecticut (Department of Environmental Protection) and the State of New York (Department of State).

(E) The EPA may extend the eight-year deadline in paragraph (b)(4)(vi)(C) of this section by up to one year (on one occasion only) if it determines in writing that the parties participating in the development of the DMMP have attempted in good faith to meet the deadline, but that the deadline has not been met due to factors beyond the parties' control (including funding). Such an extension may be in addition to any extension(s) granted under paragraph (b)(4)(vi)(D) of this section.

[1] If the EPA has acted in good faith to adopt substantially all procedures and standards for the use of the sites and the use of practicable alternatives to open-water disposal recommended in the DMMP, termination of the use of the sites based on the EPA not adopting all procedures and standards shall not occur unless a party first files a petition with the EPA pursuant to item 7 setting forth in detail each procedure or standard that the party believes the EPA must adopt in order to be consistent with the DMMP, and the EPA has an opportunity to act on the petition. Termination of the use of the sites shall not occur if in response to a petition the EPA determines that it has adopted substantially all procedures and standards for the use of the sites and the use of practicable alternatives to open-water disposal recommended in the DMMP, unless and until otherwise directed by a court. Termination of the use of the sites shall not occur based on not adopting a DMMP provision if the DMMP provision is not consistent with applicable law. Termination of the use of the sites shall not occur based on the EPA not meeting the 60 and 120 day rulemaking deadlines set forth in item 7, but use of the sites shall be suspended if the EPA misses either deadline, until the EPA issues a final rule. Termination of the use of the sites shall not occur based on the EPA adopting procedures and standards which are stricter than the recommendations of the DMMP.

(F) The EPA will conduct an annual review of progress in developing the DMMP. If the EPA finds that the DMMP is being unreasonably delayed by one or more parties, the EPA reserves the right to take the following actions as appropriate: (*1*) Suspend use of the sites even prior to the deadlines established in paragraphs (b)(4)(vi)(C) through (E) of this section through an amended rulemaking or (*2*) Exercise through rulemaking its statutory and regulatory authorities regarding designation of ocean disposal sites.

(G) Upon completion of the DMMP, disposal of dredged material at the designated sites pursuant to the designation in this paragraph (b)(4) shall be allowed only from permittees that comply with procedures and standards consistent with the recommendations of the DMMP, and consistent with applicable law, for the use of the sites and for the use of practicable alternatives to open-water disposal, so as to reduce or eliminate the disposal of dredged material in Long Island Sound. Upon the completion of the DMMP, the EPA will within 60 days propose and within 120 days (subject to consideration of public comments) issue a legally binding amendment to the designation in this paragraph (b)(4) describing all such procedures and standards and specifying that they must be complied with as part of this designation.[2] If any party (or the EPA on its own initiative) is not satisfied that the final DMMP recommends sufficient procedures and standards to reduce or eliminate disposal of dredged material in Long Island Sound to the greatest extent practicable, or if any party is not satisfied with the EPA's amendment adopting such procedures and standards, the party may petition the EPA to do a rulemaking to amend the designation to establish different or additional standards. The EPA will act on any such petition within 120 days.

(H) Disposal not subject to the restrictions in paragraphs (b)(4)(vi)(C) through (G) or (b)(4)(vi)(I) of this section shall be permitted only for materials resulting from currently authorized or permitted dredging projects at Norwalk, Rye and New Rochelle. Such disposal must meet all applicable statutory and regulatory requirements. All phases of any of these project must be initiated within four (4) years from the date of the designation, or the project will become subject to paragraph (b)(4)(vi)(I) of this section.

(I) Except for the projects covered by paragraph (b)(4)(vi)(H) of this section and until completion of the DMMP, disposal of dredged material at the designated sites pursuant to the designation in this paragraph (b)(4) shall be allowed only if, after full consideration of recommendations provided by an established Regional Dredging Team[3] (RDT), the USACE finds (and the EPA does not object to such finding), based on a fully documented analysis, that for a given dredging project:

(1) There are no practicable alternatives (as defined in 40 CFR 227.16(b)) to open-water disposal in Long Island Sound and that any available practicable alternative to open-water disposal will be fully utilized for the maximum volume of dredged material practicable;

(2) Determinations relating to paragraph (b)(4)(vi)(I)(1) of this section will recognize that any alternative to open-water disposal may add additional costs. Disposal of dredged material at the designated sites pursuant to this paragraph (b)(4) shall not be allowed if a practicable alternative is available. Any project subject to this restriction must be permitted or authorized prior to the completion of the DMMP and completed within two years after the completion of the DMMP.

(J) Disposal shall be limited to dredged sediments that comply with the Ocean Dumping Regulations.

(K) Disposal of dredged material at the designated sites pursuant to the designation in this paragraph (b)(4) shall not be allowed for any materials subject to a waiver under 33 U.S.C. 1413(d) unless, for any project where a waiver is sought, the New England or New York District of the USACE provides notification, by certified mail at least thirty (30) days before making the waiver request, to the Governors of the states of Connecticut and New York and the North Atlantic Division of the USACE that it will be requesting a waiver.

(L) Transportation of dredged material to the sites shall only be allowed when weather and sea conditions will not interfere with safe transportation and will not create risk of spillage, leak or other loss of dredged material in transit. No disposal trips shall be initiated when the National Weather Service has issued a gale warning for local waters during

[2] The EPA must preserve its discretion, in response to public comments, not to adopt such an amendment to this designation. The EPA understands that the State of New York has reserved its rights to revive its objection to this designation if the DMMP procedures and standards are not adopted.

[3] A Regional Dredging Team (RDT) comprised of regulatory and coastal policy specialists from state and federal agencies will be formed.

the time period necessary to complete dumping operations.

(M) The parties participating in the DMMP will need to seek additional funding in order to develop the DMMP. Nothing in the designation in this paragraph (b)(4) or elsewhere guarantees that any agency will be able to obtain funding for the DMMP. This designation shall not be interpreted as or constitute a commitment that the United States will obligate or expend funds in contravention of the Anti-Deficiency Act, 31 U.S.C. 1341. Rather, the sole remedy for any failure to meet the conditions specified in this paragraph (b)(4)(vi) shall be the restriction of the authority to dispose of dredged material, as provided in this paragraph (b)(4).

(N) Nothing in the designation in this paragraph (b)(4) or elsewhere precludes the EPA from exercising its statutory authority to designate other ocean disposal sites, not subject to the restrictions in paragraph (b)(4)(vi), or taking any subsequent action to modify the site designation in paragraph (b)(4), provided that the EPA makes any such designation or takes such subsequent action through a separate rulemaking in accordance with all applicable legal requirements. Nothing in this designation shall be interpreted to restrict the EPA's authorities under the MPRSA or the implementing regulations or to amend the implementing regulations.

(5) Western Long Island Sound Dredged Material Disposal Site (WLIS).

(i) *Location:* Corner Coordinates (NAD 1983) 41°00.1′ N., 73°29.8′ W.; 41°00.1′ N., 73°28.1′ W.; 40°58.9′ N., 73°29.8′ W.; 40°58.9′ N., 73°28.1′ W.

(ii) *Size:* A 1.2 by 1.3 nautical mile rectangular area, about 1.56 square nautical miles in size.

(iii) *Depth:* Ranges from 79 to 118 feet (24 to 36 meters).

(iv) *Primary use:* Dredged material disposal.

(v) *Period of use:* Continuing use except as provided in paragraph (b)(5)(vi) of this section.

(vi) *Restrictions:* See 40 CFR 228.15(b)(4)(vi).

* * * * *

[FR Doc. 05–10847 Filed 6–2–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7879]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Mitigation Division, 500 C Street, SW.; Room 412, Washington, DC 20472, (202) 646–2878.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification letter addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this

rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp.; p. 252.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp.; p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer avaialble in special flood hazard areas
Region V				
Illinois:				
Bellwood, Village of, Cook County	170061	February 18, 1975, Emerg; December 4, 1979, Reg; June 2, 2005, Susp.	June 2, 2005	June 2, 2005.
Broadview, Village of, Cook County	170067	March 7, 1075, Emerg; January 16, 1981, Reg; June 2, 2005, Susp.	do*	Do.
Franklin Park, Village of, Cook County	170094	April 11, 1973, Emerg; September 15, 1978, Reg; June 2, 2005, Susp.	do	Do.
Hillside, Village of, Cook County	170104	July 21, 1975, Emerg; June 11, 1976, Reg; June 2, 2005, Susp.	do	Do.
La Grange Park, Village of, Cook County.	170115	January 19, 1973, Emerg; November 15, 1978, Reg; June 2, 2005, Susp.	do	Do.
Maywood, Village of, Cook County	170124	July 22, 1975, Emerg; August 11, 1978, Reg; June 2, 2005, Susp.	do	Do.
Melrose Park, Village of, Cook County	170125	June 20, 1975, Emerg; January 2, 1981, Reg; June 2, 2005, Susp.	do	Do.
North Riverside, Village of, Cook County.	170135	March 24, 1975, Emerg; December 16, 1980, Reg; June 2, 2005, Susp.	do	Do.
Northlake, City of, Cook County	170134	February 7, 1974, Emerg; Janaury 3, 1986, Reg; June 2, 2005, Susp.	do	Do.
River Grove, Village of, Cook County	170152	April 1, 1974, Emerg; December 16, 1980, Reg; June 2, 2005, Susp.	do	Do.
Stone Park, Village of, Cook County	170165	April 28, 1980, Emerg; July 16, 1980, Reg; June 2, 2005, Susp.	do	Do.
Westchester, Village of, Cook County	170170	November 24, 1972, Emerg; June 4, 1980, Reg; June 2, 2005, Susp.	do	Do.

*do = Ditto

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: May 25, 2005.

David I. Maurstad,

Acting Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 05–11119 Filed 6–2–05; 8:45 am]

BILLING CODE 9110–12–P

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[GSAR Amendment 2005–02; GSAR Case 2005–G502 (Change 15)]

RIN 3090–AI12

General Services Administration Acquisition Regulation; Veteran and Service-Disabled Veteran-Owned Small Business Goals in Subcontracting Plans

AGENCIES: General Services Administration (GSA), Office of the Chief Acquisition Officer.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) in order to be consistent with the Federal Acquisition Regulation (FAR), to update GSAR clauses pertaining to subcontracting plans to include veteran-owned and service-disabled veteran-owned small businesses.

DATES: *Effective Date*: June 3, 2005.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat (VIR), Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Rhonda Cundiff, Procurement Analyst, at (202) 501–0044. Please cite Amendment 2005–02, GSAR case 2005–G502 (Change 15).

SUPPLEMENTARY INFORMATION:

A. Background

The General Services Administration (GSA) is issuing a final rule to amend the General Services Administration Acquisition Regulation (GSAR) in order to be consistent with changes to the FAR made by FAR case 2000–302, in Federal Acquisition Circulars 97–20, 2001–01 and 2001–01 Correction. These changes implemented the Veterans Entrepreneurship and Small Business Development Act of 1999 (PL 106–50) and the Small Business Reauthorization Act of 2000 (part of the Consolidated Appropriations Act, 2001). FAR case 2000–302 added additional subcontracting plan goal requirements for veteran-owned and service-disabled veteran-owned small business concerns. This GSAR rule amends GSAR 552 to incorporate these subcontracting plan categories into subcontracting plans.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant GSAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required because the Federal Acquisition Regulation already covers the requirement for subcontracting goals for veteran-owned small businesses and service-disabled veteran-owned small businesses.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors, or members of the public that require approval of the Office of Management and Budget under 44 U.S.C.3501, *et seq.*

This information is an extension of a requirement already included in the FAR. The only difference in the FAR requirement and the GSAR requirement in 519.705–2 is that for all negotiated solicitations having an anticipated award value over $500,000 ($1,000,000 for construction), submission of a subcontracting plan by other than small business concerns is required when a negotiated acquisition meets four conditions: (1) when the contracting officer anticipates receiving individual contract plans (not commercial plans); (2) when the award is based on trade-offs among cost or price and technical and/or management factors under FAR 15.101–1; (3) the acquisition is not a commercial item acquisition; and (4) the acquisition offers more than minimal subcontracting opportunities.

List of Subjects in 48 CFR Part 552

Government procurement.

Dated: May 24, 2005

David A. Drabkin,

Senior Procurement Executive, Office of the Chief Acquisition Officer, General Services Administration.

■ Therefore, GSA amends 48 CFR part 552 as set forth below:

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

552.219–71 [Amended]

■ 2. Amend section 552.219–71 by—

■ a. Removing from the introductory text the reference "519.708" and inserting "519.708–70(a)" in its place; and

■ b. Revising the date of the provision to read "(JUN 2005)".

552.219–72 [Amended]

■ 3. Amend section 552.219–72 by—

■ a. Removing from the introductory text the reference "519.708(b)" and inserting "519.708–70(b)" in its place;

■ b. Revising the date of the provision to read "(JUN 2005)";

■ c. Removing the word "products" from paragraph (a); and

■ d. Removing from paragraph (b) the words "and women-owned" from the first and second sentences, and inserting "women-owned, veteran-owned, and service-disabled veteran owned" in their place, and in the third sentence remove the word "products".

552.219–73 [Amended]

■ 4. Amend section 552.219–73 by—

■ a. Removing from the introductory text the reference "519.708(c)" and inserting "519.708–70(c)" in its place;

■ b. Revising the date of the provision to read "(JUN 2005)";

■ c. Removing from paragraph (a)(2) the words "and women-owned" from the first and second sentences, and inserting "women-owned, veteran-owned, and service-disabled veteran owned" in their place, and in the second sentence remove the word "products".

■ d. Revising the list following paragraph (b) intro text (the Note remains unchanged); and

■ e. Removing from Alternate I the reference "519.708(c)(2)" and inserting "519.708–70(c)(2)" in its place.

The added text reads as follows:

552.219–73 Goals for Subcontracting Plan.

* * * * *

(b) * * *

Small Business	____percent
HUBZone Small Business	____percent
Small Disadvantage Business	____percent
Women-Owned Small Business	____percent
Veteran-Owned Small Business	____percent
Service-Disabled Veteran-Owned	

Small Business _____percent

* * * * *

552.219–71, 552.219–72, 552.219–73 [Amended]

■ 5. In addition to the amendments set forth above, remove the words "and women-owned" and add "women-owned, veteran-owned, and service-disabled veteran owned" in its place in the following places:

(a) Section 552.219–71 from the first and third sentences;

(b) Section 552.219–72 (c) intro text, (c)(1), (d)(3), and (d)(4); and

(c) Section 552.219–73 (a)intro text, (a)(1), (b), (c)(3), and (c)(4).

[FR Doc. 05–10934 Filed 6–2–05; 8:45 am]

BILLING CODE 6820–61–S

Proposed Rules

Federal Register
Vol. 70, No. 106
Friday, June 3, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21356; Directorate Identifier 2004–NM–223–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 and –300 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 777–200 and –300 series airplanes. This proposed AD would require repetitive detailed inspections of the forward lugs of the power control unit (PCU), yoke assembly, and forward attachment hardware of the left inboard, left outboard, right inboard, and right outboard flaperon PCUs; and other specified/corrective actions if necessary. For certain airplanes, the proposed AD also would require other related concurrent actions. This proposed AD is prompted by reports indicating that operators have found worn, fretted, and fractured bolts that attach the yoke assembly to the flaperon PCU. We are proposing this AD to prevent damage and eventual fracture of the yoke assembly, pin assembly, and attachment bolts that connect the inboard and outboard PCUs to a flaperon, which could lead to the flaperon becoming unrestrained and consequently departing from the airplane. Loss of a flaperon could result in asymmetric lift and reduced roll control of an airplane. A departing flaperon could also cause damage to the horizontal and vertical stabilizers, which could result in loss of control of the airplane if damage is significant.

DATES: We must receive comments on this proposed AD by July 18, 2005.

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

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

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

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or 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–2005–21356; the directorate identifier for this docket is 2004–NM–223–AD.

FOR FURTHER INFORMATION CONTACT: Gary Oltman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6443; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2005–21356; Directorate Identifier 2004–NM–223–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

We have received reports indicating that four operators have found worn, fretted, and fractured bolts that attach the yoke assembly to the flaperon power control unit (PCU) on Boeing Model 777–300 series airplanes. One of the operators also found a fractured bolt and significant damage to the PCU and yoke assembly on a Model 777–300 series airplane powered by Rolls-Royce engines. That airplane had accumulated approximately 7,500 total flight hours and 2,600 total flight cycles. Damaged and fractured bolts are caused by a combination of higher-than-expected cyclic loads at high engine thrust conditions during takeoff and the low torque with which the attachment bolts were tightened. Damage and eventual fracture of the yoke assembly, pin assembly, and attachment bolts that connect the inboard and outboard PCUs to a flaperon, if not corrected, could lead to the flaperon becoming unrestrained and consequently departing from the airplane. Loss of the

flaperon could result in asymmetric lift and reduced roll control of the airplane. A departing flaperon could also cause damage to the horizontal and vertical stabilizers, which could result in loss of control of the airplane if damage is significant.

The yoke assemblies of the flaperon PCUs on certain Model 777–200 and –300 series airplanes powered by General Electric, Pratt & Whitney, and Rolls-Royce engines are identical to those on the affected Model 777–300 series airplanes powered by General Electric, Pratt & Whitney, and Rolls-Royce engines. Therefore, all of these models may be subject to the same unsafe condition.

Other Related Rulemaking

On June 10, 1999, we issued AD 99–13–05, amendment 39–11198 (64 FR 33390, June 23, 1999), applicable to certain Boeing Model 777 series airplanes. That AD requires repetitive inspections to detect cracking of the upper cutout and lower flange of the outboard support assembly of the flaperons on the wings; and corrective actions, if necessary. That AD also provides an optional terminating action for the repetitive inspections. If paragraph (b) or (d) of AD 99–13–05 has been accomplished in accordance with Boeing Alert Service Bulletin 777–57A0008, dated March 25, 1999, operators do not need to replace the pins of the outboard flaperon PCUs that would be required by this proposed AD for certain airplanes. This proposed AD does not affect the requirements of AD 99–13–05.

Relevant Service Information

We have reviewed Boeing Service Bulletin 777–27A0056, Revision 1, dated July 8, 2004 (for Model 777–200 and –300 series airplanes). The service bulletin describes procedures for doing repetitive detailed inspections of the forward lugs of the PCU, yoke assembly, and forward attachment hardware of the left inboard, left outboard, right inboard, and right outboard flaperon PCUs for damage; and specified and corrective actions if applicable. The other specified action includes tightening the attachment bolts to a higher torque value. The corrective actions include:

- Repairing any damaged attachment hardware;
- Repairing any damaged PCU lug; and
- Replacing the yoke assembly with a new, improved yoke assembly, if any damage to any yoke assembly is found or if a migrated or rotated bearing is found.

For certain Model 777–200 series airplanes: Boeing Service Bulletin 777–27A0056 also specifies prior or concurrent accomplishment of Boeing Service Bulletin 777–27–0009, Revision 1, dated May 8, 2003; and Boeing Service Bulletin 777–27–0049, dated August 30, 2001.

For Model 777–200 and –300 series airplanes: Boeing Service Bulletin 777–27A0056 specifies that the detailed inspections of the aft lugs of the yoke assembly for signs of wear on the anti-rotation lugs, and of the yoke assembly bearings for signs of migration or rotation are not required if an operator has accomplished Boeing Service Bulletin 777–27–0049.

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

Concurrent Service Bulletins for Certain Model 777–200 Series Airplanes

Boeing Service Bulletin 777–27–0009 describes procedures for replacing aluminum yoke assemblies and pins of the left inboard, left outboard, right inboard, and right outboard flaperon PCUs with new, improved steel yoke assemblies and pins. Boeing Service Bulletin 777–27–0009 also specifies that accomplishment of Boeing Service Bulletin 777–57A0008, dated March 25, 1999 (for Model 777 airplanes), which is required by AD 99–13–05, is acceptable for compliance with the requirement to replace the pins of the flaperon PCUs.

Boeing Service Bulletin 777–27–0049 describes procedures for replacing the yoke assemblies of the left inboard, left outboard, right inboard, and right outboard flaperon PCUs with new, improved steel yoke assemblies having improved bearing retention, and doing any other specified and corrective actions. For Boeing Service Bulletin 777–27–0049, the other specified actions include the following:

- Doing an inspection of the forward lugs of the PCU for nicks, gouges, and fretting damage;
- Doing an inspection of the attachment hardware for the PCU to yoke assembly for damage; and
- Installing the new, improved pins for the yoke assemblies of the left inboard, left outboard, right inboard, and right outboard flaperon PCUs.

For Boeing Service Bulletin 777–27–0049, the corrective action includes repairing any damaged PCU lug and any damaged attachment hardware.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between the Proposed AD and Concurrent Service Bulletin."

Differences Between the Proposed AD and Concurrent Service Bulletins

Boeing Service Bulletin 777–27–0009 specifies installing new, improved steel yoke assemblies having part number (P/N) 251W1130–1. This proposed AD, however, would require installing new, improved steel yoke assemblies having improved bearing retention, P/N 251W1130–3. Installing P/N 251W1130–3 concurrently with doing the detailed inspections of the forward lugs of the PCU and of the attachment hardware for damage (as specified in paragraphs (f)(1) and (f)(5) of this AD), and corrective actions if necessary, in accordance with Boeing Service Bulletin 777–27A0056, Revision 1, adequately addresses the concurrent requirements identified in Boeing Service Bulletin 777–27–0049. Therefore, this proposed AD does not require concurrent accomplishment of Boeing Service Bulletin 777–27–0049. Accomplishing Boeing Service Bulletin 777–27–0049 is an optional terminating action for certain repetitive inspections.

Clarification of Credit for Pin Replacements

Boeing Service Bulletin 777–27–0009 specifies that if an operator accomplishes Boeing Service Bulletin 777–57A0008, then an operator does not need to replace the pins of the flaperon PCUs. (There are four pins per airplane—one each attaching the inboard and outboard PCUs to the flaperons of the left and right wings.) This AD, however, clarifies that accomplishing Boeing Service Bulletin 777–57A0008 is acceptable for compliance with replacement of the pins of the outboard flaperon PCUs on each wing, only if the service bulletin is done before the effective date of this AD.

Clarification of Inspection Terminology

The "inspection" specified in Boeing Service Bulletin 777–27–0049 is referred to as a "detailed inspection" in this proposed AD. Operators may refer to Boeing Service Bulletin 777–27A0056 for the definition of a detailed inspection.

Costs of Compliance

There are about 483 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 131 airplanes of U.S. registry. The proposed inspections would take about 4 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed inspections for U.S. operators is $34,060, or $260 per airplane, per inspection cycle.

The proposed concurrent actions of Boeing Service Bulletin 777–27–0009, if required, would take about 7 work hours per airplane. Required parts would cost about $12,758 per airplane. Based on these figures, the estimated cost of these proposed concurrent actions is $13,213 per airplane.

The proposed concurrent actions of Boeing Service Bulletin 777–27–0049, if required, would take about 5 work hours per airplane. Required parts would cost about $3,245 per airplane. Based on these figures, the estimated cost of these proposed concurrent actions is $3,570 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2005–21356; Directorate Identifier 2004–NM–223–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by July 18, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 777–200 and –300 series airplanes, certificated in any category, as identified in Boeing Service Bulletin 777–27A0056, Revision 1, dated July 8, 2004.

Unsafe Condition

(d) This AD was prompted by reports indicating that operators have found worn, fretted, and fractured bolts that attach the yoke assembly to the flaperon power control unit (PCU). We are issuing this AD to prevent damage and eventual fracture of the yoke assembly, pin assembly, and attachment bolts that connect the inboard and outboard PCUs to a flaperon, which could lead to the flaperon becoming unrestrained and consequently departing from the airplane. Loss of a flaperon could result in asymmetric lift and reduced roll control of an airplane. A departing flaperon could also cause damage to the horizontal and vertical stabilizers, which could result in loss of control of the airplane if damage is significant.

Compliance

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

Detailed Inspections

(f) At the applicable compliance time(s) specified in Table 1 of this AD, do detailed inspections of the parts specified in paragraphs (f)(1) through (f)(5) of the left inboard, left outboard, right inboard, and right outboard flaperon PCUs; and do any other specified and corrective actions as applicable; by doing all of the actions specified in the Accomplishment Instructions of Boeing Service Bulletin 777–27A0056, Revision 1, dated July 8, 2004. Do the applicable corrective actions before further flight.

(1) Forward lugs of the PCU for nicks, gouges, and fretting damage.

(2) Aft lugs of the yoke assembly for fretting damage.

(3) Aft lugs of the yoke assembly for signs of wear on the anti-rotation lugs, unless paragraph (g) or (h) of this AD, as applicable, has been accomplished.

(4) Aft lugs of the yoke assembly bearings for signs of migration or rotation, unless paragraph (g) or (h) of this AD, as applicable, has been accomplished.

(5) Attachment hardware for the PCU to yoke assembly for damage.

TABLE 1.—COMPLIANCE TIMES

Applicable airplanes	Initial inspection	Repetitive inspections
Model 777–200 and –300 airplanes powered by General Electric or Pratt & Whitney engines.	Before the accumulation of 5,000 total flight cycles or within 12 months after the effective date of this AD, whichever is later.	None.
Model 777–200 and –300 airplanes powered by Rolls Royce engines, line numbers (L/Ns) 1 through 297 inclusive.	Before the accumulation of 1,000 total flight cycles or within 180 days after the effective date of this AD, whichever is later.	At intervals not to exceed 5,000 flight cycles or 750 days, whichever is later.

TABLE 1.—COMPLIANCE TIMES—Continued

Applicable airplanes	Initial inspection	Repetitive inspections
Model 777–200 and –300 airplanes powered by Rolls Royce engines, L/Ns 298 and subsequent.	Before the accumulation of 5,000 total flight cycles or within 750 days after the effective date of this AD, whichever is later.	At intervals not to exceed 5,000 flight cycles or 750 days, whichever is later.

Concurrent Actions for Certain Airplanes

(g) For Model 777–200 series airplanes identified in Boeing Service Bulletin 777–27–0009, Revision 1, dated May 8, 2003: Before or concurrently with accomplishing paragraph (f) of this AD, replace the yoke assemblies and pins of the left inboard, left outboard, right inboard, and right outboard flaperon PCUs with new, improved yoke assemblies and pins by doing all of the actions specified in the Accomplishment Instructions of Boeing Service Bulletin 777–27–0009, Revision 1, dated May 8, 2003; except where the service bulletin specifies installing yoke assembly having part number (P/N) 251W1130–1, install yoke assembly having P/N 251W1130–3.

Optional Terminating Action for Certain Repetitive Inspections

(h) For Model 777–200 and –300 series airplanes identified in Boeing Service Bulletin 777–27–0049, dated August 30, 2001: Replacing the yoke assemblies of the left inboard, left outboard, right inboard, and right outboard flaperon PCUs with new, improved yoke assemblies having improved bearing retention, and doing any other specified and corrective actions, by doing all of the actions specified in the Accomplishment Instructions of Boeing Service Bulletin 777–27–0049, dated August 30, 2001, terminates the detailed inspections required by paragraphs (f)(3) and (f)(4) of this AD.

Credit for Pin Replacements of the Outboard Flaperon PCUs

(i) Accomplishment of the actions specified in paragraph (b) or (d) of AD 99–13–05, amendment 39–11198, before the effective date of this AD is acceptable for compliance with the pin replacements of the left and right outboard flaperon PCUs required by paragraph (g) of this AD.

Parts Installation

(j) As of the effective date of this AD, no person may install on any airplane the following parts: Yoke assembly having P/N S251W115–3 or P/N 251W1130–1; and pin having P/N S251W115–2.

Alternative Methods of Compliance (AMOCs)

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

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on May 27, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11049 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21355; Directorate Identifier 2005–NM–037–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes Powered by General Electric or Pratt & Whitney Engines

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Boeing Model 767 series airplanes. The existing AD currently requires repetitive inspections to detect discrepancies of the eight aft-most fastener holes in the horizontal tangs of the midspar fitting of the strut, and corrective actions if necessary. That AD also provides an optional terminating action for the repetitive inspections. This proposed AD would add repetitive inspections for cracks of the closeout angle that covers the two aft-most fasteners in the lower tang of the midspar fitting, and related investigative and corrective actions if necessary. This proposed AD also would reduce the inspection interval of the upper tang of the outboard midspar fitting; and would provide an optional terminating action for the repetitive inspections. This proposed AD is prompted by a report of a crack in a closeout angle that covers the two aft-most fasteners in the lower tang of the midspar fitting; and the discovery of a crack in the lower tang of the midspar fitting under the cracked closeout angle. We are proposing this AD to prevent fatigue cracking in the primary strut structure and reduced structural integrity of the strut, which could result in separation of the strut and engine.

DATES: We must receive comments on this proposed AD by July 18, 2005.

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

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

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

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or 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–2005–21355; the directorate identifier for this docket is 2005–NM–037–AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–

2005–21355; Directorate Identifier 2005–NM–037–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

On April 22, 2004, we issued AD 2004–09–14, amendment 39–13603 (69 FR 24947, May 5, 2004), for certain Boeing Model 767 series airplanes. That AD requires repetitive inspections to detect discrepancies of the eight aft-most fastener holes in the horizontal tangs of the midspar fitting of the strut, and corrective actions if necessary. That AD also provides an optional terminating action for the repetitive inspections. That AD was prompted by reports of cracking at the third row of fasteners in the midspar fitting. We issued that AD to prevent fatigue cracking in the primary strut structure and reduced structural integrity of the strut, which could result in separation of the strut and engine.

Actions Since Existing AD Was Issued

Since we issued that AD, an operator doing the inspections required by AD 2004–09–14 discovered a crack in the closeout angle that covers the two aft-most fasteners in the lower tang of the midspar fitting and found that the midspar fitting, where it was hidden by the closeout angle, was also cracked. The closeout angle does not normally carry high fatigue loads, so a cracked closeout angle is a symptom of cracking in the midspar fitting at the fastener locations under the closeout angle. The existing AD requires an inspection of the closeout angle, but does not require that operators inspect the midspar fitting under the angle if the detailed inspection option (one of two options for compliance) is chosen. Analysis has shown that the detailed inspection of the closeout angle does not provide sufficient probability of detecting the secondary cracking resulting from a cracked midspar fitting. The same analysis showed that the repetitive interval for inspecting the upper tang of the outboard midspar fitting is insufficient.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 767–54A0101, Revision 4, dated February 10, 2005 (AD 2004–09–14 refers to Boeing Service Bulletin 767–54A0101, Revision 3, dated September 5, 2002, as the appropriate source of service information for the actions specified in that AD). The alert service bulletin describes procedures for the repetitive detailed inspections or high-frequency eddy current (HFEC) inspections of the aft-most fastener holes that are mandated by the existing AD. In addition, the alert service bulletin describes procedures for repetitive HFEC inspections of the closeout angle around the two fasteners common to the closeout angle and the midspar fitting.

If no crack or incorrect fastener hole diameter is found during any inspection, the alert service bulletin describes procedures for doing any necessary rework of the fastener holes, and repeating the inspection at intervals ranging from 600 flight cycles to 16,000 flight cycles, depending on the type of engine, the area to be inspected, and the inspections accomplished previously according to the existing AD. In this revision of the service bulletin, the repetitive inspection interval for the detailed inspection of the upper tangs of the outboard midspar fitting is reduced from 6,000 flight cycles to 1,500 flight cycles.

If any crack is found during any inspection of the closeout angle, the service bulletin describes procedures for related investigative and corrective actions. The related actions are to remove the two fasteners common to the closeout angle and the midspar fitting, and do an HFEC inspection for discrepancies (cracks, incorrect fastener hole diameter) of the fastener holes of the closeout angle. If there are no discrepancies in the open fastener holes, the corrective action is to contact the manufacturer for repair instructions for the closeout angle. If cracks are found both in the closeout angle and the open fastener holes, or if any of the eight fastener holes are larger than 0.5322 inch, the corrective action is to do the terminating action in Part 4 of the alert service bulletin, or to contact the manufacturer for repair instructions.

Accomplishing the actions specified in Boeing Alert Service Bulletin 767–54A0101, Revision 4, is intended to adequately address the unsafe condition.

The alert service bulletin refers to the Boeing service bulletins in the following table as additional sources of service information for doing the terminating action in Part 4 of the alert service bulletin.

ADDITIONAL SOURCES OF SERVICE INFORMATION

Boeing service bulletin	Revision level	Date	Title
767–54–0052	Original	June 11, 1992	Nacelles/Pylons—Strut—Aft Lower Spar—Fastener Corrosion—Inspection and Replacement.
767–54–0061	2	November 23, 1999	Nacelles/Pylons—Wing-to-Strut Attach Fittings—Lower Spar Bushing Inspection and Replacement.

ADDITIONAL SOURCES OF SERVICE INFORMATION—Continued

Boeing service bulletin	Revision level	Date	Title
767–54–0069	2	August 31, 2000	Nacelles/Pylons—Midspar Fitting—Underwing Sideload Fitting—Fuse Pin Replacement and Wing Rework.
767–54–0072	Original	March 13, 1997	Nacelles/Pylons—Strut Attach Upper Link—Upper Link Inspection, Rework, or Replacement.
767–54–0080	1	May 9, 2002	Nacelles/Pylons—Pratt and Whitney Powered Airplanes—Nacelle Strut and Wing Structure Modification.
767–54–0081	1	February 7, 2002	Nacelles/Pylons—General Electric Powered Airplanes—Nacelle Strut and Wing Structure Modification.
767–54A0062	5	November 11, 2002	Nacelles/Pylons—Strut Attach Fuse Pins—Midspar Fuse Pin Inspection and Replacement.
767–54A0074	Original	March 27, 1997	Nacelles/Pylons—Strut Attach Fuse Pins—Upper link Fuse Pin Inspection/Replacement.
767–54A0094	2	February 7, 2002	Nacelles/Pylons—Strut-to-Wing Attachment—Diagonal Brace Inspection/Rework/Replacement.
767–57–0063	1	November 30, 2000	Wings—Side Load Underwing Fitting—Inspection/Rework.

Other Relevant Rulemaking

The FAA has issued the following ADs that are related to the additional sources of service information listed in the table above.

- AD 94–11–02, amendment 39–8918 (59 FR 27229, May 26, 1994), applicable to all Boeing Model 767 series airplanes, and related to Boeing Alert Service Bulletin 767–54A0062. AD 94–11–02 requires repetitive detailed visual and eddy current inspections to detect cracks of certain midspar fuse pins, and replacement of any cracked midspar fuse pin with a new fuse pin.
- AD 99–07–06, amendment 39–11091 (64 FR 14578, March 26, 1999), applicable to certain Boeing Model 767 series airplanes, and related to Boeing Alert Service Bulletin 767–54A0094. AD 99–07–06 requires repetitive inspections to detect cracking or damage of the forward and aft lugs of the diagonal brace of the nacelle strut; follow-on actions, if necessary; and an optional terminating action for the repetitive inspections. AD 99–07–06 was superseded by AD 2000–07–05.
- AD 2000–07–05, amendment 39–11659 (65 FR 18883, April 10, 2000), applicable to certain Boeing Model 767 series airplanes, and related to Boeing Alert Service Bulletin 767–54A0094. AD 2000–07–05 requires the previously optional terminating action of AD 99–07–06.
- AD 2000–10–51, amendment 39–11770 (65 FR 37011, June 13, 2000), applicable to certain Boeing Model 767 series airplanes, and related to Boeing Service Bulletin 767–54A0074. AD 2000–10–51 requires a one-time inspection to determine whether certain bolts are installed in the side load underwing fittings on both struts, and various follow-on actions, if necessary.
- AD 2001–02–07, amendment 39–12091 (66 FR 8085, January 29, 2001), applicable to certain Boeing Model 767 series airplanes powered by Pratt & Whitney engines, and related to Boeing Service Bulletins 767–54–0069 and 767–54–0080; and Boeing Alert Service Bulletin 767–54A0094. AD 2001–02–07 requires modification of the nacelle strut and wing structure. This AD terminates certain requirements of AD 94–11–02.
- AD 2001–06–12, amendment 39–12159 (66 FR 17492, April 2, 2001), applicable to certain Boeing Model 767 series airplanes powered by General Electric engines, and related to Boeing Service Bulletins 767–54–0069 and 767–54–0081; and Boeing Alert Service Bulletin 767–54A0094. AD 2001–06–12 requires modification of the nacelle strut and wing structure. This AD terminates certain requirements of AD 94–11–02.
- AD 2003–03–02, amendment 39–13026 (68 FR 4374, January 29, 3003), applicable to all Boeing Model 767 series airplanes, and related to Boeing Service Bulletin 767–54A0062. AD 2003–03–02 supersedes AD 94–11–02. AD 2003–03–02 retains the requirements of AD 94–11–02, but reduces certain compliance times for certain inspections, expands the detailed and eddy current inspections, and limits the applicability.

FAA's Determination and Requirements of the Proposed AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design that may be registered in the U.S. at some time in the future. We are proposing to supersede AD 2004–09–14. This proposed AD would continue to require repetitive inspections to detect discrepancies of the eight aft-most fastener holes in the horizontal tangs of the midspar fitting of the strut, and corrective actions if necessary; and continue to provide an optional terminating action for the repetitive inspections. This proposed AD also would require repetitive inspections for cracks of the closeout angle that covers the two aft-most fasteners in the lower tang of the midspar fitting, and related investigative and corrective actions if necessary; and would reduce the inspection interval of the upper tang of the outboard midspar fitting; except as discussed under "Difference Between the Proposed AD and the Alert Service Bulletin," and "Differences Between the Proposed AD and Boeing Service Bulletin 767–54–0074 (an Additional Source of Service Information)."

Difference Between the Proposed AD and the Alert Service Bulletin

The service bulletin specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization whom we have authorized to make those findings.

Differences Between the Proposed AD and Boeing Service Bulletin 767–54–0074 (an Additional Source of Service Information)

Boeing Service Bulletin 767–54–0074, dated March 27, 1997, contains erroneous technical information that was later corrected by the following information notices (INs):

- IN 767–54–0074 IN 01, dated October 29, 1998, informs operators that Step E.2.b of the Accomplishment Instructions of Boeing Service Bulletin 767–54–0074 should read "If no crack indication is found, continue to Step F." instead of "If no crack indication is found, reinstall the fuse pin."
- IN 767–54–0074 IN 02, dated June 14, 2001, informs operators that the part number of the cotter pin referenced in the material information section should be MS24665–374 rather than MS25665–374.

Table 4 of this proposed AD incorporates these corrections.

Changes to Existing AD

Since AD 2004–09–14 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2004–09–14	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f).
Paragraph (b)	Paragraph (g).
Paragraph (c)	Paragraph (h).
Paragraph (d)	Paragraph (i).
Paragraph (e)	Paragraph (j).

REVISED PARAGRAPH IDENTIFIERS—Continued

Requirement in AD 2004–09–14	Corresponding requirement in this proposed AD
Paragraph (f)	Paragraph (k).
Paragraph (g)	Paragraph (l).
Paragraph (h)	Paragraph (m).
Paragraph (i)	Paragraph (n).
Paragraph (j)	Paragraph (o).

This proposed AD would retain all requirements of AD 2004–09–14. However, we have revised the provisions of paragraph (d) of AD 2004–09–14 (which is included as paragraph (i) of this proposed AD) to include wording related to the new actions in paragraph (p) of this proposed AD.

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

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Option 1: Detailed inspection (required by AD 2004–09–14).	1	$65	None	$65, per inspection cycle.	263	N/A (depends on chosen option).
Option 2: HFEC inspection (required by AD 2004–09–14).	3	65	None	195, per inspection cycle.	263	N/A (depends on chosen option).
HFEC inspection (new proposed action).	4	65	None	260, per inspection cycle.	263	$68,380, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing amendment 39–13603 (69 FR 24947, May 5, 2004) and adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2005–21355; Directorate Identifier 2005–NM–037–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by July 18, 2005.

Affected ADs

(b) This AD supersedes AD 2004–09–14, amendment 39–13603 (69 FR 24947, May 5, 2004).

Applicability

(c) This AD applies to Boeing Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 767–54A0101, Revision 4, dated February 10, 2005.

Unsafe Condition

(d) This AD was prompted by a report of a crack in a closeout angle that covers the two aft-most fasteners in the lower tang of the midspar fitting; and the discovery of a crack in the lower tang of the midspar fitting under the cracked closeout angle. We are issuing this AD to prevent fatigue cracking in the primary strut structure and reduced structural integrity of the strut, which could result in separation of the strut and engine.

Compliance

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

Restatement of Requirements of AD 2004–09–14

Repetitive Inspections

(f) Except as provided by paragraph (g) of this AD, before the accumulation of 10,000 total flight cycles, or within 600 flight cycles after May 15, 2001 (the effective date of AD 2001–07–05, amendment 39–12170), whichever occurs later: Accomplish the inspections required by paragraph (f)(1) or (f)(2) of this AD, as applicable.

(1) Perform a detailed inspection of the four aft-most fastener holes in the horizontal tangs of the midspar fitting of the strut to detect cracking, in accordance with Part 1, "Detailed Inspection," of the Accomplishment Instructions of Boeing Service Bulletin 767–54A0101, Revision 1, dated February 3, 2000. If no cracking is detected, repeat the inspection thereafter at the applicable intervals specified in Table 1, "Reinspection Intervals for Part 1—Detailed Inspection" included in Figure 1 of the service bulletin.

Note 1: For the purposes of this AD, a detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required."

(2) Perform a high frequency eddy current (HFEC) inspection of the four aft-most fastener holes in the horizontal tangs of the midspar fitting of the strut to detect discrepancies (cracking, incorrect fastener hole diameter), in accordance with Part 2, "High Frequency Eddy Current (HFEC) Inspection," of the Accomplishment Instructions of the service bulletin. Accomplish the requirements specified in paragraph (f)(2)(i) or (f)(2)(ii) of this AD, as applicable; and repeat the inspection thereafter at the applicable intervals specified in Table 2, "Reinspection Intervals for Part 2—HFEC Inspection" included in Figure 1 of the service bulletin.

(i) If no cracking is detected and the fastener hole diameter is less than or equal to 0.5322 inch, before further flight, rework the hole in accordance with Part 3 of the Accomplishment Instructions of the service bulletin.

(ii) If no cracking is detected and the fastener hole diameter is greater than 0.5322 inch, before further flight, accomplish the requirements specified in either paragraph (h)(1) or (h)(2) of this AD.

(g) For airplanes on which the two aft-most fasteners have been inspected in accordance with Boeing Service Bulletin 767–54A0101, Revision 1, dated February 3, 2000, prior to May 15, 2001: Perform the initial inspection of the four aft-most fasteners in accordance with paragraph (f) of this AD before the accumulation of 10,000 total flight cycles, or within 1,500 flight cycles after May 15, 2001, whichever occurs later.

Corrective Actions

(h) If any cracking is detected after accomplishment of any inspection required by paragraph (f) of this AD, before further flight, accomplish the requirements specified in either paragraph (h)(1) or (h)(2) of this AD.

(1) Accomplish the terminating action specified in Part 4 of the Accomplishment Instructions of Boeing Service Bulletin 767–54A0101, Revision 1, dated February 3, 2000; Boeing Service Bulletin 767–54A0101, Revision 3, dated September 5, 2002; or Boeing Alert Service Bulletin 767–54A0101, Revision 4, dated February 10, 2005. Accomplishment of this paragraph terminates the requirements of this AD. After the effective date of this AD, only Boeing Alert Service Bulletin 767–54A0101, Revision 4, may be used.

(2) Replace the midspar fitting of the strut with a serviceable part, or repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Repeat the applicable inspection thereafter at the applicable time specified in paragraph (f)(1) or (f)(2) of this AD.

(i) If any discrepancies (cracking, incorrect fastener hole diameter) are detected during any inspection required by paragraph (f) or (p) of this AD, for which the service bulletin specifies that the manufacturer may be contacted for disposition of those repair conditions: Before further flight, accomplish the applicable related investigative and corrective actions (including fastener hole rework and/or midspar fitting replacement) according to a method approved by the Manager, Seattle ACO; or in accordance with data meeting the certification basis of the airplane approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make such findings. For a method to be approved, the approval must specifically reference this AD.

Additional Inspections

(j) Prior to the accumulation of 10,000 total flight cycles, or within 600 flight cycles after June 9, 2004 (the effective date of AD 2004–09–14), whichever occurs later: Perform the inspections specified in paragraph (f)(1) or (f)(2) of this AD, as applicable, on all eight aft-most fastener holes or the four forward fastener holes in the group of eight aft-most fastener holes not inspected per paragraph (f)(1), (f)(2), or (g) of this AD. The inspection must be done per the Accomplishment Instructions in Boeing Service Bulletin 767–54A0101, Revision 3, dated September 5, 2002; or Boeing Alert Service Bulletin 767–54A0101, Revision 4, dated February 10, 2005. Accomplishment of the applicable inspection on all eight aft-most fastener holes constitutes terminating action for the repetitive inspection requirements of paragraphs (f)(1), (f)(2), and (g) of this AD.

(k) If no cracking or discrepancy is detected during any detailed inspection required by paragraph (j) of this AD, repeat the inspections of all eight aft-most fastener holes thereafter at the applicable intervals specified in Table 1 of this AD.

(l) If no cracking or discrepancy is detected during any HFEC inspection required by paragraph (j) of this AD or by this paragraph of this AD: Perform the follow-on actions specified in paragraph (f)(2)(i) or (f)(2)(ii) of this AD, as applicable, per the Accomplishment Instructions in Boeing Service Bulletin 767–54A0101, Revision 3, dated September 5, 2002; or Boeing Alert Service Bulletin 767–54A0101, Revision 4, dated February 10, 2005; and repeat the inspections of all eight aft-most fastener holes thereafter at the applicable intervals specified in Table 1 of this AD.

TABLE 1.—REPETITIVE INSPECTION INTERVALS FOR ALL EIGHT AFT-MOST FASTENER HOLES

If—	Repetitive intervals—
(1) All eight aft-most fastener holes were inspected per paragraph (j) of this AD:	At the applicable intervals specified in Table 1, "Reinspection Intervals for Part 1," or Table 2, "Reinspection Intervals for Part 2," as applicable. Both tables are included in Figure 1 of the applicable service bulletin. Within 1,500 flight cycles after the effective date of this AD, only the repetitive intervals in Boeing Alert Service Bulletin 767–54A0101, Revision 4, dated February 10, 2005, may be used.
(2) Only the four forward fastener holes in the group of eight aft-most fastener holes were inspected per paragraph (j) of this AD:	At the next scheduled repetitive inspection required by paragraph (f)(1) or (f)(2) of this AD, as applicable. Thereafter at the applicable intervals specified in Table 1, "Reinspection Intervals for Part 1," or Table 2, "Reinspection Intervals for Part 2," as applicable. Both tables are included in Figure 1 of the applicable service bulletin. Within 1,500 flight cycles after the effective date of this AD, only the repetitive intervals in Boeing Alert Service Bulletin 767–54A0101, Revision 4, dated February 10, 2005, may be used.

Corrective Actions for Discrepancies

(m) If any cracking or discrepancy is detected during any inspection required by paragraphs (j), (k), or (l) of this AD, before further flight: Accomplish the corrective actions described in paragraph (h) of this AD, except as provided in paragraph (i) of this AD.

Service Bulletin Revisions

(n) Accomplishing the terminating action in paragraph (h)(1) of this AD before June 9, 2004 (the effective date of AD 2004–09–14) in accordance with the service bulletin revisions in Table 2 of this AD, is acceptable for compliance with the requirements of this AD. After the effective date of this AD, only Boeing Alert Service Bulletin 767–54A0101, Revision 4, dated February 10, 2005, may be used for accomplishing the terminating action in paragraph (h)(1) of this AD.

TABLE 2.—SERVICE BULLETIN REVISIONS FOR TERMINATING ACTION

Boeing service bulletin	Revision	Date
767–54A0101	Original	September 23, 1999.
767–54A0101	2	January 10, 2002.

Inspections Accomplished per Previous Issues of Service Bulletin

(o) Inspections required by paragraphs (f) and (g) of this AD that are accomplished before June 9, 2004 in accordance with the service bulletin revisions in Table 3 of this AD are considered acceptable for compliance with the corresponding action specified in this AD.

TABLE 3.—SERVICE BULLETIN REVISIONS FOR PREVIOUSLY ACCOMPLISHED INSPECTIONS

Boeing service bulletin	Revision	Date
767–54A0101	2	January 10, 2002.
767–54A0101	3	September 5, 2002.
767–54A0101	4	February 10, 2005.

New Requirements of This AD

Inspections of Closeout Angle and Corrective Action

(p) For airplanes for which the "Reinspection Intervals for Part 1," referenced in Table 1 of paragraph (l) of this AD apply: At the next applicable inspection, do an HFEC inspection for cracks of the closeout angle that covers the two aft-most fasteners in the lower tang of the midspar fitting and any related investigative and corrective actions, by doing all the applicable actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 767–54A0101, Revision 4, dated February 10, 2005. Repeat the inspection at the applicable interval in Table 1, "Reinspection Intervals for Part 1," in Figure 1 of the alert service bulletin.

Note 2: Boeing Alert Service Bulletin 767–54A0101, Revision 4, dated February 10, 2005, refers to the Boeing service bulletins in the Table 4 of this AD as additional sources of service information for doing the terminating action in paragraph (h)(1) of this AD.

TABLE 4.—ADDITIONAL SOURCES OF SERVICE INFORMATION

Boeing service bulletin	Revision level	Date	Title
767–54–0052	Original	June 11, 1992	Nacelles/Pylons—Strut—Aft Lower Spar—Fastener Corrosion—Inspection and Replacement.

TABLE 4.—ADDITIONAL SOURCES OF SERVICE INFORMATION—Continued

Boeing service bulletin	Revision level	Date	Title
767–54–0061	2	November 23, 1999	Nacelles/Pylons—Wing-to-Strut Attach Fittings—Lower Spar Bushing Inspection and Replacement.
767–54–0069	2	August 31, 2000	Nacelles/Pylons—Midspar Fitting—Underwing Sideload Fitting—Fuse Pin Replacement and Wing Rework.
767–54–0072	Original	March 13, 1997	Nacelles/Pylons—Strut Attach Upper Link—Upper Link Inspection, Rework, or Replacement.
767–54–0074	Original	March 27, 1997	Nacelles/Pylons—Strut Attach Fuse Pins—Upper link Fuse Pin Inspection/Replacement. Where this service bulletin refers to a cotter pin with part number (P/N) MS 25665–374, the P/N should be MS24665–374. Where this service bulletin says, "If no crack indication is found, reinstall the fuse pin," the correct statement is "If no crack indication is found, continue to Step F."
767–54–0080	1	May 9, 2002	Nacelles/Pylons—Pratt and Whitney Powered Airplanes—Nacelle Strut and Wing Structure Modification.
767–54–0081	1	February 7, 2002	Nacelles/Pylons—General Electric Powered Airplanes—Nacelle Strut and Wing Structure Modification.
767–54A0062	5	November 11, 2002	Nacelles/Pylons—Strut Attach Fuse Pins—Midspar Fuse Pin Inspection and Replacement.
767–54A0094	2	February 7, 2002	Nacelles/Pylons—Strut-to-Wing Attachment—Diagonal Brace Inspection/Rework/Replacement.
767–57–0063	1	November 30, 2000	Wings—Side Load Underwing Fitting—Inspection/Rework.

Note 3: Certain service bulletins referenced in Table 4 of this AD are related to the ADs listed in Table 5 of this AD.

TABLE 5.—OTHER RELEVANT RULEMAKING

AD	Applicability	Related Boeing service bulletin	AD requirement
AD 94–11–02, amendment 39–8919, (59 FR 27229, June 10, 1994).	All Boeing Model 767 series airplanes.	767–54A0062	Repetitive detailed visual and eddy current inspections to detect cracks of certain midspar fuse pins, and replacement of any cracked midspar fuse pin with a new fuse pin.
AD 99–07–06, amendment 39–11091 (64 FR 14578, March 26, 1999).	Certain Boeing Model 767 series airplanes.	767–54A0094	Repetitive inspections to detect cracking or damage of the forward and aft lugs of the diagonal brace of the nacelle strut; follow-on actions, if necessary; and an optional terminating action for the repetitive inspections. Superseded by AD 2000–07–05.
AD 2000–07–05, amendment 39–11659 (65 FR 18883, April 10, 2000).	Certain Boeing Model 767 series airplanes.	767–54A0094	Requires the previously optional terminating action of AD 99–07–06.

TABLE 5.—OTHER RELEVANT RULEMAKING—Continued

AD	Applicability	Related Boeing service bulletin	AD requirement
AD 2000–10–15, amendment 39–11770 (65 FR 37011, June 13, 2000).	Certain Boeing Model 767 series airplanes.	767–54–0074	One-time inspection to determine whether certain bolts are installed in the side load underwing fittings on both struts, and various follow-on actions, if necessary.
AD 2001–02–07, amendment 39–12091 (66 FR 8085, January 29, 2001).	Certain Boeing Model 767 series airplanes powered by Pratt & Whitney engines.	767–54–0069, 767–54–0080, and 767–54A0094.	Modification of the nacelle strut and wing structure. Terminates certain requirements of AD 94–11–02.
AD 2001–06–12, amendment 39–12159 (66 FR 17492, April 2, 2001).	Certain Boeing Model 767 series airplanes powered by General Electric engines.	767–54–0069, 767–54–0081, and 767–54A0094.	Modification of the nacelle strut and wing structure. Terminates certain requirements of AD 94–11–02.
AD 2003–03–02, amendment 39–13026 (68 FR 4374, January 29, 2003).	All Boeing Model 767 series airplanes.	767–54A0062	Supersedes AD 94–11–02; Retains all requirements but reduces certain compliance times for certain inspections, expands the detailed and eddy current inspections,and limits the applicability.

Alternative Methods of Compliance (AMOCs)

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

(2) AMOCS approved previously according to AD 2004–09–14, amendment 39–13603, are approved as AMOCs for the corresponding requirements of this AD.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on May 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11050 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21346; Directorate Identifier 2005–NM–031–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This proposed AD would require operators to examine the airplane's maintenance records to determine if the main landing gear (MLG) has been overhauled and if Titanine JC5A (also known as Desoto 823E508) corrosion-inhibiting compound ("C.I.C.") was used during the overhaul. For airplanes for which the maintenance records indicate that further action is necessary, or for airplanes on which C.I.C. JC5A may have been used during manufacture, this proposed AD would require a one-time detailed inspection for discrepancies of certain components of the MLG, and corrective action if necessary. This proposed AD is prompted by twelve reports of severe corrosion on one or more of three components of the MLG. We are proposing this AD to prevent collapse of the MLG, or damage to hydraulic tubing or the aileron control cables, which could result in possible departure of the airplane from the runway and loss of control of the airplane.

DATES: We must receive comments on this proposed AD by July 18, 2005.

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

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

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

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

21346; the directorate identifier for this docket is 2005–NM–031–AD.

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6440; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2005–21346; Directorate Identifier 2005–NM–031–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

We have received twelve reports of severe corrosion on one or more of the following three components of the main landing gear (MLG) on the affected airplanes: The trunnion pin, the actuator beam, and the tee-bolt fitting. The manufacturer analyzed the corrosion and found that JC5A, a corrosion-inhibiting compound (C.I.C.), was used on the components. JC5A has been found to decompose in the presence of moisture. The decomposition can make chemical by-products that damage the primer, which is the primary protection for the titanium-cadmium (Ti-Cad) plating on the components. The Ti-Cad plating protects the base metal against corrosion.

Corrosion can cause a fracture of the trunnion pin or the actuator beam bolts. If the inboard end of the trunnion pin becomes disconnected, the side strut and reaction link will not be stable. Further, if the tee fitting attach bolt assembly fractures, the drag strut could become unstable. Either of these conditions could result in MLG collapse, and departure of the airplane from the runway.

Fractures in the trunnion pin or the actuator beam bolts can cause the actuator to move outboard during gear retraction. This outboard movement could damage the hydraulic tubing or the aileron control cables and could cause the flightcrew to lose control of the airplane.

Relevant Service Information

We have reviewed Boeing Service Bulletin 737–32A1367, Revision 1, dated December 23, 2004. The service bulletin describes procedures for a one-time detailed inspection for discrepancies (damage to the finish, indications of corrosion or pitting) of components of the MLG. These MLG components are the trunnion pins, the actuator beam bolts, the tee-bolt fitting, and certain adjacent parts indicated in the service bulletin. The airplanes to be inspected are those on which JC5A was applied during manufacture, or those on which JC5A was applied when the MLG was overhauled. The service bulletin does not include an inspection of the trunnion pins on Model 737–400 series airplanes due to the unique configuration of the Model 737–400.

If no discrepancy is found during the inspection, the service bulletin states that no more work is necessary.

If any discrepancy is found during the inspection, the service bulletin describes procedures for corrective action. The corrective action includes doing one of the following:

- For parts that have finish damage without corrosion or pitting, applying a new protective finish.
- For parts with corrosion or pitting, repair by removing the corrosion or pitting from the part, and applying a new protective finish, or replace the part with a serviceable part.
- For parts with corrosion or pitting that cannot be made serviceable after removing the corrosion or pitting, contact the manufacturer.

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

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require the actions specified in the service bulletin, except as discussed under "Differences Between the Proposed AD and the Service Bulletin."

Differences Between the Proposed AD and the Service Bulletin

The service bulletin specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization whom we have authorized to make those findings.

The service bulletin specifies additional compliance times after the original airplane delivery date; this proposed AD would require compliance within the specified compliance time after the date of issuance of the original standard Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness.

Although the service bulletin does not specify when to accomplish any necessary corrective actions, this proposed AD would require operators to do these corrective actions before further flight after the inspection.

Clarification of Procedures in the Service Bulletin

The procedures in the service bulletin state that airplanes must be inspected if they have had the MLG overhauled and C.I.C. JC5A was used during the last overhaul, or if the airplane was assembled in the factory during a time when JC5A was used by the manufacturer as an approved substitute C.I.C. Although the service bulletin does not have explicit procedures for doing so, this proposed AD would require that

operators of certain groups of airplanes identified in the service bulletin examine airplane maintenance records to determine if the MLG has been overhauled and if C.I.C. JC5A has been applied to the MLG during overhaul. This AD also would require that operators inspect any airplane for which the maintenance records indicate that the MLG was overhauled, but for which it is unclear whether or not C.I.C. JC5A was used during the overhaul.

Costs of Compliance

There are about 3,132 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Records examination	1	$65	None	$65	1,748	$113,620

For airplanes that require a detailed inspection, we estimate that the inspection would take about 3 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, we estimate that the detailed inspection would cost about $195 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2005–21346; Directorate Identifier 2005–NM–031–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by July 18, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by twelve reports of severe corrosion on one or more of three components of the main landing gear (MLG). We are issuing this AD to prevent collapse of the MLG, or damage to hydraulic tubing or the aileron control cables, which could result in possible departure of the airplane from the runway and loss of control of the airplane.

Compliance

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

Service Bulletin Reference

(f) The term "service bulletin," as used in this AD, means the Accomplishment Instructions of Boeing Alert Service Bulletin 737–32A1367, Revision 1, dated December 23, 2004.

Records Examination and Compliance Times

(g) For all airplanes: Before the inspection required by paragraph (h) of this AD, examine the airplane records to determine if the MLG has been overhauled, and, for any overhauled MLG, if JC5A corrosion inhibiting compound (C.I.C.) was used on the trunnion pin or other parts of the MLG.

(1) For airplanes identified in the service bulletin as Group 2 and Group 4: If records indicate conclusively that the MLG has not been overhauled, no further action is required by this paragraph or paragraph (h) of this AD.

(2) For airplanes identified in the service bulletin as Group 1, Group 2, Group 3, and Group 4: If records indicate conclusively that the MLG has been overhauled and that C.I.C. JC5A was not used on the trunnion pins or other parts of the MLG during the overhaul, no further action is required by this paragraph or paragraph (h) of this AD.

Inspection and Corrective Action

(h) For all airplanes, except as provided by paragraph (g)(1) and (g)(2) of this AD: At the applicable compliance time in paragraph (h)(1) or (h)(2) of this AD, do a detailed inspection for discrepancies of the applicable MLG components specified in the service bulletin. Do all applicable corrective actions before further flight after the inspection. Do all the actions in accordance with the service bulletin, except as required by paragraph (i) of this AD.

(1) For airplanes identified in the service bulletin as Group 1 and Group 3 for which records indicate conclusively that the MLG has not been overhauled: Inspect at the later of the times in paragraph (h)(1)(i) and (h)(1)(ii) of this AD.

(i) Within 48 months after the date of issuance of the original Airworthiness

Certificate or the date of issuance of the original standard Export Certificate of Airworthiness, whichever occurs later.

(ii) Within 6 months after the effective date of this AD.

(2) For airplanes identified in the service bulletin as Group 1, Group 2, Group 3, and Group 4 for which records indicate conclusively that the MLG has been overhauled, and for which records indicate conclusively that C.I.C. JC5A was used during the last overhaul; and for airplanes for which records do not show conclusively which C.I.C. compound was used during the last overhaul: Inspect at the later of the times in paragraph (h)(2)(i) or (h)(2)(ii) of this AD.

(i) Within 48 months after the landing gear was installed.

(ii) Within 6 months after the effective date of this AD.

Note 1: For the purposes of this AD, a detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required."

Contact ACO or DOA for Certain Corrective Actions

(i) If any discrepancy is found during any inspection required by this AD, and the service bulletin specifies to contact Boeing for appropriate action: Before further flight, do the action according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or according to data meeting the certification basis of the airplane approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization (DOA) who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the approval must specifically refer to this AD.

Use of JC5A Prohibited

(j) As of the effective date of this AD, no person may use C.I.C. JC5A on an MLG component on any airplane.

Actions Done According to Previous Revision of Service Bulletin

(k) Actions done before the effective date of this AD in accordance with Boeing Alert Service Bulletin 737–32A1367, dated August 19, 2004, are considered acceptable for compliance with the corresponding action specified in this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on May 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11051 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21344; Directorate Identifier 2004–NM–190–AD]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Short Brothers Model SD3–30 and SD3–60 series airplanes equipped with certain fire extinguishers. The existing AD currently requires replacement of the covers for fire extinguisher adapter assemblies that are installed on certain bulkheads with new covers that swivel to lock the extinguishers in place; and replacement of nozzles and triggers on these fire extinguishers with better fitting nozzles and stronger triggers. The existing AD also currently requires the installation of new fire extinguisher point placards and a revision of the Airplane Flight Manual (AFM) to instruct the flightcrew in the use of the new covers for these adapter assemblies. This proposed AD would also require modification of the fire extinguishing point adapter assembly of the forward and aft baggage bays as applicable. This proposed AD also would add airplanes to the applicability. For these new airplanes, this proposed AD would require a revision to the AFM for instructions on using the new fire extinguisher adapter. This proposed AD is prompted by reports of individuals experiencing fire extinguishant blowback when the extinguishant discharges through the fire extinguishing point adapters. We are proposing this AD to prevent fire extinguishant blowback, which could result in injury to a person using the fire extinguisher in the event of a fire.

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

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

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

For service information identified in this proposed AD, contact Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland.

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–2005–21344; the directorate identifier for this docket is 2004–NM–190–AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2005–21344; Directorate Identifier 2004–NM–190–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal

information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

Examining the Docket

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

Discussion

On April 22, 1998, we issued AD 98–09–28, amendment 39–10509 (63 FR 24387, May 4, 1998), for all Shorts Model SD3–30 and SD3–60 series airplanes equipped with certain fire extinguishers. That AD requires replacement of the covers for fire extinguisher adapter assemblies that are installed on certain bulkheads with new covers that swivel to lock the extinguishers in place; and replacement of nozzles and triggers on these fire extinguishers with better fitting nozzles and stronger triggers. That AD also requires the installation of new fire extinguisher point placards and a revision of the airplane flight manual to instruct the flightcrew in the use of the new covers for these adapter assemblies. That AD was prompted by reports that these fire extinguishers are not discharging properly because they do not fit correctly with the adapter, and that triggers on these extinguishers are failing. We issued that AD to ensure that, in the event of fire in the baggage bay, extinguishing agent is properly distributed within this area, and portable extinguishers operate properly; and to prevent injury to crew and passengers when a portable extinguisher is discharged.

Actions Since Existing AD Was Issued

Since we issued the AD, the Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified us that the unsafe condition of AD 98–09–28 may still exist on all Short Brothers Model SD3–30 and SD3–60 series airplanes and also may exist on all Model SD3–60 SHERPA and SD3–SHERPA series airplanes. The CAA advises that, while fighting fires in the forward and aft baggage bays, individuals have reported experiencing fire extinguishant blowback when the extinguishant discharges through the fire extinguishing point adapters. Because the nozzle of the extinguisher and the adapter do not fit together correctly, the extinguishant is "blown back" into the forward and aft baggage bays. Fire extinguishant blowback, when discharging through the fire extinguishing point adapters, if not prevented, could result in injury to a person using the fire extinguisher in the event of a fire.

Relevant Service Information

Shorts has issued the following service bulletins.

Model	Shorts service bulletin	Date
SD3–30 series airplanes	SD330–26–15	May 29, 2002.
SD3–60 series airplanes	SD360–26–13	May 29, 2002.
SD3–60 SHERPA series airplane	SD360 Sherpa–26–1	May 29, 2002.
SD3–SHERPA series airplanes	SD3 Sherpa–26–3	May 29, 2002.

The service bulletins describe procedures for modifying the fire extinguishing point adapter assembly of the forward and aft baggage bays, as applicable. The modification includes the following procedures:

- Removing the existing cover and O-ring of the fire extinguishing point adapter assembly of the forward and aft baggage bays, as applicable.
- Installing a new flexible adapter insert in the fire extinguishing point adapter assembly.
- Fitting new instruction labels.

Shorts has also issued the following AFM revisions for instructions on using the new fire extinguisher adapter:

- Short Brothers Document No. SB.6.2, Amendment P/5, dated February 6, 2002 (for Model SD3–60 SHERPA series airplanes); and
- Short Brothers Document No. SB.5.2, Amendment P/7, dated February 6, 2002 (for Model SD3–SHERPA series airplanes).

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The CAA mandated the service information and issued British airworthiness directives 005–05–2002, 006–05–2002, 007–05–2002, and 008–05–2002, to ensure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Determination and Requirements of the Proposed AD

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

This proposed AD would supersede AD 98–09–28. This proposed AD would retain the requirements of the existing AD. This proposed AD would also require modifying the fire extinguishing point adapter assembly of the forward and aft baggage bays as applicable; and, for certain airplanes, revising the Limitations section of the AFM for instructions on using the new fire extinguisher adapter.

Change to Existing AD

This proposed AD would retain all requirements of AD 98–09–28. Since AD 98–09–28 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 98–09–28	Corresponding requirement in this proposed AD
paragraph (a)	paragraph (f).
paragraph (b)	paragraph (g).
paragraph (c)	paragraph (h).

Costs of Compliance

This proposed AD would affect about 75 airplanes of U.S. registry.

The actions that are required by AD 98–09–28 and retained in this proposed AD take about between 9 and 14 work hours per airplane, depending on airplane configuration, at an average labor rate of $65 per work hour. Required parts cost about between $735 and $776 per airplane, depending on airplane configuration. Based on these figures, the estimated cost of the currently required actions is between $1,320 and $1,686 per airplane.

The new proposed actions would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the new actions specified in this proposed AD for U.S. operators is $4,875, or $65 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing amendment 39–10509 (63 FR 24387, May 4, 1998) and adding the following new airworthiness directive (AD):

Short Brothers PLC: Docket No. FAA–2005–21344; Directorate Identifier 2004–NM–190–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by July 5, 2005.

Affected ADs

(b) This AD supersedes AD 98–09–28, amendment 39–10509 (63 FR 24387, May 4, 1998).

Applicability

(c) This AD applies to all Short Brothers Model SD3 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by reports of individuals experiencing fire extinguishant blowback when the extinguishant discharges through the fire extinguishing point adapters. We are issuing this AD to prevent fire extinguishant blowback, which could result in injury to a person using the fire extinguisher in the event of a fire.

Compliance

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

Requirements of AD 98–09–28

Install New Covers

(f) For Model SD3–30 and SD3–60 series airplanes equipped with Fire Fighting Enterprises (U.K.) Ltd. fire extinguishers: Within 6 months after June 8, 1998 (the effective date of AD 98–09–28), install a new cover on each fire extinguisher adapter assembly on bulkheads between the passenger cabin and aft and/or forward baggage bay, in accordance with Shorts Service Bulletin SD330–26–14, dated September 1994 (for Shorts Model SD3–30 series airplanes), or Shorts Service Bulletin SD360–26–11, dated July 1994 (for Shorts Model SD3–60 series airplanes), as applicable.

Install Placards and Revise the Airplane Flight Manual (AFM)

(g) For Model SD3–30 and SD3–60 series airplanes equipped with Fire Fighting Enterprises (U.K.) Ltd. fire extinguishers: Prior to further flight after accomplishing the actions required by paragraph (f) of this AD, accomplish both paragraphs (g)(1) and (g)(2) of this AD:

(1) Install new fire extinguisher point placards, in accordance with Shorts Service Bulletin SD330–26–14, dated September 1994 (for Shorts Model SD3–30 series airplanes), or Shorts Service Bulletin SD360–26–11, dated July 1994 (for Shorts Model SD3–60 series airplanes), as applicable. And

(2) Revise the Limitations section of the FAA-approved AFM, in accordance with Note 1 of Paragraph 1.C. of Shorts Service Bulletin SD330–26–14, dated September 1994 (for Shorts Model SD3–30 series airplanes), or Shorts Service Bulletin SD360–26–11, dated July 1994 (for Shorts Model SD3–60 series airplanes), as applicable.

Corrective Actions for Fire Extinguishers with Certain Part Numbers

(h) For Model SD3–30 and SD3–60 series airplanes equipped with fire extinguishers having part number (P/N) BA51012SR–3 or BA51012SR: Within 6 months after June 8, 1998, accomplish either paragraph (h)(1) or (h)(2) of this AD:

(1) Install a chamfered nozzle on the discharge head assembly of each fire extinguisher and add a new trigger by replacing the discharge head assembly with a new discharge head assembly, having P/N BA22988–3, in accordance with Fire Fighting Enterprises (U.K.) Ltd. Service Bulletin 26–107, Revision 1, dated November 2, 1992.

Or

(2) Replace the trigger on the discharge head assembly of each fire extinguisher with a new trigger, in accordance with Fire Fighting Enterprises (U.K.) Ltd. Service Bulletin 26–108, dated September 1992. After replacement, install a chamfered nozzle on the discharge head assembly of each fire extinguisher by reworking the discharge head assembly in accordance with Fire Fighting Enterprises (U.K.) Ltd. Service Bulletin 26–107, Revision 1, dated November 2, 1992.

New Requirements of This AD

Modify the Fire Extinguishing Point Adapter Assembly

(i) For Model SD3 series airplanes equipped with Fire Fighting Enterprises (U.K.) Ltd. fire extinguishers: Within 3 months after the effective date of this AD, modify the fire extinguishing point adapter assembly of the forward and aft baggage bays, as applicable, by doing all of the actions specified in the Accomplishment Instructions of Shorts Service Bulletin SD330–26–15, dated May 29, 2002 (for Model SD3–30 series airplanes); Shorts Service Bulletin SD360–26–13, dated May 29, 2002 (for Model SD3–60 series airplanes); Shorts Service Bulletin SD360 Sherpa–26–1, dated May 29, 2002 (for Model SD3–60 SHERPA series airplane); or Shorts Service Bulletin SD3 Sherpa–26–3, dated May 29, 2002 (for Model SD3–SHERPA series airplanes); as applicable.

Revise AFM of Certain Airplanes

(j) For Model SD3–60 SHERPA and SD3–SHERPA series airplanes equipped with Fire Fighting Enterprises (U.K.) Ltd. fire extinguishers: Before further flight after accomplishing the modification required by paragraph (i) of this AD, revise the Limitations section of the AFM by inserting into the AFM a copy of Short Brothers Document No.SB.6.2, Amendment P/5, dated February 6, 2002 (for Model SD3–60 SHERPA series airplanes); or Short Brothers Document No.SB.5.2, Amendment P/7, dated February 6, 2002 (for Model SD3–SHERPA series airplanes); as applicable.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(l) British airworthiness directives 005–05–2002, 006–05–2002, 007–05–2002, and 008–05–2002 also address the subject of this AD.

Issued in Renton, Washington, on May 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11059 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21341; Directorate Identifier 2003–NM–026–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Saab Model SAAB 2000 series airplanes. This proposed AD would require inspection for cracking of the fastener holes in the front and rear spar, modification of the fastener holes of the front and rear spars and the rear spar web, and related investigative/corrective actions if necessary. This proposed AD is prompted by a report of cracking of certain fastener holes in the lower spar cap of the rear spar and in the lower skin at the front spar. We are proposing this AD to prevent cracking of the front and rear spar, which could result in fuel leakage and consequent reduced structural integrity of the wing structure.

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

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

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

For service information identified in this proposed AD, contact Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden.

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–2005–21341; the directorate identifier for this docket is 2003–NM–026–AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include "Docket No. FAA–2005–21341; Directorate Identifier 2003–NM–026–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden,

notified us that an unsafe condition may exist on certain Saab Model SAAB 2000 series airplanes. The LFV advises that, during full-scale fatigue testing by the manufacturer, cracking was detected at some fastener holes in the lower spar cap of the rear spar and in the lower skin at the left-hand and right-hand sides of the front spar, between WS20 and WS83 inclusive. This condition, if not corrected, could result in fuel leakage and consequent reduced structural integrity of the wing structure.

Relevant Service Information

Saab has issued Service Bulletin (SB) 2000–57–038, dated December 18, 2002, which describes procedures for the following inspections and modification:

Inspections: The SB describes procedures for a one-time non-destructive testing (NDT) for cracking of the fastener holes in the lower spar cap of the rear spar and in the lower skin at the left-hand and right-hand sides of the front spar, between WS20 and WS83 inclusive, and other related investigative actions. The related investigative procedures include calibrating a probe to measure the specific dimension of the fastener holes. The SB specifies to contact the manufacturer if any cracking is found.

Modification: The SB describes procedures for performing cold working of the fasteners, and other related investigative actions, which include removing the existing Hi-Lok fasteners, reaming the Hi-Lok holes, and performing a detailed inspection for scratches or any other damage of the Hi-Lok holes. The SB also describes procedures for oversizing fasteners if a hole is damaged or out of tolerance. Additionally, the SB specifies if notches or scratches are found on the skin surface or the surface of the front spar, to contact the manufacturer. The SB also includes procedures for the following inspections, as well as specifying that if any damage is found to contact the manufacturer:

- Performing a visual inspection to detect any cracking on the hole surface, reaming the fastener holes, measuring the hole size, and checking for hole ovality.
- Performing a detailed visual inspection for scratches and any other damage of the surface of the Hi-Lok holes and the surface of the skin under the head and under the collar.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The LFV mandated the service information and issued Swedish airworthiness directive 1–182, dated December 20, 2002, to ensure the continued airworthiness of these airplanes in Sweden.

FAA's Determination and Requirements of the Proposed AD

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

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

Differences Between the Proposed AD and the Service Bulletin

The service bulletin specifies that you may contact the manufacture for instruction on how to repair certain conditions, but this proposed AD would require you to repair those conditions using a method that we or the LFV (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair we or the LFV approve would be acceptable for compliance with this proposed AD. Additionally the service bulletin also specifies to contact the manufacturer before reaming and inspecting holes No. 7 and No. 8 if ¼-inch fasteners are needed. This proposed AD would require you to contact us or the LFV before reaming and inspecting holes No. 7 and No. 8 if ¼-inch fasteners are needed.

Costs of Compliance

This proposed AD would affect about 3 airplanes of U.S. registry. The proposed actions (inspections and modification) would take about 250 work hours per airplane, at an average labor rate of $65 per work hour. Required parts would cost about $8,557 per airplane. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $74,421, or $24,807 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Saab Aircraft AB: Docket No. FAA–2005–21341; Directorate Identifier 2003–NM–026–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by July 5, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to certain Saab Model SAAB 2000 series airplanes having Serial Numbers 004 through 063 inclusive; certificated in any category.

Unsafe Condition

(d) This AD was prompted by a report of cracking of certain fastener holes in the lower spar cap of the rear spar and in the lower skin at the front spar. We are issuing this AD to prevent cracking of the front and rear spar, which could result in fuel leakage and consequent reduced structural integrity of the wing structure.

Compliance

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

Inspection

(f) Prior to the accumulation of 20,000 total flight cycles, perform non-destructive tests for cracking of the fastener holes in the lower spar cap of the rear spar and in the lower skin at the left-hand and right-hand sides of the front spar, between WS20 and WS83 inclusive; by accomplishing all the actions specified in Parts A, B, and C of the Accomplishment Instructions of Saab Service Bulletin 2000–57–038, dated December 18, 2002. If any cracking is detected, before further flight, repair the cracking according to a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Luftfartsverket (LFV) (or its delegated agent).

Modification

(g) Prior to the accumulation of 20,000 total flight cycles, modify the fastener holes of the front and rear spars and the rear spar web, including related investigative actions, by accomplishing all the actions specified in Part D of the Accomplishment Instructions of Saab Service Bulletin 2000–57–38, dated December 18, 2002. If ¼-inch fasteners are needed for holes No. 7 and No. 8, before further flight, contact the Manager, International Branch, ANM116, FAA, Transport Airplane Directorate for further actions, or the LFV (or its delegated agent). If any scratches or other damage is detected on the skin surface or the surface of the front spar, before further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Luftfartsverket (LFV) (or its delegated agent.)

Alternative Methods of Compliance (AMOCs)

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

Related Information

(i) Swedish airworthiness directive 1–182, dated December 20, 2002, also addresses the subject of this AD.

Issued in Renton, Washington, on May 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11060 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21342; Directorate Identifier 2004–NM–15–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A321 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Model A321 series airplanes. This proposed AD would require repetitive measurements for correct control rod gap of the hold-open mechanism of all emergency doors, and corrective actions if necessary. This proposed AD would also require replacing the control rods with new, improved control rods, which would terminate the repetitive measurements. This proposed AD is prompted by a report that an operator found it impossible to lock emergency doors 2 and 3 in the open position. We are proposing this AD to prevent failure of the emergency doors to lock in the open position, which could interfere with passenger evacuation during an emergency.

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

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

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

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

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21342; the directorate identifier for this docket is 2004–NM–15–AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include "Docket No. FAA–2005–21342; Directorate Identifier 2004–NM–15–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on certain Airbus Model A321 series airplanes. The DGAC advises that an operator found it impossible to lock emergency doors 2 and 3 in the open position due to an incorrect gap of the polyamide control rods of the hold-open release mechanisms. Investigation revealed that the polyamide control rod had lengthened due to water absorption and kept the hold-open mechanism constantly activated in the release position. This condition, if not corrected, could lead to failure of the emergency doors to lock in the open position, which could interfere with passenger evacuation during an emergency.

Relevant Service Information

Airbus has issued All Operators Telex (AOT) A320–52A1120, Revision 2, dated July 10, 2003. The AOT describes procedures for repetitive measurements to determine correct control rod gap of the hold-open mechanism of the emergency doors, and corrective actions if necessary. Corrective actions include shortening the polyamide control rod if it is too long or, if it is too short, replacing the rod with a new polyamide control rod or an aluminum control rod.

Airbus has issued Service Bulletin A320–52–1121, dated December 12, 2003. The service bulletin describes procedures for replacing the polyamide or interim aluminum control rods with new, improved, water-resistant control rods. Interim or final replacement of the polyamide control rod eliminates the need for the repetitive measurements described by the AOT for that control rod.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DGAC mandated the service information and issued French airworthiness directive F–2004–040, dated March 31, 2004, to ensure the continued airworthiness of these airplanes in France.

FAA's Determination and Requirements of the Proposed AD

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

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between French Airworthiness Directive and This Proposed AD."

Differences Between French Airworthiness Directive and This Proposed AD

The applicability of French airworthiness directive F–2004–040 excludes airplanes on which Airbus Service Bulletin A320–52–1121 was done in service. However, we have not excluded those airplanes in the applicability of this proposed AD; rather, this proposed AD includes a requirement to accomplish the actions specified in that service bulletin. This requirement would ensure that the actions specified in the service bulletin and required by this proposed AD are accomplished on all affected airplanes. Operators must continue to operate the airplane in the configuration required by this proposed AD unless an alternative method of compliance is approved. This difference has been coordinated with the DGAC.

French airworthiness directive F–2004–040 specifies to "inspect" the hold-open mechanism. To prevent any confusion, rather than an "inspection" of the hold-open mechanism, this proposed AD would require a "measurement" to determine the control rod gap of the hold-open mechanism, as specified in the AOT.

Clarification of Service Information

The service information specifies procedures for reporting measurement results and accomplishment of the control rod replacement to the manufacturer; however, this proposed AD would not make this requirement. The FAA does not need this information from operators.

Costs of Compliance

This proposed AD would affect about 28 airplanes of U.S. registry.

The measurement to determine control rod gap would take about 2 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed measurement for U.S. operators is $3,640, or $130 per airplane, per measurement cycle.

The replacement of the control rods with new, improved, water-resistant control rods would take about 9 work hours per airplane, at an average labor rate of $65 per work hour. Required parts would cost about $400 per airplane. Based on these figures, the estimated cost of the proposed replacement for U.S. operators is $27,580, or $985 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2005–21342; Directorate Identifier 2004–NM–15–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by July 5, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A321 series airplanes, certificated in any category; except for those airplanes that have received Airbus Modification 33426 in production.

Unsafe Condition

(d) This AD was prompted by a report that an operator found it impossible to lock emergency doors 2 and 3 in the open position. We are issuing this AD to prevent failure of the emergency doors to lock in the open position, which could interfere with passenger evacuation during an emergency.

Compliance

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

Inspection of Emergency Exit Doors

(f) Within 600 flight hours after the effective date of this AD and thereafter at intervals not to exceed 600 flight hours, perform a measurement for correct gap of the control rod of the hold-open mechanism of all emergency doors, in accordance with Airbus All Operators Telex (AOT) A320–52A1120, Revision 2, dated July 10, 2003. If the gap of any control rod is not correct, prior to further flight, apply all necessary corrective actions in accordance with the AOT.

Optional Interim Terminating Action

(g) Replacing the polyamide control rod of any mechanism with an aluminum control rod prior to accomplishing paragraph (h) of this AD, as specified in AOT A320–52A1120, Revision 2, dated July 10, 2003, terminates the repetitive measurement required by paragraph (f) of this AD for that mechanism.

Final Terminating Action

(h) Within 18 months after the effective date of this AD, replace the polyamide or interim aluminum control rods of the release mechanisms with new, improved, water-resistant control rods according to the Accomplishment Instructions of Airbus Service Bulletin A320–52–1121, dated December 12, 2003. This replacement terminates the repetitive measurement required by paragraph (f) of this AD.

Actions Accomplished Per Previous Issue of Service Bulletin

(i) Actions accomplished before the effective date of this AD according to Airbus AOT A320–52A1120, dated June 5, 2003, or Revision 1, dated June 19, 2003, are considered acceptable for compliance with the corresponding actions specified in this AD.

No Reporting Requirement

(j) Although the service information specifies procedures for reporting measurement results and control rod replacement to the manufacturer, this AD does not require these reports.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(l) French airworthiness directive F–2004–040, dated March 31, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on May 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11061 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21345; Directorate Identifier 2005–NM–005–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all EMBRAER Model ERJ 170 series airplanes. This proposed AD would require inspecting the hydraulic pressure tubes at the outlet of the engine-driven hydraulic pumps to determine the part and serial numbers; and replacing hydraulic pressure tubes having certain serial numbers with new hydraulic pressure tubes. This proposed AD is prompted by failure of a hydraulic system due to leakage of hydraulic fluid from a crack in the pipe coming from the pressure side of the engine driven pump. We are proposing this AD to prevent cracking of the hydraulic pressure pipes, which could result in failure of hydraulic system 1 or 2 or both, and consequent reduced controllability of the airplane.

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

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

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

For service information identified in this proposed AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil.

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–2005–21345; the directorate identifier for this docket is 2005–NM–005–AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include "Docket No. FAA–2005–21345; Directorate Identifier 2005–NM–005–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified us that an unsafe condition may exist on certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 series airplanes. The DAC advises that failure of hydraulic system 1 occurred on an EMBRAER Model ERJ 170 series airplane. The failure was caused by leakage of hydraulic fluid from a crack in the pipe coming from the pressure side of the engine-driven pump. Investigation determined that the crack developed because the pipe was manufactured with defective material. Cracking of the hydraulic pressure pipes, if not corrected, could result in failure of hydraulic system 1 or 2 or both, and consequent reduced controllability of the airplane.

Relevant Service Information

EMBRAER has issued Service Bulletin 170–29–0001, including the Appendix, dated August 9, 2004. The service bulletin describes procedures for inspecting the left and right hydraulic pressure tubes at the outlet of the engine-driven hydraulic pumps to determine the part and serial numbers; and replacing hydraulic pressure tubes having certain serial numbers with new hydraulic pressure tubes. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DAC mandated the service information and issued Brazilian airworthiness directive 2004–11–06, dated November 29, 2004, to ensure the continued airworthiness of these airplanes in Brazil.

The EMBRAER service bulletin refers to Turbofan (Airline Service) Service Bulletin CF34–8E MHD 71–00–011, original revision, dated August 3, 2004, as an additional source of service information for inspecting the hydraulic pressure tubes to determine the part and serial numbers; and replacing hydraulic pressure tubes having certain serial numbers with new hydraulic pressure tubes. Turbofan (Airline Service) Service Bulletin CF34–8E MHD 71–00–011 is included in the Appendix of the EMBRAER service bulletin.

FAA's Determination and Requirements of the Proposed AD

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

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

Difference Between the Proposed AD and Service Bulletin

Operators should note that, although the Accomplishment Instructions of the referenced service bulletin describe procedures for submitting a comment sheet related to service bulletin quality and a sheet recording compliance with the service bulletin, this proposed AD would not require those actions. We do not need this information from operators.

Clarifications Between the Proposed AD and Brazilian Airworthiness Directive

Operators should note that if both hydraulic pressure tubes have affected serial numbers the Brazilian airworthiness directive specifies replacing "at least one of the tubes" before further flight. This proposed AD would require that, and would also require replacing the other affected hydraulic pressure tube within 600 flight hours after the inspection. This clarification has been coordinated with the DAC.

Operators should also note that the Brazilian airworthiness directive specifies accomplishing the inspection within 100 flight hours after the effective date of the Brazilian airworthiness directive. This proposed AD, however, would require compliance within 100 flight hours "or 14 days after the effective date of the AD, whichever is first." In developing an appropriate compliance time for this proposed AD, we considered not only the safety implications and the DAC's recommendations, but also the degree of urgency associated with the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection. In light of all of these factors, we find that the compliance time in this proposed AD represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety. This clarification has been coordinated with the DAC.

Costs of Compliance

This proposed AD would affect about 27 airplanes of U.S. registry. The proposed inspection would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed inspection for U.S. operators is $1,755, or $65 per airplane.

The proposed replacement, if necessary, would take about 3 work hours per airplane, at an average labor rate of $65 per work hour. Required parts would be $0 per airplane. Based on these figures, the estimated cost of the proposed replacement is $195 per airplane, if necessary.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2005–21345; Directorate Identifier 2005-NM–005-AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by July 5, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all EMBRAER Model ERJ 170 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by failure of a hydraulic system due to leakage of hydraulic fluid from a crack in the pipe coming from the pressure side of the engine driven pump. We are issuing this AD to prevent cracking of the hydraulic pressure pipes, which could result in failure of hydraulic system 1 or 2 or both, and consequent reduced controllability of the airplane.

Compliance

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

Inspection and Replacement if Necessary

(f) Within 100 flight hours or 14 days after the effective date of this AD, whichever is first: Inspect the left and right hydraulic pressure tubes at the outlet of the engine-driven hydraulic pumps to determine the part and serial numbers, in accordance with Part I of the Accomplishment Instructions of EMBRAER Service Bulletin 170–29–0001, including the Appendix, dated August 9, 2004.

(1) If neither hydraulic pressure tube has a serial number as identified in Part I of the service bulletin, then no further action is required by this paragraph.

(2) If only one hydraulic pressure tube has a serial number as identified in Part I of the service bulletin: Within 600 flight hours after the inspection, replace the affected hydraulic pressure tube with a new hydraulic pressure tube, in accordance with Part III or Part IV, as applicable, of the service bulletin.

(3) If both hydraulic pressure tubes have serial numbers as identified in Part I of the service bulletin: Before further flight, replace one of the affected hydraulic pressure tubes with a new hydraulic pressure tube, in accordance with Part III or Part IV, as applicable, of the service bulletin. Within 600 flight hours after the inspection, replace the other affected hydraulic pressure tube with a new hydraulic pressure tube, in accordance with Part III or Part IV, as applicable, of the service bulletin.

Note 1: EMBRAER Service Bulletin 170–29–0001 refers to Turbofan (Airline Service) Service Bulletin CF34–8E MHD 71–00–011, original revision, dated August 3, 2004, as an additional source of service information for inspecting the hydraulic pressure tubes to determine the part and serial numbers; and replacing hydraulic pressure tubes having certain serial numbers with new hydraulic pressure tube as applicable. Turbofan (Airline Service) Service Bulletin CF34–8E MHD 71–00–011 is included in the Appendix of EMBRAER Service Bulletin 170–29–0001.

No Reporting Requirement

(g) Although the service bulletin referenced in this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Parts Installation

(h) As of the effective date of this AD, no person may install a hydraulic pressure pipe having any part and serial numbers identified in Part I of the Accomplishment Instructions of EMBRAER Service Bulletin 170–29–0001, dated August 9, 2004, on any airplane.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(j) Brazilian airworthiness directive 2004–11–06, dated November 29, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on May 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11046 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20349; Directorate Identifier 2003–NM–108–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes; Model DC–10–10 and DC–10–10F Airplanes; Model DC–10–15 Airplanes; Model DC–10–30 and DC–10–30F (KC–10A and KDC–10) Airplanes; Model DC–10–40 and DC–10–40F Airplanes; and Model MD–10–10F and MD–10–30F Airplanes

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

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) for certain McDonnell Douglas transport category airplanes. The proposed AD would have required replacement with new, improved parts of the inboard flap, outboard hinge, forward attach bracket, and lower attach bolt assemblies. The proposed AD also would have required an inspection for certain parts, and related investigative and corrective actions if necessary. Since the proposed AD was issued, we have confirmed data indicating that an existing AD adequately addresses the unsafe condition. Accordingly, the proposed AD is withdrawn.

ADDRESSES: 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 U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Washington, DC. This docket number is FAA–2005–20349; the directorate identifier for this docket is 2003–NM–108–AD.

FOR FURTHER INFORMATION CONTACT: Ronald Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5224; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (NPRM) for a new AD for certain McDonnell Douglas transport category airplanes. That NPRM was published in the **Federal Register** on February 15, 2005 (70 FR 7683). The NPRM would have required replacement with new, improved parts of the inboard flap, outboard hinge, forward attach bracket, and lower attach bolt assemblies. The NPRM also would have required an inspection for certain parts, and related investigative and corrective actions if necessary. The NPRM was prompted by a report indicating that the left-hand inboard flap outboard hinge pulled away from the wing structure. The proposed actions were intended to prevent loose preload-indicating (PLI) washers or cracked or corroded nuts of the lower bolts of the inboard flap outboard hinge, which could result in separation of the inboard flap outboard hinge from the wing structure and consequent reduced controllability of the airplane.

Actions Since NPRM Was Issued

Since we issued the NPRM, we have determined that existing AD 2004–02–06, amendment 39–13441 (68 FR 4450, January 30, 2004) adequately addresses the unsafe condition specified in the NPRM. AD 2004–02–06 requires a general visual inspection to detect cracking in the nuts on the lower attach bolt assemblies of the forward attach bracket of the inboard flap outboard hinge, replacement of both upper and lower attach bolt assemblies with new bolts and nuts made from Inconel material, and replacement of certain PLI washers with new washers. For certain other airplanes, the AD requires replacement of the lower attach bolt assemblies of the inboard forward attach bracket of the inboard flap outboard hinge with new bolts and nuts made from Inconel material, and replacement of PLI washers with new washers. That AD was issued to prevent separation of the inboard flap outboard hinge from the wing structure and consequent reduced controllability of the airplane.

FAA's Conclusions

Upon further consideration, we have determined that, since the identified unsafe condition is being adequately addressed by existing AD requirements, it is unnecessary to provide further rulemaking at this time. Accordingly, the NPRM is withdrawn.

Withdrawal of the NPRM does not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

Regulatory Impact

Since this action only withdraws an NPRM, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA–2005–20349, Directorate Identifier 2003–NM–108–AD, which was published in the **Federal Register** on February 15, 2005 (70 FR 7683).

Issued in Renton, Washington, on May 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11047 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21343; Directorate Identifier 2004–NM–117–AD]

RIN 2120–AA64

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

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus models, as specified above. This proposed AD would require modifying the aft pressure bulkhead for improved corrosion protection and drainage, and related concurrent actions. This proposed AD is prompted by severe corrosion found in the lower rim area of the aft pressure bulkhead during routine maintenance of an airplane. We are proposing this AD to prevent corrosion on the inner rim angle and cleat profile splice of the aft

pressure bulkhead, which could result in the loss of airplane structural integrity.

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

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

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

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

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21343; the directorate identifier for this docket is 2004–NM–117–AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include "Docket No. FAA–2005–21343; Directorate Identifier 2004–NM–117–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on certain Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F airplanes (collectively called A300–600 series airplanes); and Model A310 series airplanes. The DGAC advises that severe corrosion has been found in the lower rim area of the aft pressure bulkhead during routine maintenance of an airplane that has been in service for 10 years. On several other airplanes, less severe corrosion also has been found on the inner rim angle of the bulkhead in the area of the drain hole and on the cleat profile splice at the airplane centerline. Damage to the surface protection during cleaning of the drain hole or during incorporation of certain Airbus service bulletins could lead to corrosion on the inner rim angle of the bulkhead. Also, clogged drain holes or incomplete adhesion of the sealant during incorporation of certain Airbus service bulletins could lead to corrosion on the cleat profile splice. Corrosion on the inner rim angle and cleat profile splice of the aft pressure bulkhead, if not corrected, could result in the loss of airplane structural integrity.

Other Related Rulemaking

On March 3, 1988, we issued AD 88–06–03, amendment 39–5871 (53 FR 7730, March 10, 1988), applicable to certain Airbus Model A310 series airplanes. That AD requires repetitive X-ray or eddy current inspections of the rear pressure bulkhead for cracks and repair if cracks are found; and modification of the attachment of the rear pressure bulkhead to FR 80/82. If paragraph A.2. of AD 88–06–03 has been accomplished in accordance with Airbus Service Bulletin A310–53–2025, original issue, dated April 21, 1986, or Revision 3, dated April 7, 1987, operators do not need to do the related concurrent actions for Model A310 series airplanes that would be required by this proposed AD.

Relevant Service Information

Airbus has issued service bulletins A300–53–6017 (for Model A300–600 series airplanes) and A310–53–2036 (for Model A310 series airplanes), both Revision 02, both dated February 25, 2004. The service bulletins describe procedures for modifying the aft pressure bulkhead for improved corrosion protection and drainage, and related concurrent actions. The modification includes the following actions:

1. Removing the existing corrosion protection at the aft pressure bulkhead, which includes raising or renewing sealant beads between the cleat profile, rim angle, and circumferential strap up to STGR27; and applying a corrosion inhibitor in the whole area of the aft pressure bulkhead up to STGR27.
2. Enlarging the drain hole in the cleat profile, which includes reworking the attachment angles; and removing the sealant between the cleat profile, rim angle, and circumferential strap up to STGR27 if the sealant beads are damaged.
3. Applying sealant and corrosion inhibitor at FR80 up to STGR27.
4. Replacing the heat and sound insulation between FR79 and FR80.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DGAC mandated the service information and issued French airworthiness directive F–2004–004, dated January 7, 2004, to ensure the continued airworthiness of these airplanes in France.

Airbus Service Bulletin A300–53–6017 specifies prior or concurrent accomplishment of Airbus Service Bulletin A300–53–6006, Revision 3, dated March 24, 1989 (for Model A300–600 series airplanes).

Airbus Service Bulletin A310–53–2036 specifies prior or concurrent accomplishment of Airbus Service Bulletin A310–53–2025, Revision 5, dated March 24, 1989 (for Model A310 series airplanes).

Concurrent Service Bulletins

Airbus Service Bulletins A300–53–6006 and A310–53–2025 describe procedures for modifying the aft pressure bulkhead to improve the fatigue life of the attachment angles at FR80/82. The modification includes the following:

- For certain airplanes, doing a visual inspection around the entire circumference between FR80/82 and the aft pressure bulkhead for damaged filler; and if filler material is lacking or damaged, removing the damaged filler and adjacent area around damage.
- On airplanes that have accumulated between 6,000 and 12,000 total flight cycles, inspecting the critical area from STGR7 to STGR17, left and right; and if cracks are found, repairing the aft pressure bulkhead between STGR9 and STGR13.
- Removing the sealant on the whole circumference from between FR80/82 and the aft pressure bulkhead.
- Installing additional attachment angles on the circumference of FR80/82.
- Filling the space between the aft pressure bulkhead and FR80/82 beginning at STGR57 with a certain filler.
- Installing additional supports between the aft pressure bulkhead and FR80/82 in the area of STGR9.
- Installing an additional frame stiffener and support between the aft pressure bulkhead and FR79 at STGR13.
- Modifying the aft lavatories by installing a new, upper sidewall panel and affixing strips of tape on certain areas of the new, upper sidewall panel.
- Applying surface protection to the modified area of the aft pressure bulkhead.
- Modifying, reidentifying, and installing the heat and sound insulation in the area of STGR9 and STGR 13, left and right, and between FR79 and FR80/82, left and right.

FAA's Determination and Requirements of the Proposed AD

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

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

Clarification of Inspection Terminology

The "visual inspection" specified in the concurrent service bulletins is referred to as a "general visual inspection" in this proposed AD. We have included the definition for a general visual inspection in a note in the proposed AD.

Costs of Compliance

The following table provides the estimated costs (at an average labor rate of $65 per hour) for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Models	Action	Work hours	Parts	Cost per airplane	Number of U.S. registered airplanes	Fleet cost
A300–600 series airplanes.	Modification	34	$1,200	$3,410	0	$0.
	Concurrent Action[1]	Between 590 and 660.	Between $2,442 and $9,884.	Between $40,792 and $52,784.	0	$0.
A310 series airplanes.	Modification	34	$1,200	$3,410	52	$177,320.
	Concurrent Action[1]	Between 590 and 660.	Between $2,442 and $9,884.	Between $40,792 and $52,784.	52	Between $2,121,184 and $2,744,768.

[1] The number of work hours and estimated costs for concurrent actions depend on airplane configuration.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2005–21343; Directorate Identifier 2004–NM–117–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by July 5, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F airplanes (collectively called A300–600 series airplanes); and Model A310 series airplanes; certificated in any category; except those modified in production by Airbus Modification 6788.

Unsafe Condition

(d) This AD was prompted by severe corrosion found in the lower rim area of the aft pressure bulkhead during routine maintenance of an airplane. We are issuing this AD to prevent corrosion on the inner rim angle and cleat profile splice of the aft pressure bulkhead, which could result in the loss of airplane structural integrity.

Compliance

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

Service Bulletin References

(f) The term "service bulletin," as used in this AD, means the Accomplishment Instructions of the following service bulletins listed in Table 1 of this AD, as applicable:

TABLE 1.—SERVICE BULLETIN REFERENCES

Models	Requirement	Airbus service bulletin
A300–600 series airplanes ..	Paragraph (g) of this AD	A300–53–6017, Revision 02, dated February 25, 2004.
	Paragraph (h) of this AD	A300–53–6006, Revision 3, dated March 24, 1989.
A310 series airplanes	Paragraph (g) of this AD	A310–53–2036, Revision 02, dated February 25, 2004.
	Paragraph (h) of this AD	A310–53–2025, Revision 5, dated March 24, 1989.

Modification To Improve Corrosion Protection and Drainage

(g) Within 60 months after the effective date of this AD, modify the aft pressure bulkhead for improved corrosion protection and drainage by doing all of the actions specified in the Accomplishment Instructions of the applicable service bulletin.

Concurrent Modification To Improve Attachment Angles

(h) Before or concurrently with accomplishing the modification required by paragraph (g) of this AD, modify the aft pressure bulkhead to improve the fatigue life of the attachment angles at FR80/82 by doing all of the actions specified in the Accomplishment Instructions of the applicable service bulletin. Where the service bulletin specifies doing a visual inspection around the entire circumference between FR80/82 and the aft pressure bulkhead for damaged filler, do a general visual inspection.

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."

Credit for Concurrent Actions

(i) For Model A310 series airplanes, accomplishment of the actions specified in paragraph A.2. of AD 88–06–03, amendment 39–5871 (53 FR 7730, March 10, 1988), is considered acceptable for compliance with the requirements of paragraph (h) of this AD.

Credit for Previous Service Bulletins

(j) Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A310–53–2036, Revision 01, dated October 9, 2003 (for Model A310 series airplanes), are acceptable for compliance with the requirements of paragraph (g) of this AD.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(l) French airworthiness directive F–2004–004, dated January 7, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on May 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11062 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulation Nos. 4 and 16]

RIN 0960–AG07

Work Activity of Persons Working as Members of Advisory Committees Established Under the Federal Advisory Committee Act (FACA)

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing to revise our disability regulations under titles II and XVI of the Social Security Act to incorporate a new, special rule that would affect individuals who are receiving payments or providing services as members or consultants of a committee, board, commission, council or similar group established under the Federal Advisory Committee Act (FACA).

Under this special rule, we would not count any earnings an individual is receiving from serving as a member or consultant of a FACA advisory committee when we determine if the individual is engaging in substantial gainful activity under titles II and XVI of the Social Security Act (the Act). In addition, we would not evaluate any of the services the individual is providing as a member or consultant of the FACA advisory committee when determining if the individual has engaged in

substantial gainful activity under titles II and XVI of the Act.

Based on our experience with FACA advisory committees and the frequency and level of activity required by these committees, we believe that performance of activity on these committees does not demonstrate the ability to perform substantial gainful activity. We believe this to be consistent with Congress's view as it has recognized in creating the Ticket to Work advisory committee, for example, that current disability beneficiaries should be considered for membership. This also will encourage individuals with disabilities to serve on FACA advisory committees, thereby providing the benefit of their unique perspective on policies and programs to the Federal Government.

DATES: To be sure that your comments are considered, we must receive them no later than August 2, 2005.

ADDRESSES: You may give us your comments by: Using our Internet site facility (*i.e.*, Social Security Online) at *http://policy.ssa.gov/pnpublic.nsf/LawsRegs* or the Federal eRulemaking Portal at *http://www.regulations.gov*; e-mail to *regulations@ssa.gov*; telefax to (410) 966–2830, or letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235–7703. You may also deliver them to the Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site, or you may inspect them on regular business days by making arrangements with the contact person shown in this preamble.

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html*. It is also available on the Internet site for SSA (*i.e.*, Social Security Online): *http://policy.ssa.gov/pnpublic.nsf/LawsRegs*.

FOR FURTHER INFORMATION CONTACT: Mary Hoover, Policy Analyst, Office of Program Development and Research, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401. Call (410) 965–5651 or TTY 1–800–325–0778 for information about these proposed rules. For information on eligibility or filing for benefits, call our national toll-free number 1–(800) 772–1213 or TTY 1–(800) 325–0778. You may also contact Social Security Online at *http://www.socialsecurity.gov/*.

SUPPLEMENTARY INFORMATION:

What Is the Purpose of This Notice of Proposed Rulemaking (NPRM)?

In this NPRM, we propose to establish a new, special rule that would apply to individuals working as members or consultants of a committee, board, commission, council or similar group established under the FACA, 5 U.S.C. App. 2. Under this special rule, earnings received or services provided by the individual as a result of serving on a Federal Advisory Committee, would not be evaluated when deciding if the individual has engaged in substantial gainful activity under titles II and XVI of the Act.

What Is the FACA?

The FACA and its implementing regulations allow the Federal Government to establish or utilize advisory committees consisting of non-Federal employees when they are determined to be essential for furnishing expert advice, ideas, and diverse opinions to the Federal Government. Advisory committees are established solely when it is beneficial to the Federal Government. Such committees serve an advisory role only. Members and consultants of advisory committees established under FACA receive compensation in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors.

What Rules Are We Revising and Why?

The purpose of FACA advisory committees is to provide expert advice, ideas, and diverse opinions to the Federal Government. The individuals who serve on these advisory committees do so for the benefit of the Federal Government. Consistent with Congress's view as reflected by mandating consideration of currently disabled social security beneficiaries for membership on the Ticket to Work advisory committee, we do not believe that performance of activity on these committees demonstrates an ability to perform substantial gainful activity. Furthermore, this would encourage individuals with disabilities to serve on FACA advisory committees, thereby providing the benefit of their unique perspective on policies and programs to the Federal Government. We propose not to evaluate earnings received or services provided by the individual, as a result of serving on a Federal Advisory Committee, when deciding if the individual has engaged in substantial gainful activity. This special rule will eliminate the fear individuals may have concerning the loss or denial of benefits (including health care), based on earnings received and services provided as a result of serving on a FACA advisory committee.

Explanation of Changes

We are proposing to revise §§ 404.1574 and 416.974 to specify that if you are serving as a member or consultant of an advisory committee, board, commission, council or similar group established under FACA, we would not evaluate the earnings you receive or the services provided as a result from serving on such committees when we determine whether you are engaging in substantial gainful activity under title II and title XVI of the Act.

Clarity of These Proposed Rules

Executive Order (E.O.) 12866, as amended by E.O. 13258, requires each agency to write all rules in plain language. In addition to your substantive comments on these final rules, we invite your comments on how to make them easier to understand.

For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

Regulatory Procedures

Executive Order (E.O.) 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13256. Thus, they were reviewed by OMB.

Regulatory Flexibility Act

We certify that these proposed regulations would not have a significant economic impact on a substantial number of small entities because they affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These proposed regulations impose no reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Programs Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: March 16, 2005.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons set out in the preamble, we are amending subpart P of part 404 and subparts I and K of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart P—[Amended]

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

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221 (a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405 (a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

2. Section 404.1574 is amended by redesignating paragraph (d) as paragraph (d)(1), and adding new paragraph (d)(2) to read as follows:

§ 404.1574 Evaluation guides if you are an employee.

* * * * *

(d) * * *

(2) *Work activity as a member or consultant of an advisory committee established under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2.* If you are serving as a member or consultant of an advisory committee, board, commission, council, or similar group established under FACA, we will not count any payments you receive from serving on such committees as earnings when we determine whether you are engaging in substantial gainful activity. These payments may include compensation, travel expenses, and special assistance. We also will exclude the services you perform as a member or consultant of an advisory committee established under FACA in applying any of the substantial gainful activity tests discussed in paragraph (b)(6) of this section. This exclusion from the substantial gainful activity provisions will apply only if you are a member or consultant of an advisory committee specifically authorized by statute, or by the President, or determined as a matter of formal record by the head of a government agency. This exclusion from the substantial gainful activity provisions will not apply if your service as a member or consultant of an advisory committee is part of your duties or is required as an employee of any governmental or non-governmental organization, agency, or business.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—[Amended]

3. The authority citation for subpart I continues to read as follows;

Authority: Secs. 702(a)(5) and 1601–1635 of the Social Security Act (42 U.S.C. 902(a)(5) and 1381–133d); sec. 212, Pub. L. 93–66, 87 Stat. 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note).

4. Section 416.974 is amended by redesignating paragraph (d) as paragraph (d)(1), and adding new paragraph (d)(2) to read as follows:

§ 416.974 Evaluation guides if you are an employee.

* * * * *

(d) * * *

(2) *Work activity as a member or consultant of an advisory committee established under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2.* If you are serving as a member or consultant of an advisory committee, board, commission, council, or similar group established under FACA, we will not count any payments you receive from serving on such committees as earnings when we determine whether you are engaging in substantial gainful activity. These payments may include compensation, travel expenses, and special assistance. We also will exclude the services you perform as a member or consultant of an advisory committee established under FACA in applying any of the substantial gainful activity tests discussed in paragraph (b)(6) of this section. This exclusion from the substantial gainful activity provision will apply only if you are a member or consultant of an advisory committee specifically authorized by statute, or by the President, or determined as a matter of formal record by the head of a government agency. This exclusion from the substantial gainful activity provision will not apply if your service as a member or consultant of an advisory committee is part of your duties or is required as an employee of any governmental or non-governmental organization, agency, or business.

[FR Doc. 05–11074 Filed 6–2–05; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–152914–04]

RIN 1545–BD97

Revised Regulations Concerning Disclosure of Relative Values of Optional Forms of Benefit; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document contains a notice of public hearing on proposed regulations concerning content requirements applicable to explanations of qualified joint and survivor annuities and qualified preretirement survivor annuities payable under certain retirement plans.

DATES: The public hearing is being held on August 24, 2005, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the hearing by August 3, 2005.

ADDRESSES: The public hearing is being held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

Send submissions to: CC:PA:LPD: PR (REG–152914–04), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–152914–04), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC or sent electronically, via the IRS Internet site at *http://www.irs.gov/regs* or via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS–REG–152914–04).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Bruce Perlin

(202) 622–6090; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing LaNita Van Dyke (202) 622–7180 (not toll free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed regulations (REG–152914–04) that was published in the **Federal Register** on Friday, January 28, 2005 (70 FR 4058).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing that submitted written comments by April 28, 2005, must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies).

A period of 10 minutes is allotted to each person for presenting oral comments.

After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Cynthia E. Grigsby,

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

[FR Doc. 05–11028 Filed 6–2–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 19, 52, and 53

[FAR Case 2004–017]

RIN: 9000–AK18

Federal Acquisition Regulation; Small Business Credit for Alaskan Native Corporations and Indian Tribes

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 702 of Public Law 107–117, as amended by section 3003 of Public Law 107–206 (43 U.S.C. 1626). The law permits subcontracts awarded to certain Alaskan Native Corporations (ANCs) to be counted towards a contractor's goals for subcontracting with small business (SB) and small disadvantaged business (SDB) concerns. The law also permits Indian tribes to be counted towards a contractor's goal for subcontracting with SB.

DATES: Interested parties should submit comments in writing on or before August 2, 2005 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2004–017 by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web Site: *http://www.acqnet.gov/far/ProposedRules/proposed.htm*. Click on the FAR case number to submit comments.
- E-mail: *farcase.2004–017@gsa.gov*. Include FAR case 2004–017 in the subject line of the message.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2004–017 in all correspondence related to this case. All comments received will be posted without change to *http://www.acqnet.gov/far/ProposedRules/proposed.htm*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Rhonda Cundiff, Procurement Analyst, at (202) 501–0044. Please cite FAR case 2004–017.

SUPPLEMENTARY INFORMATION:

A. Background

Section 702 of Public Law 107–117, as amended by section 3003 of Public Law 107–206, provides that subcontracts awarded to Alaskan Native Corporations (ANC) that are considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1), and any of its direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2), shall be counted towards the satisfaction of a contractor's goal for subcontracting with SB and SDB concerns. The law also provides that subcontracts awarded to Indian tribes may be counted towards the satisfaction of a contractor's goal for subcontracting with SB concerns. Such credit is taken even where the ANC or Indian tribe may be "other than small" under the Small Business Administration (SBA) regulations.

In addition, section 3003 provides that "where lower tier subcontracts exist, the ANC or Indian tribe shall designate the appropriate contractor or contractors to receive credit towards their small or small disadvantaged business subcontracting goals." Accordingly, the rule requires that, where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor to count the subcontract towards its small business and/or small disadvantaged subcontracting goals. In most cases, the appropriate contractor is the contractor that awarded the subcontract to the ANC or Indian tribe. Therefore, the revision includes a requirement that the ANC or Indian tribe give a copy of the designation to the contracting officer, the prime contractor, and the subcontractors in between. The Councils invite industry to comment on the feasibility of this approach and any alternatives for complying with the law.

The law does not provide for such an ANC and any of its direct and indirect subsidiary corporations, joint ventures, and partnerships to be eligible for SDB or 8(a) certification unless the entity otherwise meets the requirements for certification under 15 U.S.C. 637. Similarly, the law does not provide for contractors to count subcontracts awarded to such an entity toward the evaluation of the extent of the participation of SDB concerns in the performance of certain North American Industry Classification System (NAICS) Industry codes unless the entity is certified as an SDB by SBA (FAR Subpart 19.12). The FAR is being amended to implement these changes to 43 U.S.C. 1626.

The specific changes are as follows:

- FAR 19.701 and the clause at 52.219–9 are amended to add definitions for ANC and Indian tribes consistent with 43 U.S.C. 1601, *et seq.*, and 25 U.S.C. 1452, respectively.

• FAR 19.703 is amended to add paragraph (c). Paragraph (1)(i) authorizes contractors to count awards to ANCs towards the satisfaction of the contractor's SB and SDB goals regardless of the size status of the ANC, and to provide for the ANC to designate which contractor is to receive the credit; and paragraph (c)(1)(ii) authorizes contractors to count awards to Indian tribes towards the satisfaction of the contractor's SB goals, regardless of the size status of the Indian tribe.

Paragraph (c)(1)(iii) is added to provide that where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor to count the subcontract towards its small business and/or small disadvantaged subcontracting goals. In most cases, the appropriate contractor is the contractor that awarded the subcontract to the ANC or Indian tribe. Paragraph (d)(2) is added to provide that a contractor acting in good faith may rely on the written representation of an ANC or Indian tribe as to eligibility and incorporates the procedures at 26.103(b) through (e) in the event of a challenge of such a representation.

• FAR 19.704, the clause at 52.219–9, and the instructions for the SF 294, "Subcontracting Report for Individual Contracts," and SF 295, "Summary Subcontract Report," are amended to permit subcontracts awarded to certain ANCs to be counted towards the satisfaction of a contractor's goal for subcontracting with SB and SDB concerns, and to permit subcontracts awarded to Indian tribes to be counted towards the satisfaction of a contractor's goal for subcontracting with SB concerns.

• FAR 19.704 and the clause at 52.219–9 are amended to provide where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate which subcontractor(s) or prime contractor(s) will be able to count the subcontract towards its small business and small disadvantaged subcontracting goals.

• The clause at 52.219–9(j)(2) stipulates that awards to ANCs that are not certified SDBs may not be counted towards the evaluation of the extent of participation of SDB concerns in the performance of contracts in the NAICS Industry Subsectors.

• The instructions for the SF 294 and SF 295 are revised to include a cross-reference to the FAR 19.703 eligibility requirements for participation in the small business subcontracting program; to incorporate administrative corrections to ensure consistency in reporting of goals and actual performance; and for technical edits.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The changes may 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 law allows other than small business Federal contractors to receive SDB and/or SB subcontract credit for subcontracts awarded to Indian tribes and ANCs, regardless of whether they are SB, SBA-certified SDBs, or certified 8(a) firms. SBs and certified SDBs may be adversely impacted to the extent that there are Indian tribes or ANCs that are large businesses and may now be more likely to be used as subcontractors or suppliers on Federal contracts. It is estimated that there are 562 Indian tribes and ANCs. Information was not available on the number of these entities that were large business, SB, or SDB. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administration. The analysis is summarized as follows:

This proposed rule revises the Federal Acquisition Regulation in order to comply with 43 U.S.C. 1626 which allows other than small business Federal contractors to receive small business (SB) subcontracting credit for subcontracts awarded to Indian tribes, regardless of whether they are small business. Additionally, the law allows other than small business Federal contractors to receive small business and small disadvantaged business (SDB) subcontracting credit for subcontracts awarded to Alaskan Native Corporations (ANCs) which are considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1) and any of its direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2), regardless of whether they are small businesses, SBA-certified SDBs, or certified 8(a) firms.

This proposed rule implements section 702 of the 2002 Department of Defense Supplemental Appropriation, as amended by section 3003 of the 2002 Supplemental Appropriations for Further Recovery From and Response To Terrorist Attacks on the United States. The objective of the statute is to encourage large business contractors to utilize ANCs and Indian tribes as subcontractors and suppliers on Federal contracts.

The changes may 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 law allows other than small business Federal contractors to receive small disadvantaged business and/or small business subcontract credit for subcontracts awarded to Indian tribes and ANCs. The rule will impose no new reporting or recordkeeping requirements on small entities.

A copy of the IRFA may be obtained from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR parts 19, 52, and 53 in accordance with 5 U.S.C. 610. Comments must be submitted separately and should cite 5 U.S.C 601, *et seq.* (FAR case 2004–017), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) applies because the proposed rule contains information collection requirements. Accordingly, the FAR Secretariat has submitted a request for approval of a revision to the information collection requirements of OMB Control Numbers 9000–0006, Subcontracting Plans/Subcontracting Report for Individual Contracts (SF 294), and 9000–0007, Summary Subcontract Report (SF 295), to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Public comments concerning these requests will be invited through subsequent **Federal Register** notices.

Annual Reporting Burden:

Public reporting burden for this collection of information is estimated to average 11 hours per response for 9000–0006, and 16.2 hours per response for 9000–0007, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows:

9000–0006 (Current Annual Reporting and Recordkeeping):

Respondents: 4,253.

Responses per respondent: 3.44.

Total annual responses: 14,622.

Average burden hours per response: 50.52.

Total response burden hours: 739,225.

9000–0006 (Proposed Annual Reporting and Recordkeeping):

Respondents: 4,253.

Responses per respondent: 3.44.

Total annual responses: 14,631.
Average burden hours per response: 55.34.
Total response burden hours: 809,248.
Total program change is an additional 70,023 hours.

9000–0007 (Current Annual Reporting and Recordkeeping):
Respondents: 4,253.
Responses per respondent: 1.66.
Total annual responses: 7,098.
Average burden hours per response: 15.9.
Total response burden hours: 112,864.

9000–0007 (Proposed Annual Reporting and Recordkeeping):
Respondents: 4,253.
Responses per respondent: 1.75.
Total annual responses: 7,449.
Average burden hours per response: 16.2.
Total response burden hours: 120,674.

Total program change is an additional 7,810 hours.

D. Request for Comments Regarding Paperwork Burden

Submit comments, including suggestions for reducing this burden, not later than August 2, 2005 to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405.

Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the FAR, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Requester may obtain a copy of the justifications from the General Services Administration, FAR Secretariat (VIR), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control Numbers 9000–0006, Subcontracting Plans/Subcontracting Report for Individual Contracts (SF 294), and 9000–0007, Summary Subcontract Report (SF 295), in all correspondence.

List of Subjects in 48 CFR Parts 19, 52, and 53

Government procurement.

Dated: May 24, 2005.

Julia B. Wise,

Director, Contract Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 19, 52, and 53 as set forth below:

1. The authority citation for 48 CFR parts 19, 52, and 53 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 19—SMALL BUSINESS PROGRAMS

2. Amend section 19.701 by adding, in alphabetical order, the definitions "Alaskan Native Corporation (ANC)" and "Indian tribe" to read as follows:

19.701 Definitions.

* * * * *

Alaskan Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*), and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

* * * * *

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601, *et seq.*), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c).

* * * * *

3. Amend section 19.703 in the introductory text of paragraph (a) by removing "To" and adding "Except as provided in paragraph (c) of this section, to"; and adding paragraph (c) to read as follows:

19.703 Eligibility requirements for participating in the program.

* * * * *

(c)(1) In accordance with 43 U.S.C. 1626, the following procedures apply:

(i) Subcontracts awarded to an ANC shall be counted towards the designated contractor's subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size status of the ANC.

(ii) Subcontracts awarded to an Indian tribe shall be counted towards the designated contractor's subcontracting goal for small business, regardless of the size status of the Indian tribe.

(iii) Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor to count the subcontract towards its small business and/or small disadvantaged subcontracting goals. In most cases, the appropriate contractor is the contractor that awarded the subcontract to the ANC or Indian tribe. The ANC or Indian tribe will give a copy of the designation to the contracting officer, the prime contractor, and the subcontractors in between.

(2) A contractor acting in good faith may rely on the written representation of an ANC or an Indian tribe as to eligibility unless an interested party challenges its status or the contracting officer has independent reason to question its status. In the event of a challenge of a representation of an ANC or Indian tribe, the interested parties shall follow the procedures at 26.103(b) through (e).

4. Amend section 19.704 by revising paragraphs (a)(1), (a)(2), (a)(3), and (a)(6) to read as follows:

19.704 Subcontracting plan requirements.

(a) * * *

(1) Separate percentage goals for using small business (including ANC and Indian tribes), veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business (including ANCs), and women-owned small business concerns as subcontractors;

(2) A statement of the total dollars planned to be subcontracted and a statement of the total dollars planned to be subcontracted to small business (including ANC and Indian tribes), veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business (including ANCs), and women-owned small business concerns;

(3) A description of the principal types of supplies and services to be subcontracted and an identification of types planned for subcontracting to small business (including ANC and Indian tribes), veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business

(including ANCs), and women-owned small business concerns;

* * * * *

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with small business (including ANC and Indian tribes), veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business (including ANCs), and women-owned small business concerns;

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Amend section 52.219–9 by—

a. Revising the date of the clause;

b. In paragraph (b), by adding, in alphabetical order, the definitions "Alaskan Native Corporation (ANC)" and "Indian tribe" and

c. Adding text to the end of paragraph (d)(1); and revising paragraphs (d)(2)(ii), (d)(2)(vi), and (d)(6)(i) to read as follows:

52.219–9 Small Business Subcontracting Plan.

* * * * *

SMALL BUSINESS SUBCONTRACTING PLAN (DATE)

* * * * *

(b) * * *

Alaskan Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*), and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

* * * * *

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601, *et seq.*), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c).

* * * * *

(d) * * *

(1) * * * In accordance with 43 U.S.C. 1626, subcontracts awarded to an ANC shall be counted towards the designated Contractor's subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size status of the ANC, and subcontracts awarded to an Indian tribe shall be counted towards the designated Contractor's subcontracting goal for small business, regardless of the size status of the Indian tribe. Where one or more subcontractors are in the subcontract tier between the prime Contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate Contractor to count the subcontract towards its small business and/or small disadvantaged subcontracting goals. In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe. The ANC or Indian tribe shall give a copy of the designation to the Contracting Officer, the prime Contractor, and the subcontractors in between.

(2) * * *

(ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

* * * * *

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs); and

* * * * *

(6) * * *

(i) Small business concerns (including ANC and Indian tribes);

* * * * *

PART 53—FORMS

53.219 [Amended]

6. Amend section 53.219 in paragraphs (a) and (b) by removing "(Rev. 10/01)" and adding "(Rev. Date)" in their place.

7. Revise sections 53.301–294 and 53.301–295 to read as follows:

53.301–294 Subcontracting Report for Individual Contracts.

BILLING CODE 6820–EP–S

SUBCONTRACTING REPORT FOR INDIVIDUAL CONTRACTS
(See instructions on reverse)

OMB No.: 9000-0006
Expires: 08/31/2007

Public reporting burden for this collection of information is estimated to average 9.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VI), Regulatory and Federal Assistance Division, GSA, Washington, DC 20405.

1. CORPORATION, COMPANY OR SUBDIVISION COVERED			3. DATE SUBMITTED
a. COMPANY NAME			
b. STREET ADDRESS			4. REPORTING PERIOD FROM INCEPTION OF CONTRACT THRU:
c. CITY	d. STATE	e. ZIP CODE	☐ MAR 31 ☐ SEPT 30 YEAR
2. CONTRACTOR IDENTIFICATION NUMBER			5. TYPE OF REPORT
			☐ REGULAR ☐ FINAL ☐ REVISED

6. ADMINISTERING ACTIVITY *(Please check applicable box)*

☐ ARMY ☐ GSA ☐ NASA
☐ NAVY ☐ DOE ☐ OTHER FEDERAL AGENCY *(Specify)*
☐ AIR FORCE ☐ DEFENSE CONTRACT MANAGEMENT AGENCY

7. REPORT SUBMITTED AS *(Check one and provide appropriate number)*		8. AGENCY OR CONTRACTOR AWARDING CONTRACT		
☐ PRIME CONTRACTOR	PRIME CONTRACT NUMBER	a. AGENCY'S OR CONTRACTOR'S NAME		
☐ SUBCONTRACTOR	SUBCONTRACT NUMBER	b. STREET ADDRESS		
9. DOLLARS AND PERCENTAGES IN THE FOLLOWING BLOCKS: ☐ DO INCLUDE INDIRECT COSTS ☐ DO NOT INCLUDE INDIRECT COSTS		c. CITY	d. STATE	e. ZIP CODE

SUBCONTRACT AWARDS

TYPE	CURRENT GOAL		ACTUAL CUMULATIVE	
	WHOLE DOLLARS	PERCENT	WHOLE DOLLARS	PERCENT
10a. SMALL BUSINESS CONCERNS (Include SDB (Including ANCs), WOSB, HBCU/MI, HUBZone SB, and VOSB *(Including Service-Disabled VOSB)* and Indian Tribes) *(Dollar Amount and Percent)*				
10b. LARGE BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)*				
10c. TOTAL *(Sum of 10a and 10b.)*		100.0%		100.0%
11. SMALL DISADVANTAGED BUSINESS (SDB) CONCERNS *(Include ANCs and HBCU/MI) (Dollar Amount and Percent of 10c.)*				
12. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS *(Dollar Amount and Percent of 10c.)*				
13. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS (MI) *(If applicable) (Dollar Amount and Percent of 10c.)*				
14. HUBZone SMALL BUSINESS (HUBZone SB) CONCERNS *(Dollar Amount and Percent of 10c.)*				
15. VETERAN-OWNED SMALL BUSINESS CONCERNS *(Includng Service-Disabled Veteran-Owned SB Concerns) (Dollar Amount and Percent of 10c.)*				
16. SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERNS *(Dollar Amount and Percent of10c.)*				
17. ALASKA NATIVE CORPORATIONS (ANC) THAT HAVE NOT BEEN CERTIFIED BY SMALL BUSINESS ADMINISTRATION AS SMALL DISADVANTAGED BUSINESSES				
18. ALASKA NATIVE CORPORATIONS (ANC) AND INDIAN TRIBES THAT ARE NOT SMALL BUSINESSES				

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition is not usable

STANDARD FORM 294 (REV.)
Prescribed by GSA-FAR (48 CFR) 53.219(a)

19. REMARKS

20a. NAME OF INDIVIDUAL ADMINISTERING SUBCONTRACTING PLAN	20b. TELEPHONE NUMBER	
	AREA CODE	NUMBER

GENERAL INSTRUCTIONS

1. This report is not required from small businesses.

2. This report is not required for commercial items for which a commercial plan has been approved, nor from large businesses in the Department of Defense (DOD) Test Program for Negotiation of Comprehensive Subcontracting Plans. The Summary Subcontract Report (SF 295) is required for contractors operating under one of these two conditions and should be submitted to the Government in accordance with the instructions on that form.

3. This form collects subcontract award data from prime contractors/subcontractors that: (a) hold one or more contracts over $500,000 (over $1,000,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), Women-Owned Small Business (WOSB), HUBZone Small Business (HUBZone SB), Veteran-Owned Small Business (VOSB) and Service-Disabled Veteran-Owned Small Business concerns under a subcontracting plan. For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).

4. This report is required for each contract containing a subcontracting plan and must be submitted to the administrative contracting officer (ACO) or contracting officer if no ACO is assigned, semi-annually during contract performance for the periods ended March 31st and September 30th. A separate report is required for each contract at contract completion. Reports are due 30 days after the close of each reporting period unless otherwise directed by the contracting officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or since the previous report.

5. Only subcontracts involving performance in the U.S. or its outlying areas should be included in this report.

6. Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.

7. Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. Credit cannot be taken for awards made to lower tier subcontractors.

8. FAR 19.703 sets forth the eligibility requirements for participation in the subcontracting program.

9. Actual achievements must be reported on the same basis as the goals set forth in the contract. For example, if goals in the plan do not include indirect and overhead items, the achievements shown on this report should not include them either.

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number availble that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-800-333-0505 to get one free of charge over the telephone. Be prepared to provide the following information: (1) Company name; (2) Company address; (3) Company telephone number; (4) Line of business; (5) Chief executive officer/key manager; (6) Date the company was started; (7) Number of people employed by the company; and; (8) Company affiliation.

BLOCK 4: Check only one. Note that all subcontract award data reported on this form represents activity since the inception of the contract through the date indicated in this block.

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. A "Final" report should be checked only if the contractor has completed the contract or subcontract reported in Block 7. A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: Indicate whether the reporting contractor is submitting this report as a prime contractor or subcontractor and the prime contract or subcontract number.

BLOCK B: Enter the name and address of the Federal department or agency awarding the contract or the prime contractor awarding the subcontract.

BLOCK 9: Check the appropriate block to indicate whether indirect costs are included in the dollar amounts in blocks 10a through 14. To ensure comparability between the goal and actual columns, the contractor may include indirect costs in the actual column only if the subcontracting plan included indirect costs in the goal.

BLOCKS 10a through 18: Under "Current Goal," enter the dollar and percent goals in each category (SB, SDB, WOSB, VOSB, service-disabled VOSBs, and HUBZone SB) from the subcontracting plan approved for this contract. (If the original goals agreed upon at contract award have been revised as a result of contract modifications, enter the original goals in Block 19, Remarks. The amounts entered in Blocks 10a through 18 should reflect the revised goals.) Under "Actual Cumulative," enter actual subcontract achievements (dollar and percent) from the inception of the contract through the date of the report shown in Block 4. However, the dollar amounts reported under "Actual Cumulative" must always be for the same period of time as the dollar amounts shown under "Current Goal." For a contract with options, the current goal should represent the aggregate goal since the inception of the contract. For example, if the contractor is submitting the report during Option 2 of a multi-year contract, the current goal would be the cumulative goal for the base period plus the goal for Option 1 and the goal for Option 2. In cases where indirect costs are included, the amounts should include both direct awards and an appropriate prorated portion of indirect awards.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs (including Alaska Native Corporations (ANC) and Indian tribes), WOSBs, VOSBs, service-disabled VOSBs, and HUBZone SBs. For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs).

BLOCK 10c: Report on this line the total of all subcontracts awarded under this contract (the sum of lines 10a and 10b).

BLOCKS 11 through 18: Each of these items is a subcategory of Block 10a. Note that in some cases the same dollars may be reported in more than one block (e. g., SDBs owned by women or veterans).

BLOCK 11: Report all subcontracts awarded to SDBs (including women-owned, veteran-owned, service-disabled VOSBs, and HUBZone SB SDBs) and Alaska Native Corporation (ANC) and Indian tribes. For DOD, NASA, and Coast Guard contracts, include subcontract awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to Women-Owned firms (including SDBs, VOSB's, service-disabled VOSBs, and HUBZone SBs owned by women).

BLOCK 13 (For contracts with DoD, NASA, and Coast Guard): Report all subcontracts with HBCUs/MIs. Complete the column under "Current Goal" only when the subcontracting plan establishes a goal.

BLOCK 14: Report all subcontracts awarded to HUBZone SBs (including women-owned, veteran-owned, service-disabled VOSBs, SDB HUBZone SBs, and Alaska Native Corporations (ANC) and Indian tribes).

BLOCK 15: Report all subcontracts awarded to VOSBs including service-disabled VOSBs (include VOSBs that are also SDBs, WOSBs and HUBZone SBs.).

BLOCK 16: Report all subcontracts awarded to service-disabled veteran-owned SB concerns that are also SDBs, WOSBs, and HUBZone SBs.

BLOCK 17: Report all subcontracts awarded to Alaska Native Corporations (ANC) that are reported in Block 11, but have not been certified by SBA as SDBs.

BLOCK 1B. Report all subcontracts awarded to Alaksa Native Corporations (ANC) and Indian Tribes that are reported in Block 10a, but are not small businesses.

BLOCK 19: Enter a short narrative explanation if (a) SB, SDB, WOSB, VOSBs, Service-Disabled VOSBs, or HUBZone SB accomplishments fall below that which would be expected using a straight-line projection of goals through the period of contract performance; or (b) if this is a final report, any one of the six goals was not met.

DEFINITIONS

1. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).

2. Indirect costs are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

DISTRIBUTION OF THIS REPORT

For the Awarding Agency or Contractor:

The original copy of this report should be provided to the contracting officer at the agency or contractor identified in Block B. For contracts with DOD, a copy should also be provided to the Defense Contract Management Agency (DCMA) at the cognizant Defense Contract Management Area Operations (DCMAO) office.

For the Small Business Administration (SBA):

A copy of this report must be provided to the cognizant Commerical Market Representative (CMR) at the time of a compliance review. It is NOT necessary to mail the SF 294 to SBA unless specifically requested by the CMR.

53.301–295 Summary Subcontract Report.

SUMMARY SUBCONTRACT REPORT
(See instructions on reverse)

OMB No.: 9000-0007
Expires: 10/31/2006

1. CORPORATION, COMPANY OR SUBDIVISION COVERED

a. COMPANY NAME

b. STREET ADDRESS

c. CITY | d. STATE | e. ZIP CODE

2. CONTRACTOR IDENTIFICATION NUMBER

3. DATE SUBMITTED

4. REPORTING PERIOD:
☐ OCT 1 - MAR 31 ☐ OCT 1 - SEPT 30 YEAR

5. TYPE OF REPORT
☐ REGULAR ☐ FINAL ☐ REVISED

6. ADMINISTERING ACTIVITY *(Please check applicable box)*

☐ ARMY	☐ DEFENSE CONTRACT MANAGEMENT AGENCY	☐ DOE
☐ NAVY	☐ NASA	☐ OTHER FEDERAL AGENCY *(Specify)*
☐ AIR FORCE	☐ GSA	

7. REPORT SUBMITTED AS *(Check one)*

☐ PRIME CONTRACTOR
☐ SUBCONTRACTOR
☐ BOTH

8. TYPE OF PLAN

☐ INDIVIDUAL
☐ COMMERCIAL PRODUCTS

IF PLAN IS A COMMERCIAL PLAN, SPECIFY THE PERCENTAGE OF THE DOLLARS ON THIS REPORT ATTRIBUTABLE TO THIS AGENCY. ▶

9. CONTRACTOR'S MAJOR PRODUCTS OR SERVICE LINES

a | b

CUMULATIVE FISCAL YEAR SUBCONTRACT AWARDS ***(Report cumulative figures for reporting period in Block 4)***

	TYPE	WHOLE DOLLARS	PERCENT (To nearest tenth of a %)
10a.	SMALL BUSINESS CONCERNS *(Include SDB (including ANC), WOSB, HBCU/MI, HUBZone SB, and VOSB (including Service-Disabled VOSB), and Indian tribes) (Dollar Amount and Percent of 10c.)*		
10b.	LARGE BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)*		
10c.	TOTAL *(Sum of 10a and 10b.)*		100.0%
11.	SMALL DISADVANTAGED BUSINESS (SDB) CONCERNS *(Include ANCs and HBCU/MI) (Dollar Amount and Percent of 10c.)*		
12.	WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS *(Dollar Amount and Percent of 10c.)*		
13.	HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS (MI) *(If applicable) (Dollar Amount and Percent of 10c.)*		
14.	HUBZONE SMALL BUSINESS (HUBZone SB) CONCERNS *(Dollar Amount and Percent of10c.)*		
15.	VETERAN-OWNED SMALL BUSINESS (VOSB) CONCERNS *(Including Service-Disabled VOSB Concerns) (Dollar Amount and Percent of10c.)*		
16.	SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERNS *(Dollar Amount and Percent of10c.)*		
17.	ALASKA NATIVE CORPORATION (ANC) AND INDIAN TRIBES THAT HAVE NOT BEEN CERTIFIED BY SMALL BUSINESS ADMINISTRATION AS SMALL DISADVANTAGED BUSINESSES		
18.	ALASKA NATIVE CORPORATION (ANC) AND INDIAN TRIBES THAT ARE NOT SMALL BUSINESSES		

19. CONTRACTOR'S OFFICIAL WHO ADMINISTERS SUBCONTRACTING PROGRAM

a. NAME | b. TITLE | c. TELEPHONE NUMBER (AREA CODE | NUMBER)

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STANDARD FORM 295 (REV.)
Prescribed by GSA - FAR (48 CFR) 53.219(b)

20. REMARKS

21. CHIEF EXECUTIVE OFFICER	
a. NAME	c. SIGNATURE
b. TITLE	d. DATE

GENERAL INSTRUCTIONS

1. This report is not required from small businesses.

2. This form collects subcontract award data from prime contractors/subcontractors that: (a) hold one or more contracts over $500,000 (over $1,000,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), Women-Owned Small Business (WOSB), Veteran-Owned Small Business (VOSB), Service-Disabled Veteran-Owned Small Business, and HUBZone Small Business (HUBZone SB) concerns under a subcontracting plan. For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).

3. This report must be submitted semi-annually (for the six months ended March 31st and the twelve months ended September 30th) for contracts with the Department of Defense (DOD) and annually (for the twelve months ended September 30th) for contracts with civilian agencies, except for contracts covered by an approved Commercial Plan (see special instructions in right-hand column). Reports are due 30 days after the close of each reporting period.

4. This report may be submitted on a corporate, company, or subdivision (e.g., plant or division operating on a separate profit center) basis, unless otherwise directed by the agency awarding the contract.

5. If a prime contractor/subcontractor is performing work for more than one Federal agency, a separate report shall be submitted to each agency covering only that agency's contracts, provided at least one of that agency's contracts is over $500,000 (over $1,000,000 for construction of a public facility) and contains a subcontracting plan. (Note that DOD is considered to be a single agency; see next instruction.)

6. For DOD, a consolidated report should be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DOD prime contractors. However, DOD contractors involved in construction and related maintenance and repair must submit a separate report for each DOD component.

7. Only subcontracts involving performance in the U.S. or its outlying areas should be included in this report.

8. Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.

9. Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. Credit cannot be taken for awards made to lower tier subcontractors.

10. FAR 19.703 sets forth the eligibility requirements for participation in the subcontracting program.

11. See special instructions in right-hand column for Commercial Plans.

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number available that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-800-333-0505 to get one free of charge over the telephone. Be prepared to provide the following information: (1) Company name; (2) Company address; (3) Company telephone number; (4) Line of business; (5) Chief executive officer/key manager; (6) Date the company was started; (7) Number of people employed by the company; and (8) Company affiliation.

BLOCK 4: Check only one. Note that March 31 represents the six months from October 1st and that September 30th represents the twelve months from October 1st. Enter the year of the reporting period.

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. A "Final" report should be checked only if the contractor has completed all the contracts containing subcontracting plans awarded by the agency to which it is reporting. A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: This report encompasses all contracts with the Federal Government for the agency to which it is submitted, including subcontracts received from other large businesses that have contracts with the same agency. Indicate in this block whether the contractor is a prime contractor, subcontractor, or both (check only one).

BLOCK 8: Check only one. Check "Commercial Plan" only if this report is under an approved Commercial Plan. For a Commercial Plan, the contractor must specify the percentage of dollars in Blocks 10a through 15b attributable to the agency to which this report is being submitted.

BLOCK 9: Identify the major product or service lines of the reporting organization.

BLOCKS 10a through 10B: These entries must include all subcontract awards resulting from contracts or subcontracts, regardless of dollar amount, received from the agency to which this report is submitted. If reporting as a subcontractor, report all subcontracts awarded under prime contracts. Amounts must include both direct awards and an appropriate prorated portion of indirect awards. (The indirect portion is based on the percentage of work being performed for the organization to which the report is being submitted in relation to other work being performed by the prime contractor/subcontractor.) Do not include awards made in support of commercial business unless "Commercial" is checked in Block 8 (see Special Instructions for Commercial Plans in right hand column). Report only those dollars subcontracted this fiscal year for the period indicated in Block 4.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs (including ANCs and Indian tribes), WOSBs, VOSBs, Service-Disabled VOSBs, and HUBZone SBs. For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs).

BLOCK 10c: Report on this line the grand total of all subcontracts (the sum of lines 10a and 10b).

BLOCKS 11 through 17: Each of these items is a subcategory of Block 10a. Note that in some cases the same dollars may be reported in more than one block (e.g., SDBs owned by women); likewise subcontracts to HBCUs or MIs should be reported on both Block 11 and 13.

BLOCK 11: Report all subcontracts awarded to SDBs (including woman-owned, veteran-owned, service-disabled VOSBs, and HUBZone SB SDBs) and Alaska Native Corporations (ANC) and Indian tribes. For DOD, NASA, and Coast Guard contracts, include subcontract awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to WOSB firms (including SDBs, VOSBs, service-disabled VOSBs, and HUBZone SBs owned by women).

BLOCK 13: (For contracts with DOD, NASA, and Coast Guard): Enter the dollar value of all subcontracts with HBCUs/MIs.

BLOCK 14: Report all subcontracts awarded to HUBZone SBs (including women-owned, veteran-owned, service-disabled VOSBs, SDB HUBZone SBs, and Alaskan Native Corporations (ANCs) and Indian tribes).

BLOCK15: Report all subcontracts awarded to VOSBs (including women-owned, SDB, and HUBZone SB VOSBs).

BLOCK 16: Report all subcontracts awarded to service disabled VOSBs (including Service-Disabled Veteran Owned Small Business Concerns that are SDBs, WOSBs, and HUBZone SBs). These subcontracts should also be reported in Block 15.

BLOCK 17. Report all subcontracts awarded to Alaska Native Corporations (ANC) that are reported in Block 11, but have not been certified by SBA as SDBs.

BLOCK 18. Report all subcontracts awarded to Alaska Native Corporations (ANC) and Indian Tribes that are reported in Block 10a, but are not small business.

SPECIAL INSTRUCTIONS FOR COMMERCIAL PLANS

1. This report is due on October 30th each year for the previous fiscal year ending September 30th.

2. The annual report submitted by reporting organizations that have an approved company-wide annual subcontracting plan for commercial items shall include all subcontracting activity under commercial plans in effect during the year and shall be submitted in addition to the required reports for other-than-commercial items, if any.

3. Enter in Blocks 10a through 18 the total of all subcontract awards under the contractor's Commercial Plan. Show in Block 8 the percentage of this total that is attributable to the agency to which this report is being submitted. This report must be submitted to each agency from which contracts for commercial items covered by an approved Commercial Plan were received.

DEFINITIONS

1. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).

2. Indirect Subcontract Awards are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

SUBMITTAL ADDRESSES FOR ORIGINAL REPORT

For DOD Contractors, send reports to the cognizant contract administration office as stated in the contract.

For Civilian Agency Contractors, send reports to awarding agency:

1. NASA: Forward reports to NASA, Office of Procurement (HS), Washington, DC 20546

2. OTHER FEDERAL DEPARTMENTS OR AGENCIES: Forward report to the OSDBU Director unless otherwise provided for in instructions by the Department or Agency.

FOR ALL CONTRACTORS:

SMALL BUSINESS ADMINISTRATION (SBA): Send "info copy" to the cognizant Commercial Market Representative (CMR) at the address provided by SBA. Call SBA Headquarters in Washington, DC at (202) 205-6475 for correct address if unknown.

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[FR Doc. 05–10935 Filed 6–2–05; 8:45 am]

BILLING CODE 6820–EP–C

Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. TM–05–03]

Request for an Extension of and Revision to a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget, for an extension of and revision to the currently approved information collection for the Farmers Market Questionnaire.

DATES: Comments received by August 2, 2005, will be considered.

FOR FURTHER INFORMATION CONTACT: Contact Ed Ragland, Marketing Services Branch, Transportation and Marketing, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2646 South Building, Washington, DC 20250–0269. Comments may also be sent by e-mail to *USDAFMComments@usda.gov* or by fax to 202–690–0031. State that your comments refer to Docket No. TM–05–03.

SUPPLEMENTARY INFORMATION:

Title: Farmers Market Questionnaire.

OMB Number: 0581–0169.

Expiration Date of Approval: April 30, 2007.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), the Agricultural Marketing Service (AMS) is responsible for conducting research to enhance market access for small and medium sized farmers. The role of the Marketing Services Branch (MSB) of AMS is to facilitate distribution of U.S. agricultural products. The branch identifies marketing opportunities, provides analysis to help take advantage of those opportunities and develops and evaluates solutions including improving farmers markets and other direct-to-consumer marketing activities. Various types of farmers markets serve different parts of the food marketing chain but all focus on the small-to medium-sized agricultural producers that have difficulty obtaining access to large scale commercial distribution channels. Information has been collected by the Marketing Services Branch periodically about the size and growth of farmers markets. On the revised questionnaire, information will be collected about the size and growth of markets, farmers served, products sold, sales, and management structure to better monitor how this marketing channel changes over time and the impact farmers markets have on the farming community nationwide.

Currently, OMB 0581–0169 is approved for 3888 burden hours. The rise in the number of farmers markets since the previous submission and the new revised questionnaire will result in an increase of 198 burden hours.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .32 hours per response.

Respondents: Farmers market managers.

Estimated Number of Respondents: 3700.

Estimated Number of Responses: 1850.

Estimated Number of Responses per Respondent: .5.

Estimated Total Annual Burden on Respondents: 586 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Ed Ragland, Marketing Services Branch, Transportation and Marketing Programs, Agricultural Marketing Services, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 2646 South Building, Washington, DC 20250–0269. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

AMS is committed to implementation of the Government Paperwork Elimination Act, which provides for the use of information resources to improve the efficiency and effectiveness of government operations, including providing the public with the option of submitting information or transacting business electronically to the extent possible.

Dated: May 27, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–11024 Filed 6–2–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Meeting Entitled "Conservation Reserve Program: Re-enrollments and Extensions"

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of a meeting on the Conservation Reserve Program.

SUMMARY: USDA's Farm Service Agency (FSA) is hosting a public meeting on re-enrollment and extension of certain Conservation Reserve Program (CRP) contracts. The CRP is the Nation's largest conservation program.

DATES: June 24, 2005.

ADDRESSES: The conference will be held at the Animal & Plant Health Inspection Service (APHIS), USDA Conference Center, 4700 River Road, Riverdale, Maryland 20737. The facility is located

near the College Park Metro Station, or parking is available nearby for $2.25.

FOR FURTHER INFORMATION ON THE CONSERVATION RESERVE PROGRAM CONTACT: John Carter, Farm Service Agency, USDA, 1400 Independence Avenue, SW., STOP 0513, Washington, DC 20250–0513; telephone: (202) 720–8774; FAX (202) 720–4619; e-mail: *john.carter@wdc.uda.gov.*

FOR FURTHER MEETING INFORMATION CONTACT: Matthew Ponish, Farm Service Agency, USDA, 1400 Independence Ave., SW., STOP 0513, Washington, DC 20250–0513; telephone: (202) 720–6853; FAX: (202) 720–4619; e-mail: *matthew.ponish@wdc.usda.gov* regarding conference questions. Persons with disabilities who require special accommodation to attend or participate in the conference should contact Toni Paris, telephone: (301) 734–8010 by June 16, 2005.

CONFERENCE REGISTRATION: Meeting attendees must register in advance online at *http://www.fsa.usda.gov/dafp/cepd/public_meeting/register.htm.* There is no charge to attend the meeting. Because space is limited and for security purposes, advance registration is required and all attendees will need to present a valid picture ID to enter the building. Conference details, including registration, meeting agenda, hotel accommodations and directions are available on FSA's Web site at: *http://www.fsa.usda.gov/dafp/cepd/public_meeting/information.htm* or from Matthew Ponish at (202) 720–6853; e-mail: *matthew.ponish@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: First established in 1985, the CRP is a voluntary program, funded by the Commodity Credit Corporation (CCC), encouraging farmers to implement conservation practices on environmentally-sensitive agricultural land to reduce soil erosion, protect water quality and enhance wildlife habitat. The CRP has provided significant environmental benefits across the nation, primarily by providing wildlife habitat, improving stream quality, and reducing soil erosion. The U.S. Department of Agriculture is committed to full enrollment up to the authorized level of 39.2 million acres. To ensure that the environmental benefits of CRP continue, and because of the significant number of contract expirations beginning in 2007, the FSA will offer early re-enrollments and extensions of existing contracts to current CRP participants.

About 35 million acres are currently enrolled in the CRP. Over 16 million acres of CRP contracts expire in 2007, over 6 million acres expire in 2008, and 6 million acres in 2009 and 2010. Determining the future direction of the CRP is thus critical.

CCC published a notice in the **Federal Register** on August 10, 2004 [69 FR 48447] seeking public comment on a number of issues involving the large number of expiring CRP contracts, such as how to best stagger contract expirations using re-enrollments and extensions over several years and under what criteria.

In response to the FR notice, CCC received over 5,000 comments from a total of 570 individuals, agencies, and organizations. A majority of the comments received pertained to extending a contract for a certain length of time (question 1) and renewing a contract without competition (question 5). However, before proceeding with changes in the CRP implementation, CCC has determined that a public meeting should be held in order to solicit additional comments as well as provide a forum for open discussion of the following two topics:

Topic 1. How should CCC address the large number of expiring CRP contracts and their associated acres in a manner that achieves the most environmental benefits but is also administratively feasible and cost-effective? What methods should be pursued that would address the large acreage expiring beginning in 2007 (for example, how could CCC stagger the contract expirations over several-year intervals and what criteria could CCC use to select and extend contracts)?

Topic 2. If CCC offered CRP re-enrollment without competition, how could it ensure that program goals are achieved in a manner that results in the most environmental benefits but is also administratively feasible and cost effective? How could CCC determine which contracts and acres would be most environmentally valuable to re-enroll in the CRP without competition through a standard Environmental Benefits Index ranking process?

AGENDA: The meeting will be structured around the two primary issues regarding expiring contracts and re-enrollment. Information and presentations will help establish the scope of the meeting and focus the facilitated discussion on the primary topics outlined in this notice.

Signed in Washington, DC May 26, 2005.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 05–11128 Filed 5–31–05; 3:18 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–140–1610–DS]

Notice of Availability of a Draft Environmental Impact Statement for the Rock Creek Integrated Management Project

AGENCY: Forest Service, USDA, and Bureau of Land Management, USDI.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969, National Forest Management Act of 1976, and Federal Land Policy and Management Act (FLPMA) of 1976, a Draft Environmental Impact Statement (EIS) has been prepared for the Rock Creek Integrated Management Project and is available for a 60-day public review and comment period. The planning area lies in Routt County, Colorado. This project is an "authorized project" under Title I of the Healthy Forest Restoration Act (HFRA).

DATES: Written comments on the Draft EIS will be accepted for 60 days following the date EPA publishes their NOA in the FR. Future public meetings and any other public involvement activities will be announced at least 15 days in advance through public notices, local media releases in Steamboat Springs, Glenwood Springs, and the project Web site at *http://www.fs.fed.us/r2/mbr/project* under Environmental Analysis and Forest Health.

When submitting comments please include your full name and address. Submit comments in Microsoft Word 2000 file format or as an ASCII file, avoiding the use of special characters and any form of encryption.

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

Web site: http://www.fs.fed.us/r2/mbr/projects under Environmental Analysis and Forest Health. Follow the instructions for submitting comments on the Web site.

E-mail: comments-rocky-mountain-medicine-bow-routt-yampa@fs.fed.us. Include "Rock Creek" in the subject line of the e-mail message.

Fax: (970) 870–2284.

Mail or Hand Delivery: Joanne Sanfilippo, Environmental Coordinator, Medicine Bow-Routt National Forests, 925 Weiss Drive, Steamboat Springs, Colorado 80487.

Written comments, including names and addresses of recipients, will be

available for public review at the Medicine Bow-Routt National Forest Office, 925 Weiss Drive, Steamboat Springs, Colorado 80487, during normal working hours (8 a.m. to 4:30 p.m., except holidays).

FOR FURTHER INFORMATION CONTACT: Joanne Sanfilippo (970–870–2210) or Andy Cadenhead (970–870–2220), Medicine Bow-Routt National Forests, 925 Weiss Drive, Steamboat Springs, Colorado 80487 or Karl Mendonca (970–947–2811), Bureau of Land Management, Glenwood Springs Field Office, 50629 Highway 6 & 24, Glenwood Springs, Colorado 81602.

SUPPLEMENTARY INFORMATION: Between 2002 and 2003, Mountain Pine Beetle (MPB) activity in the drought-stressed Gore Pass Geographic Area increased 20-fold. A multidisciplinary, focused assessment was completed that identified the probability of a large-scale, high intensity beetle epidemic and fires that will threaten hydrologic flows, timber, wildlife habitats, developed recreation sites, administrative sites, the transportation system, heritage sites, off-site urban development, and other values. The interdisciplinary team identified potential management actions using prevention, suppression, and salvage strategies to reduce the beetle infestations and minimize adverse effects to resources.

Insect epidemics are one of the natural processes in forested landscapes. Some uses of the forest are compromised by tree mortality resulting from insect attacks. Recreation, wood product production, scenery, wildlife habitats and water resources are all adversely affected by large scale insect epidemics and the subsequent increased risk of these areas to large high intensity wildfires.

The purpose of the Proposed Action is to reduce the size and intensity of an existing and imminent mountain pine beetle epidemic, and to reduce the future risk of large-scale high intensity wildfires within the Rock Creek Analysis Area.

The Medicine Bow-Routt National Forests is the lead agency. The Glenwood Springs Field Office of the Bureau of Land Management is the joint lead agency for the Rock Creek Integrated Management Project.

To assist the Forest Service and the Bureau of Land Management in identifying and considering issues and concerns on the proposed action, comments on the draft EIS 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 EIS 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.

Healthy Forests Restoration Act Predecisional Review (Objection) Process HFRA [Section 105(a)] replaces the USDA Forest Service's and Bureau of Land Management's administrative appeals process with an objection process that occurs before the decision approving authorized fuel-reduction projects under the act. Participation in the predecisional review process is limited to individuals and organizations who have submitted specific written comments related to the proposed authorized hazardous fuel reduction project during the opportunity for public comment provided when an environmental (EA) or EIS is being prepared for the project [Section 105(a)(3), 36 CFR 218.6].

Written objections, including any attachments, must be filed with the reviewing officer within 30 days after the publication date of the legal notice of the EA or final EIS in the newspaper of record [Section 218.4(b)]. It is the responsibility of the objectors to ensure that their objection is received in a timely manner.

Dated: April 8, 2005.

Oscar P. Martinez,

District Ranger, Yampa Ranger District, Medicine Bow-Routt National Forests, USDA Forest Service.

Dated: April 8, 2005.

Jamie Connell,

Area Manager, Glenwood Springs Field Office, USDI Bureau of Land Management.

[FR Doc. 05–11088 Filed 6–2–05; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Michigan

AGENCY: Natural Resources Conservation Service (NRCS) in Michigan, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in NRCS-Michigan FOTG, Section IV for review and comment.

SUMMARY: It is the intention of NRCS in Michigan to issue revised conservation practice standards in Section IV of the FOTG. The revised standards include:

Access Road (560)
Closure of Waste Impoundments (360)
Forage Harvest Management (511)
Heavy Use Protection Area (561)
Irrigation System, Sprinkler (442)
Manure Transfer (634)
Nutrient Management (590)
Pasture and Hay Planting (512)
Prescribed Grazing (528)
Sediment Basin (350)
Stream Crossing (578)
Stripcropping (585)
Structure for Water Control (587)
Subsurface Drain (606)
Waste Facility Cover (347)
Well Decommissioning (351)

DATES: Comments will be received for a 30-day period commencing with this date of publication.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Kevin Wickey, Assistant State Conservationist-Technology, Natural Resources Conservation Service, 3001 Coolidge Road, Suite 250, East Lansing, MI 48823. Copies of these standards will be made available upon written request. You may submit electronic requests and comments to *Kevin.Wickey@mi.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Kevin Wickey (517) 324–5279.

SUPPLEMENTARY INFORMATION: Section 393 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Michigan will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Michigan regarding disposition of those comments and a final determination of change will be made.

Dated: May 13, 2005.

John A. Bricker,

State Conservationist, East Lansing, Michigan.

[FR Doc. 05–11025 Filed 6–2–05; 8:45 am]

BILLING CODE 3410–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a product and a service previously furnished by such agencies.

DATES: *Effective Date:* July 3, 2005.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On February 18, March 25, April 1, April 8, 2005, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (70 FR 8340, 15288, 16797, 17969) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

The following comments pertain to the Navy Promotional Recruiting Materials:

Comments were received from 74 persons or organizations, 72 of which are employees, suppliers or others sympathetic to the nonprofit agency which has been designated to provide the products at issue upon their addition to the Procurement List. These commenters noted that the products provide meaningful work and job training opportunities for blind people, who have few other work opportunities, as well as benefiting both the community and the Navy customers. The suppliers claimed that they would be severely affected if they lost the opportunity to provide these products through the nonprofit agency. The Committee agrees that these comments provide good reasons for adding these products to the Procurement List. Two businesses did comment in opposition to this addition to the Procurement List. One of them claimed to represent a "lengthy list" of other affected businesses, but did not provide any information to identify those businesses.

As the notice proposing addition of these products to the Procurement List (70 FR 8340, Feb. 18, 2005) noted, these products were previously added to the Procurement List as a customization and distribution service for the Navy, which decided in 2004 to change to products contracting to meet its requirement. This decision was due in part to the legal challenges noted by the business commenters. As the Committee is now adding the products in question to the Procurement List in their own right, the challenges and resulting legal decisions on them are no longer relevant.

Based in part on contacts the designated nonprofit agency had with them while it was providing the products to the Navy under the previous service arrangement, the business commenters claimed that the products are not appropriate for addition to the Procurement List because the nonprofit agency, as a mere broker of products produced by others, does not perform "preparation, processing and packing" operations as required by the Committee's statutory and regulatory definitions of direct labor, 41 U.S.C. 48b(5) and 41 CFR 51–1.3. However, the nonprofit agency has informed the Committee that it does manufacture some of the products, and has shown the Committee that it does engage in processing and/or packing of the remaining items at its warehouse before shipping them to the Navy's central facility in Tennessee. These activities generate considerable blind direct labor, in addition to the indirect blind labor created by supervisory, warehousing, order picking and quality assurance activities associated with these products.

The business commenters also claimed that the nonprofit agency will be providing foreign goods, in contravention of the Government's domestic preference statutes. However, the Committee's program is exempt from the Trade Agreements Act, *see* 48 CFR 25.401(a)(4), and the rationale for that exemption—to protect socioeconomic programs such as the Committee's program—is such that the Committee believes its program is exempt from related statutes such as the Buy American Act. In addition, the manufacturing and other processing the nonprofit agency will be doing should sufficiently transform many of these products to bring them into compliance with these preference statutes. The Navy contracting office has informed the Committee that it will apply the Berry Amendment, 10 U.S.C. 2533a, to procurements of these products, and the nonprofit agency has agreed to provide only products which meet the domestic source requirements of the Berry Amendment.

One of the business commenters claimed that the notice of proposed addition was misleading, as a statement at 70 FR 8341 indicating that replacement items for the products listed in the notice would be added to the Procurement List in accordance with the Committee's regulation, 41 CFR 51–6.13, characterized the items as "the Navy's entire requirement for recruiting and promotional materials." This statement was based on the Navy's characterization of its requirement.

The same page of the proposed addition notice contained a certification that the "action will not have a significant impact on a substantial number of small entities." Both business commenters disputed this statement, citing the impact of the addition on themselves and their industry. However, these comments show a misunderstanding of the statement, which is clearly labeled as a "Regulatory Flexibility Act Certification." This certification is required by the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The Committee has its own regulation concerning the impact of Procurement List additions on current contractors, at 41 CFR 51–2.4(a)(4). However, in this situation the current contractor is the designated nonprofit agency, which held the Navy's contract under the previous service arrangement. Neither the two business contractors nor anyone else in their industry are considered current contractors under the Committee's regulation, as they are not losing contracts as a result of this Procurement List addition. Therefore, there is only one "small entity" involved here, the designated nonprofit agency, so this Procurement List addition does not affect "a substantial number of small entities." Accordingly, the Committee's Regulatory Flexibility Act Certification is correctly stated.

One of the business commenters claimed that manufacturing some of these products, such as golf balls, would expose blind workers to hazardous

conditions. This would not be the case for golf balls, which the designated nonprofit agency will not manufacture. However, the nonprofit agency has a long history of safely manufacturing items, including some of those involved in this Procurement List addition, using equipment and procedures which have been modified to accommodate blind workers.

The business commenters claimed that the nonprofit agency's price to the Government would be higher than what industry could offer, citing a 2004 market survey by an official at the Navy facility in Tennessee. However, this survey reflects the opinion of the official and not the Navy contracting office, which agreed with the Committee that the nonprofit agency's price is a fair market price.

The following material pertains to all of the items being added to the Procurement List.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

Navy Promotional Recruiting Materials:

Ball Caps.
NSN: 8405–00–WIM–0175—Ballcap, Flexible Fit Ballcaps Upper Quality.
NSN: 8405–00–WIM–0177—Ballcap, Flexible Fit.
NSN: 8405–00–WIM–0176—Ballcap, Chaplain.
Beverage Can Cooler.
NSN: 7830–00–WIM–0012—Beverage Can Cooler, Blue w/3Color Imprint, NASCAR.
NSN: 7830–00–WIM–0010—Beverage Can Cooler, Blue w/3Color Imprint.
Coins.
NSN: 8145–00–NIB–0013—Coin, Admiral Coins.
NSN: 8145–00–NIB–0014—Coin, Anodized Blue & Gold Sport Coins.
Flashlight.
NSN: 7830–00–WIM–0008—Flashlight, Health Care.
NSN: 7830–00–WIM–0011—Flashlight, Carabiner Flashlight w/Compass.
Flyer.
NSN: 7830–00–NIB–0001—Flyer, Blue w/ Gold Foil.
Golf Balls.
NSN: 7830–00–NIB–0007—Golf Balls/Tees.
Lanyards.
NSN: 5340–00–WIM–0079—Lanyard, Red, White & Blue NASCAR.
NSN: 5340–00–WIM–0076—Lanyard, 2 pc. Health Care.
NSN: 5340–00–WIM–0078—Lanyard, Red, White & Blue w/Navy in Gold.
NSN: 5340–00–WIM–0077—Lanyard, 2 pc. Chaplain Corps.
Lapel Pin.
NSN: 8145–00–WIM–0101—Navy Lapel Pin.
Luggage Tag.
NSN: 9905–00–NIB–0089—Luggage Tag, Healthcare.
NSN: 9905–00–NIB–0088—Luggage Tag, Enlisied.
Mini Pouch w/Ear Plugs.
NSN: 8145–00–WIM–0026—Mini Pouch w/ Ear Plugs, NASCAR.
NSN: 8145–00–WIM–0025—Mini Pouch w/ Ear Plugs.
Mouse Pad, Computer.
NSN: 7045–00–NIB–0170—Mouse Pad, Lenticular 3D Motion.
Pack, Personal Gear.
NSN: 8465–00–NIB–0057—Bag (DEP), Backpack, Blue DEP.
Pen, Cushion Grip,.Transparent.
NSN: 7520–00–WIM–1550—Pen, Wide Barrel—DEP.
NSN: 7520–00–WIM–1545—Pen, Patriotic w/ wave clip.
Pen, Executive, Twist Retractable.
NSN: 7520–00–WIM–1472—Pen, Blue Lacq.—Health Care.
NSN: 7520–00–WIM–1471—Pen, Blue Lacq. Eng—Span Bilingual.
Pencil, Metallic Foil, Imprint, Navy.
NSN: 7510–00–NIB–0525—Pencil, Blue/gold foil Bilingual.
Planner.
NSN: 7510–00–WIM–0552—Planner (DEP).
Polo Shirts.
NSN: 8415–00–NIB–0161—Polo Shirt, Navy blue, Small.
NSN: 8415–00–NIB–0160—Polo Shirt, Navy blue, XL.
NSN: 8415–00–NIB–0159—Polo Shirt, Navy blue, Large.
NSN: 8415–00–WIM–0171—Polo Shirt, XL Chaplain.
NSN: 8415–00–WIM–0170—Polo Shirt, Large Chaplain.
NSN: 8415–00–NIB–0162—Polo Shirt, Navy blue, Medium.
Retractable Badge Holder.
NSN: 8145–00–WIM–0020—Retractable Badge Holder, Blue.
Rulers.
NSN: 9905–00–WIM–0095—Ruler, Notable African American.
NSN: 9905–00–WIM–0090—Ruler, Presidential.
Slingbag.
NSN: 8465–00–WIM–0070—Bag (DEP), Slingbag, Blue Dep.
Stress Baseball.
NSN: 7830–00–NIB–0006—Stress Ball, Baseball.
Stress Basketball.
NSN: 7830–00–NIB–0005—Stress Ball, Basketball.
Stress Football.
NSN: 7830–00–NIB–0002—Stress Ball, Football.
Sunglasses.
NSN: 8465–00–NIB–0067—Sunglasses.
Table Cloth.
NSN: 8460–00–WIM–0004—Table Cloth.
Temporary Tattoos.
NSN: 9905–00–WIM–0091—Temporary Tattoos.
NSN: 9905–00–WIM–0092—Temporary Tattoos, NASCAR.
Travel Mug.
NSN: 7350–00–WIM–0151—Mug, 14oz. Blue Acrylic Mug, Enlisted.
NSN: 7350–00–WIM–0150—Mug, 11oz. Acrylic Mug, Chaplain Corps.
NSN: 7350–00–WIM–0149—Mug, 16oz. American Pride Travel Mug.
NSN: 7350–00–NIB–0147—Mug, 14oz. Blue Acrylic Mug, Health Care.
T-Shirts.
NSN: 8415–00–WIM–0168—T-Shirt, Chaplain, Protestant Version XL.
NSN: 8415–00–WIM–0167—T-Shirt, Chaplain, Protestant Version L.
NSN: 8415–00–WIM–0166—T-Shirt, Chaplain, Catholic Version XL.
NSN: 8415–00–WIM–0165—T-Shirt, Chaplain, Catholic Version L.
NSN: 8415–00–NIB–0158—T-Shirt, White XL Health Care.
NSN: 8415–00–NIB–0157—T-Shirt, White L Health Care.
NSN: 8415–00–NIB–0140—T-Shirt, White XL.
NSN: 8415–00–NIB–0139—T-Shirt, White L.
Tumbler.
NSN: 8125–00–NIB–0007—Tumbler, 16oz. White.
Water Bottle.
NSN: 8125–00–NIB–0006—Water Bottle, Screw Lid.
Zipper Jacket and Jogging Pants.
NSN: 8415–00–NIB–0144—T-Shirt, XL.
NSN: 8415–00–NIB–0143—T-Shirt, Large.
NSN: 8415–00–NIB–0142—T-Shirt, Medium.
NSN: 8415–00–NIB–0141—T-Shirt, Small.
NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.
Contracting Activity: Fleet and Industrial Supply Center, Philadelphia, Pennsylvania.

Services

Service Type/Location: Custodial Services, Shasta Lake Ranger Station, 14225 Holiday Road, Redding, California.
NPA: Shasta County Opportunity Center, Redding, California.
Contracting Activity: USDA, Forest Service, Redding, Redding, California.
Service Type/Location: Grounds Maintenance, Fort Worden Cemetery, Fort Worden State Park, Port Townsend, Washington.
NPA: Skookum Educational Programs, Port Townsend, Washington.

Contracting Activity: Directorate of Contracting, Fort Lewis, Washington.

Service Type/Location: Mailroom Operation, DC Pretrial Services Agency, 633 Indiana Avenue, NW., Washington, DC.

NPA: Didlake, Inc., Manassas, Virginia.

Contracting Activity: DC Pretrial Services Agency, Washington, DC.

Deletions

On April 1, and April 8, 2005, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (70 FR 16797, and 17969) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and service deleted from the Procurement List.

End of Certification

Accordingly, the following products and service are deleted from the Procurement List:

Product

Labels, Laser.

NSN: 7530–01–514–5944—Assorted Fluorescent.

NPA: North Central Sight Services, Inc., Williamsport, Pennsylvania.

Contracting Activity: Office Supplies & Paper Products Acquisition Center, New York, NY.

Service

Service Type/Location: Janitorial/Custodial, Point Mugu Naval Air Station Commissary, Point Mugu, California.

NPA: Association for Retarded Citizens—Ventura County, Inc., Ventura, California.

Contracting Activity: Defense Commissary Agency, Fort Lee, Virginia.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E5–2854 Filed 6–2–05; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions, Clarification of Requirement

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the procurement list; clarification of requirement.

SUMMARY: In this document, we are reiterating an earlier clarification of the Federal Government requirement for the addition to the Procurement List of vegetable oil (domestic) to be furnished to the Federal Government by a nonprofit agency employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* June 19, 2005.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

For Further Information or to Submit Comments Contact: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *skennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION: On May 20, 2005, we published in the **Federal Register** (70 FR 29274–29276) a notice to add one product and four services to the Procurement List, and to delete two services from the Procurement List. That notice was based in part on a notice of proposed addition (70 FR 5963–5964) dated February 4, 2005, clarifying an earlier notice (69 FR 71777–71778) dated December 10, 2004.

The February 4, 2005 notice (70 FR 5963–5964) clarified the Federal Government requirement for one of the products to be added: Vegetable Oil (Domestic), 10 percent of U.S. Department of Agriculture (USDA) Requirement, 8945–00–NSH–0002; NPA: Advocacy and Resources Corporation, Cookeville, Tennessee; Contracting Activity: USDA, Farm Service Agency, Washington, DC.

The February 4, 2005 notice (70 FR 5963–5964) stated that this product will be provided exclusively as liquid oil (all types) in one gallon bottles in a quantity equivalent to 10% of the total Government requirement for refined, packaged, vegetable oil for domestic purchases regardless of type or pack style according to CID A–A–20091, Salad Oil, Vegetable. This same clarification applies to the listing of the product on the Procurement List announced in the May 20, 2005 final addition notice (70 FR 29274–29276).

Authority: 41 U.S.C. 46–48c.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E5–2855 Filed 6–2–05; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received on or Before: July 3, 2005.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

For Further Information or to Submit Comments Contact: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed action.

If the Committee approves the proposed addition, the entities of the Federal Government identified in the notice for each service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish

the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Contract Support Services, Basewide, Fort Hood, Texas.
NPA: Training, Rehabilitation, & Development Institute, Inc., San Antonio, Texas.
Contracting Activity: Army III Corps and Ft Hood Contracting CMD, Ft. Hood, Texas.
Service Type/Location: Custodial Services, USDA, Animal & Plant Health Inspection Service, 6901 West Sunrise Blvd, Plantation, Florida.
NPA: Abilities, Inc. of Florida, Clearwater, Florida.
Contracting Activity: USDA, Animal & Plant Health Inspection Service, Minneapolis, MN.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E5–2856 Filed 6–2–05; 8:45 am]

BILLING CODE 6353–01–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Tuesday, June 7, 2005 10:30 a.m.–2:30 p.m.

PLACE: Radio Free Europe/Radio Liberty Broadcast Center, Room 546, Prague, Czech Republic.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 203–4545.

Dated: May 27, 2005.

Carol Booker,

Legal Counsel.

[FR Doc. 05–11200 Filed 6–1–05; 3:01 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1394]

Grant of Authority for Subzone Status; Black & Decker Corporation (Tools/ Home and Hardware Products/ Fastening Systems); Rialto, CA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Southern California Logistics Airport Authority, grantee of FTZ 243, has made application to the Board for authority to establish special-purpose subzone status at the tools, home and hardware products, and fastening systems warehousing/ distribution facility of Black & Decker Corporation, located in Rialto, California (FTZ Docket 36–2004, filed 08–19–04).

Whereas, notice inviting public comment has been given in the **Federal Register** (69 FR 52489, 8/26/04); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status for distribution activity involving tools, home and hardware products, and fastening systems at the warehousing/ distribution facility of Black & Decker Corporation, located in Rialto, California, (Subzone 243A), as described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 20th day of May, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–11125 Filed 6–2–05; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1395]

Expansion of Foreign-Trade Zone 70; Detroit, Mi, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Greater Detroit Foreign-Trade Zone, Inc., grantee of FTZ 70, submitted an application to the Board for authority to expand FTZ 70 to include a site (52 acres, Site 18) near Temperance (Monroe County), Michigan (FTZ Docket 21–2004, filed 05/25/04).

Whereas, notice inviting public comment has been given in the **Federal Register** (69 FR 30872, 6/01/04) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval were subject to specific conditions and restrictions;

Now, therefore, the Board hereby orders:

The application to expand FTZ 70 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28 and further subject to the condition and restriction listed below:

1. The approval for FTZ 70—Site 18 is for an initial period of five years (to June 1, 2010) subject to extension upon review.

2. Activation at the general-purpose zone project overall is subject to the Board's standard 2,000-acre limit.

Signed at Washington, DC, this 23rd day of May 2005.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–11126 Filed 6–2–05; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

(DOCKET 58–2002)

Foreign–Trade Zone 7–Mayaguez, Puerto Rico: Withdrawal of Application for Subzone Status for the API, Inc., Pharmaceutical Chemicals Plant

Notice is hereby given of the withdrawal of the application submitted by the Puerto Rico Industrial Development Corporation (PRIDCO), grantee of FTZ 7, on behalf of API, Inc. (formerly ChemSource Corporation), requesting authority to manufacture pharmaceutical chemicals under FTZ procedures within FTZ 7. The application was filed on December 10, 2002 (67 FR 77467–77468, 12/18/2002).

The withdrawal was requested by the applicant because of changed circumstances, and the case has been closed without prejudice.

Dated: May 26, 2005.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–11127 Filed 6–2–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1393]

Grant of Authority for Subzone Status; Michelin North America, Inc. (Tires and Tire Accessories); Houston, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Port of Houston Authority, grantee of FTZ 84, has made application to the Board for authority to establish special-purpose subzone status at the tire and tire accessory warehousing/distribution facility of Michelin North America, Inc., located in Houston, Texas (FTZ Docket 17–2004, filed 04–29–04).

Whereas, notice inviting public comment has been given in the **Federal Register** (69 FR 25373, 5/6/04); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status for distribution activity involving tire and tire accessories at the warehousing/distribution facility of Michelin North America, Inc., located in Houston, Texas, (Subzone 84R), as described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 20th day of May, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–11124 Filed 6–2–05; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–809]

Continuation of Suspended Antidumping Duty Investigation; Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce ("the Department") and the International Trade Commission ("ITC") that termination of the suspended antidumping duty investigation on certain hot-rolled flat-rolled carbon-quality steel products from the Russian Federation ("Russia"), would likely lead to continuation or recurrence of dumping, and material injury to an industry in the United States, the Department is publishing notice of the continuation of this suspended antidumping duty investigation.

DATES: *Effective Date:* May 12, 2005.

FOR FURTHER INFORMATION CONTACT: Jonathan Herzog or Martha Douthit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482–4271; (202) 482–5050.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 2004, the Department initiated and the ITC instituted a sunset review of the suspended antidumping duty investigation on certain hot-rolled flat-rolled carbon-quality steel products from Russia, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act").[1] As a result of its review, the Department found that termination of the suspended antidumping duty investigation would likely lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margin likely to prevail were the suspended investigation to be revoked.[2]

On May 5, 2005, the ITC determined pursuant to section 751(c) of the Act, that termination of the suspended antidumping duty investigation on

[1] *See Initiation of Five-year ("Sunset") Reviews*, 69 FR 24118 (May 3, 2004) and ITC's *Investigations Nos. 701–TA–384 and 731–TA–806–808* (Review), 69 FR 24189 (May 3, 2004).

[2] *See Certain Hot-Rolled Flot-Rolled Carbon-Quality Steel Products From the Russian Federation; Final Results of the Expedited Sunset Review of Suspended Antidumping Duty Investigation*, 69 FR 54633 (September 9, 2004).

certain hot-rolled flat-rolled carbon-quality steel products from Russia would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Scope of the Suspended Investigation

See Appendix 1.

Determination

As a result of the determinations by the Department and the ITC pursuant to section 751(d)(2) of the Act that termination of this antidumping suspended duty investigation would likely lead to continuation or recurrence of subsidies and material injury to an industry in the United States, the Department hereby orders the continuation of the suspended antidumping duty investigation on certain hot-rolled flat-rolled carbon-quality steel products from Russia. Normally, the effective date of continuation of this suspended investigation would be the date of publication in the **Federal Register** of this Notice of Continuation.

Except as provided in 19 CFR sections 351.218 (d)(1)(iii)(B)(3) and 351.222(i)(1)(i), the Department normally will issue its determination to continue an order or suspended investigation, or to revoke an order or terminate a suspended investigation, as applicable, not later than seven days after the date of publication in the **Federal Register** of the ITC's determination concluding the sunset review. The Department immediately thereafter will publish notice of its determination in the **Federal Register**. In the instant case, however, the Department's publication of the Notice of Continuation was delayed. Therefore, we determine that the effective date of continuation of this finding is May 12, 2005, seven days after the date of publication in the **Federal Register** of the ITC's determination. Pursuant to sections 751(c)(2) and 751(c)(6)(A) of the Act, the Department intends to initiate the next five-year review of this finding not later than April 2010.

These five-year (sunset) review and notice are in accordance with sections 751(c) of the Act and 19 CFR 351.218 (f)(4).

Dated: May 27, 2005

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

Appendix 1

Scope of the Suspended Investigation on Hot-Rolled Steel From Russia (A–821–809)

The products covered under the suspended investigation are certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this review.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free ("IF")) steels, high strength low alloy ("HSLA") steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this review, regardless of HTSUS definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.012 percent of boron, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this review unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this review:

Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including *e.g.*, ASTM specifications A543, A387, A514, A517, and A506) SAE/AISI grades of series 2300 and higher. Ball bearing steels, as defined in the HTSUS.Tool steels, as defined in the HTSUS. Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.

ASTM specifications A710 and A736. USS Abrasion-resistant steels (USS AR 400, USS AR 500). Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

[In percent]

C	Mn (max)	P (max)	S (max)	Si	Cr	Cu	Ni (max)
0.10–0.14	0.90	0.025	0.005	0.30–0.50	0.50–0.70	0.20–0.40	0.20

Width = 44.80 inches maximum;
Thickness = 0.063–0.198 inches;
Yield Strength = 50,000 ksi minimum;
Tensil Strength = 70,000–88,000 psi.

Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

[In percent]

C	Mn	P (max)	S (max)	Si	Cr	Cu (max)	Ni (max)	Mo (max)
0.10–0.16	0.70–0.90	0.025	0.006	0.30–0.50	0.50–0.70	0.25	0.20	0.21

Width = 44.80 inches maximum;
Thickness = 0.350 inches maximum;
Yield Strength = 80,000 ksi minimum;

[3] *See* Investigation Nos. 701–TA–384 and 731–TA–806–808 (Review), 70 FR 23886 (May 5, 2005).

Tensile Strength = 105,000 psi Aim.

Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

[In percent]

C	Mn	P (max)	S (max)	Si	Cr	Cu	Ni (max)	V (wt.) (max)	Cb (max)
0.10–0.14	1.30–1.80	0.025	0.005	0.30–0.50	0.50–0.70	0.20–0.40	0.20	0.10	0.08

Width = 44.80 inches maximum;
Thickness = 0.350 inches maximum;

Yield Strength = 80,000 ksi minimum;
Tensile Strength = 105,000 psi Aim.

Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications.

[In percent]

C (max)	Mn (max)	P (max)	S (max)	Si (max)	Cr (max)	Cu (max)	Ni (max)	Nb (max)	Ca	Al
0.15	1.40	0.025	0.010	0.50	1.00	0.50	0.20	0.005	Treated	0.01–0.07

Width = 39.37 inches;
Thickness = 0.181 inches maximum;
Yield Strength = 70,000 psi minimum for thickness #0.148 inches and 65,000 psi minimum for "thicknesses">0.148 inches;
Tensile Strength = 80,000 psi minimum.

Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by silicon by either (i) tensile strength between 540 N/mm^2 and 640 N/mm^2 and an elongation percentage > 26 percent, for thickness of 2 mm and above, or (ii) a tensile strength between 590 N/mm^2 and 640 N/mm^2 and an elongation percentage $ 25 percent for thickness of 2 mm and above.

Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows: 0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.

Grade ASTM A570–50 hot-rolled steel sheet in coils or cut lengths, width of 74 inches (nominal, within ASTM tolerances), thickness of 11 gauge (0.119 nominal), mill edge and skin passed, with a minimum copper content of 0.20 percent.

The merchandise subject to this sunset review is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00.

Certain hot-rolled flat-rolled carbon-quality steel covered by this sunset review including: vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00.

Although the HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection purposes, the written description of the covered merchandise is dispositive.

[FR Doc. E5–2864 Filed 6–2–05; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–423–808

Stainless Steel Plate in Coils from Belgium: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel plate in coils (SSPC) from Belgium. For the period May 1, 2003, through April 30, 2004, we have preliminarily determined that U.S. sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on the difference between the constructed export price (CEP) and NV. See "Preliminary Results of Review" section of this notice. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 3, 2005.

FOR FURTHER INFORMATION CONTACT: Toni Page or Scott Lindsay, 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) 482–1398 or (202) 482–0780, respectively.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On May 3, 2004, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on SSPC from Belgium (69 FR 24117). On May 28, 2004, and June 1, 2004, the Department received timely requests for an administrative review of this order from Petitioners , Allegheny Ludlum, AK Steel Corporation, Butler Armco Independent Union, United Steelworkers of America, AFL–CIO/CLC, and Zanesville Armco Independent Organization (collectively, Petitioners), and Respondent, Ugine & ALZ Belgium (U&A Belgium), respectively. On June 30, 2004, we published a notice initiating an administrative review of the antidumping duty order on SSPC from Belgium covering one respondent, U&A Belgium. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, (69 FR 39409).

On August 3, 2004, we issued a questionnaire to U&A Belgium and received their response on October 1, 2004. Supplemental questionnaires were issued on January 7, 2005, February 9, 2005, April 1, 2005, April

29, 2005, and May 9, 2005 and responses were submitted on February 4, 2005, February 17, 2005, April 21, 2005, May 6, 2005, and May 13, 2005, respectively.

On December 28, 2004, the Department extended the deadline for the preliminary results of this antidumping duty administrative review from January 31, 2005, until May 31, 2005. *See Notice of Extension of Time Limit for Preliminary Results of Administrative Review: Stainless Steel Plate in Coils from Belgium*, 69 FR 77727 (December 28, 2004).

We intend to issue an additional supplemental questionnaire requesting information to clarify a discrepancy between the sales database submitted by U&A Belgium and the data provided by the CBP concerning entries of subject merchandise during the period of review (POR). The response is due after the issuance of the preliminary results of this review. In accordance with 19 CFR 351.301(c), parties will have 10 days to comment on the new information. Parties will also have an opportunity to comment on any determination resulting from the analysis of this information. Any decision reached by the Department concerning this issue will be reflected in the final results of this review.

SCOPE OF THE ANTIDUMPING DUTY ORDER

The product covered by this order is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat–rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold–rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this order are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to these orders is dispositive.

ANALYSIS

Product Comparisons

In accordance with section 771(16) of the Tariff Act of 1930, as amended (the Act), we considered all products produced by the respondent that are covered by the description contained in the "Scope of Antidumping Duty Order" section above and were sold in the home market during the POR, to be the foreign like product for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix V of the initial antidumping questionnaire we provided to U&A Belgium. *See* U&A Belgium Antidumping Questionnaire, dated August 3, 2004, on the record in the Central Records Unit (CRU), Room B–0999 of the Main Commerce Building.

Normal Value Comparisons

To determine whether sales of subject merchandise to the United States were made at less than fair value, we compared CEP to NV, as described in the "Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted–average prices for NV and compared these to individual U.S. transaction prices.

Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared U&A Belgium's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) and 19 CFR 351.404(b), because U&A Belgium's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable. Moreover, there is no evidence on the record supporting a particular market situation in the exporting company's country that would not permit a proper comparison of home market and U.S. prices.

Arm's Length Test

Sales to affiliated customers in the home market not made at arm's length were excluded from our analysis. To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts, and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we consider the sales to be at arm's length prices. *See* 19 CFR 351.403(c). Conversely, where the affiliated party did not pass the arm's length test, all sales to that affiliated party have been excluded from the NV calculation. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002).

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

As stated at 19 CFR 351.401(i), the Department will use Respondent's invoice date as the date of sale unless another date better reflects the date upon which the exporter or producer establishes the essential terms of sale. U&A Belgium reported the invoice date as the date of sale for both the U.S. market and the home market because the date of invoice reflects the date on which the material terms of sale were finalized.

For purposes of this review, U&A Belgium classified all of its export sales of SSPC to the United States as CEP sales. During the POR, U&A Belgium made sales in the United States through its U.S. affiliate Arcelor Stainless USA (AS USA), which then resold the merchandise to unaffiliated customers. Prior to November 1, 2002, U&A Belgium made sales through its U.S.

affiliate, TrefilARBED. A few open but unfilled orders made prior to November 1, 2002, were finalized through TrefilARBED during this POR. *See* page 11 of the October 4, 2004, Questionnaire Response. The Department calculated CEP based on packed prices to customers in the United States. We made deductions from the starting price, net of discounts, for movement expenses (foreign and U.S. movement, U.S. customs duty and brokerage, and post–sale warehousing) in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e). In addition, because U&A Belgium reported CEP sales, in accordance with section 772(d)(1) of the Act, we deducted from the starting price, credit expenses, commissions, warranty expenses, and indirect selling expenses, including inventory carrying costs, incurred in the United States and Belgium and associated with economic activities in the United States.

Normal Value

In accordance with section 773(a)(1)(B)(i) of the Act, we have based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade. In addition, because the NV level of trade (LOT) is more remote from the factory than the CEP LOT, and available data provide no appropriate basis to determine an LOT adjustment between NV and CEP, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act (*see* "Level of Trade" section, below).

We used sales to affiliated customers only where we determined such sales were made at arm's length prices (*i.e.*, at prices comparable to the prices at which Respondent sold identical merchandise to unaffiliated customers).

Cost of Production

The Department disregarded sales below cost of production (COP) in the last completed review. *See Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Administrative Review*, 69 FR 74495 (December 14, 2004). We therefore have reasonable grounds to believe or suspect, pursuant to section 773(b)(2)(A)(ii) of the Act, that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below COP. Thus, pursuant to section 773(b)(1) of the Act, we examined whether U&A Belgium's sales in the home market were made at prices below the COP.

We compared sales of the foreign like product in the home market with model–specific COP figures for the POR. In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general and administrative (G&A) expenses and all costs and expenses incidental to placing the foreign like product in packed condition and ready for shipment. In our sales–below-cost analysis, we relied on home market sales and COP information provided by U&A Belgium in its questionnaire responses. We made adjustments to COP and to constructed value (CV) to reflect appropriately U&A Belgium's total cost of manufacturing SSPC and various fixed overhead costs.

We compared the weighted–average model–specific COPs to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which did not permit recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with sections 773(b)(1)(A) and (B) of the Act. On a product–specific basis, we compared the COP to home market prices, less any movement charges, discounts, and direct and indirect selling expenses.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of Respondent's sales of a given product were at prices which represent less than the COP, we did not disregard any below–cost sales of that product because the below–cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of Respondent's sales of a given product were at prices which represented less than the COP, we determined that they were made in substantial quantities within an extended period of time, in accordance with section 773(b)(2)(C) of the Act. Because we compared prices to POR–average costs, we also determined that the below–cost prices did not permit the recovery of costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act. Therefore, we disregarded the below–cost sales and used the remaining sales, if any, as the basis for NV, in accordance with section 773(b)(1) of the Act.

CEP to NV Comparison

For those sales at prices above COP, we based NV on home market prices to affiliated (when made at prices determined to be arm's length) or unaffiliated parties, in accordance with 19 CFR 351.403. Home market starting prices were based on packed prices to affiliated or unaffiliated purchasers in the home market, net of discounts. We made adjustments, where applicable, for packing and movement expenses, in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in costs attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act. For comparison to CEP, we deducted home market direct selling expenses pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c) of the Department's regulations.

In accordance with section 773(a)(4) of the Act, we used CV as the basis for NV when there were no above–cost contemporaneous sales of identical or similar merchandise in the comparison market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, G&A, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted–average home market selling expenses.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determined NV based on sales in the comparison market at the same LOT as the U.S. sales. *See* 19 CFR 351.412. The NV LOT is the level of the starting–price sale in the comparison market or, when NV is based on CV, the level of the sales from which we derive SG&A and profit. For EP, the U.S. LOT is also the level of the starting–price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer. *See* 19 CFR 351.412. As noted above, U&A Belgium classified all its exported sales of SSPC as CEP sales. The Department's analysis found nothing to indicate that U&A Belgium's sales were not CEP.

To determine whether NV sales are at a different LOT than CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison–market sales are at a

different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison–market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See, e.g., Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada*, 67 FR 8781 (February 26, 2002); *see also Notice of Final Determination of Sales at Less than Fair Value: Certain Cut–to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997) and *Certain Hot–Rolled Flat–Rolled Carbon Quality Steel Products from Brazil; Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 17406 (April 6, 2005). For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act. *See Micron Technology Inc. v. United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001). We expect that, if the claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that the LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. *See Porcelain–on-Steel Cookware from Mexico: Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000).

In the current review, U&A Belgium reported six customer categories and one LOT in the comparison market. U&A Belgium performs a variety of distinct selling functions in the comparison market. *See* Appendix A–12 of the October 4, 2004, Questionnaire Response. We examined the selling functions performed for the six customer categories and found there were no differences in selling functions offered among them. See Memorandum from Toni Page to The File "Analysis for Ugine & ALZ, N.V. Belgium (U&A Belgium) for the Preliminary Results of the Fifth Administrative Review of Stainless Steel Plate in Coils (SSPC) from Belgium," dated May 31, 2005 ("Analysis Memorandum"). Therefore, we preliminarily conclude that U&A Belgium's sales in the home market constitute one LOT.

U&A Belgium reported two channels of distribution and one LOT in the U.S. market. U&A Belgium's two channels of distribution are: 1) direct sales by AS USA of made–to-order merchandise produced by U&A Belgium, and 2) warehouse sales by AS USA of merchandise imported from U&A Belgium and stocked by AS USA. *See* page 22 of the October 4, 2004, Questionnaire Response. AS USA performed the majority of sales functions in both sales channels. In the instances of the few open orders that are being handled and finalized TrefilARBED, TrefilARBED performed the same selling functions otherwise handled by AS USA. *See* page 11 of the October 4, 2004, Questionnaire Response. We examined the selling functions performed and found that there were only minor differences with respect to the degree to which the U.S. affiliates performed those selling functions for both channels. In addition, Arcelor Stainless International and U&A Belgium perform two sales functions jointly with the U.S. affiliates in both sales channels. In light of the above, we preliminarily conclude that U&A Belgium's two U.S. sales channels constitute one LOT. *See* "Analysis Memorandum."

U&A Belgium, and its affiliates, Ugine & ALZ SA and Ugine & ALZ Benelux, perform all home market selling activities. Selling functions for the U.S. market, as indicated above, are performed by AS USA, with the exception of two selling functions which AS USA shared with U&A Belgium and Arcelor Stainless International. We compared the U.S. and home market LOTs and determined that, after eliminating from consideration selling functions performed by AS USA (pursuant to section 772(d) of the Act), U&A Belgium's home market sales are made at a different, and more remote, LOT than its CEP sales. *See* "Analysis Memorandum."

We therefore examined whether an LOT adjustment or CEP offset may be appropriate. In this case, U&A Belgium only sold at one LOT in the comparison market; therefore, there is no information available to determine a pattern of consistent price differences between the sales on which NV is based and the comparison market sales at the LOT of the export transaction, in accordance with the Department's normal methodology as described above. *See* 19 CFR 351.412(d). Further, we do not have record information which would allow us to examine pricing patterns based on Respondent's sales of other products, and there are no other respondents or other record information on which such an analysis could be based. Accordingly, because the data available do not provide an appropriate basis for making an LOT adjustment, but the LOT in the comparison market is at a more advanced stage of distribution than the LOT of the CEP transactions, we made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). This offset is equal to the amount of indirect selling expenses incurred in the comparison market not exceeding the amount of indirect selling expenses and commissions deducted from the U.S. price in accordance with section 772(d)(1)(D) of the Act. For a detailed discussion, *see* "Analysis Memorandum."

Currency Conversion

We made currency conversions pursuant to 19 CFR 351.415 based on rates certified by the Federal Reserve Bank.

PRELIMINARY RESULTS OF REVIEW

We preliminarily determine that for the period May 1, 2003, through April 30, 2004, the following dumping margin exists:

Manufacturer/Exporter	Margin(percent)
U&A Belgium	2.61

Duty Assessment and Cash Deposit Requirements

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review.

Furthermore, the following cash deposit rates will be effective with respect to all shipments of SSPC from Belgium entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided for by section 751(a)(1) of the Act: (1) for U&A Belgium, the cash deposit rate will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company–specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of

the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate shall be the all others' rate established in the LTFV investigation, which is 9.86 percent. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Belgium*, 64 FR 15476 (March 31, 1999). These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless extended by the Department, case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) a statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Also, pursuant to 19 CFR 351.310(c), within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief, no later than 120 days after publication of these preliminary results, unless extended. *See* 19 CFR 351.213(h).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of this administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 26, 2005.

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–2863 Filed 6–2–05; 8:45 am]

BILLING CODE 3510–DS–S

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 May 26, 2005 the binational panel issued its decision in the review of the final antidumping administrative review made by the International Trade Administration, respecting Gray Portland Cement and Clinker from Mexico, NAFTA Secretariat File Number USA–MEX–98–1904–02. The binational panel affirmed in part and remanded in part the International Trade Administration's determination. 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, 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 in part and remanded in part the International Trade Administration's determination respecting Gray Portland Cement and Clinker from Mexico. The panel remanded on the following issues:

1. That the Department of Commerce reconsider, in view of the changed methodology adopted in the remand determination in the Seventh Review, whether CEMEX's home market sales of Type V cement sold as Type II and Type V cement produced at the Hermosillo plants were outside the ordinary course of trade, and support whatever conclusion is reach with adequate reasoning based on substantial evidence in the record;

2. Further analyze and explain the plant efficiency issues in the calculation of the DIFMER adjustment in accordance with this opinion; and

3. Reclassify certain sales in accordance with the decision of the Court of Appeals for the Federal Circuit in *AK Steel* v. *United States.*

Commerce was directed to issue it's determination on remand within 60 days of the issuance of the panel decision or not later than July 25, 2005.

The Department's decision in the final results of the Sixth Administrative Review was, in all other respects upheld.

Dated: May 26, 2005.

Caratina L. Alston,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. E5–2842 Filed 6–2–05; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Fire Codes: Request for Proposals for Revision of Codes and Standards

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Fire Protection Association (NFPA) proposes to revise some of its fire safety codes and standards and requests proposals from the public to amend existing or begin the process of developing new NFPA

fire safety codes and standards. The purpose of this request is to increase public participation in the system used by NFPA to develop its codes and standards. The publication of this notice of request for proposals by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Interested persons may submit proposals on or before the dates listed with the standards.

ADDRESSES: Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts, 02269–9101.

FOR FURTHER INFORMATION CONTACT: Casey C. Grant, Secretary, Standards Council, at above address, (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops building, fire, and electrical safety codes and standards. Federal agencies frequently use these codes and standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the **Federal Register** approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Request for Proposals

Interested persons may submit proposals, supported by written data, views, or arguments to Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts, 02269–9101. Proposals should be submitted on forms available from the NFPA Codes and Standards Administration Office or on NFPA's Web site at *http://www.nfpa.org.*

Each person must include his or her name and address, identify the document and give reasons for the proposal. Proposals received before or by 5 PM local time on the closing date indicated would be acted on by the Committee. The NFPA will consider any proposal that it receives on or before the date listed with the codes or standards.

At a later date, each NFPA Technical Committee will issue a report, which will include a copy of written proposals that have been received, and an account of their disposition of each proposal by the NFPA Committee as the Report on Proposals. Each person who has submitted a written proposal will receive a copy of the report.

Document-edition	Document title	Proposal closing date
NFPA 18A–P*	Standard on Water Additives for Fire Control and Vapor Mitigation	5/27/2005
NFPA 25–2002	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems.	5/27/2005
NFPA 51–2002	Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes.	5/27/2005
NFPA 58–2004	Liquefied Petroleum Gas Code	5/27/2005
NFPA 59–2004	Utility LP-Gas Plant Code	3/3/2006
NFPA 68–2002	Guide for Venting of Deflagrations	5/27/2005
NFPA 70–2005	National Electrical Code®	11/4/2005
NFPA 85–2004	Boiler and Combustion Systems Hazards Code	5/27/2005
NFPA 204–2002	Standard for Smoke and Heat Venting	5/27/2005
NFPA 385–2000	Standard for Tank Vehicles for Flammable and Combustible Liquids	5/27/2005
NFPA 471–2002	Recommended Practice for Responding to Hazardous Materials Incidents	5/27/2005
NFPA 472–2002	Standard for Professional Competence of Responders to Hazardous Materials Incidents.	5/27/2005
NFPA 473–2002	Standard for Competencies for EMS Personnel Responding to Hazardous Materials Incidents.	5/27/2005
NFPA 551–2004	Guide for the Evaluation of Fire Risk Assessments	5/27/2005
NFPA 560–2002	Standard for the Storage, Handling, and Use of Ethylene Oxide for Sterilization and Fumigation.	5/27/2005
NFPA 720–2005	Standard for the Installation of Carbon Monoxide (CO) Warning Equipment in Dwelling Units.	5/26/2005
NFPA 900–2004	Building Energy Code	5/27/2005
NFPA 1005–P*	Standard on Professional Qualifications for Marine Fire Fighting for Land-Based Fire Fighters.	5/27/2005
NFPA 1037–P*	Standard for Professional Qualifications for Fire Marshal	5/27/2005
NFPA 1041–2002	Standard for Fire Service Instructor Professional Qualifications	5/27/2005
NFPA 1051–2002	Standard for Wildland Fire Fighter Professional Qualifications	5/27/2005
NFPA 1061–2002	Standard for Professional Qualifications for Public Safety Telecommunicator	5/27/2005
NFPA 1141–2003	Standard for Fire Protection in Planned Building Groups	9/23/2005
NFPA 1144–2002	Standard for Protection of Life and Property from Wildfire	9/23/2005
NFPA 1402–2002	Guide to Building Fire Service Training Centers	5/27/2005
NFPA 1403–2002	Standard on Live Fire Training Evolutions	5/27/2005
NFPA 1451–2002	Standard for a Fire Service Vehicle Operations Training Program	5/27/2005
NFPA 1521–2002	Standard for Fire Department Safety Officer	9/30/2005
NFPA 1600–2004	Standard on Disaster/Emergency Management and Business Continuity Programs	5/27/2005
NFPA 1901–2003	Standard for Automotive Fire Apparatus	3/31/2006
NFPA 1961–2002	Standard on Fire Hose	5/27/2005
NFPA 1962–2003	Standard for the Inspection, Care and Use of Fire Hose, Couplings and Nozzles; and the Service Testing of Fire Hose.	3/10/2006
NFPA 1964–2003	Standard for Spray Nozzles	3/10/2006
NFPA 2001–2004	Standard on Clean Agent Fire Extinguishing Systems	5/27/2005

*P Proposed NEW drafts are available from NFPA's Web site—*www.nfpa.org* or may be obtained from NFPA's Codes and Standards Administration, 1 Batterymarch Park, Quincy, Massachusetts, 02269.

Dated: May 27, 2005.
Hratch G. Semerjian,
Acting Director.
[FR Doc. 05–11118 Filed 6–2–05; 8:45 am]
BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Fire Codes: Request for Comments on NFPA Technical Committee Reports

AGENCY: National Institute of Standards and Technology, Commerce.
ACTION: Notice.

SUMMARY: The National Fire Protection Association (NFPA) revises existing standards and adopts new standards twice a year. At its January and July meetings, the NFPA Standards Council acts on recommendations made by its technical committees.

The purpose of this notice is to request comments on the technical reports that will be presented at NFPA's 2006 June Cycle. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Forty-eight reports are published in the 2006 June Cycle Report on Proposals and will be available on June 24, 2005. Comments received on or before September 2, 2005 will be considered by the respective NFPA Committees before final action is taken on the proposals.

ADDRESSES: The 2006 June Cycle Report on Proposals is available and downloadable from NFPA's Web site—*http://www.nfpa.org* or by requesting a copy from the NFPA, Fulfillment Center, 11 Tracy Drive, Avon, Massachusetts 02322. Comments on the report should be submitted to Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269–9101.

FOR FURTHER INFORMATION CONTACT: Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101, (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops building, fire, and electrical safety codes and standards. Federal agencies frequently use these codes and standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Revisions of existing standards and adoption of new standards are reported by the technical committees to the Standards Council for issuance in January and July of each year. Documents that receive an Intent to Make Motion are automatically held for action at the NFPA's meeting in June of each year. The NFPA invites public comment on its Report on Proposals.

Request for Comments

Interested persons may participate in these revisions by submitting written data, views, or arguments to Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101. Commenters may use the forms provided for comments in the Reports on Proposals. Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. Comments received on or before September 2, 2005 for the 2006 June Cycle Report on Proposals will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the 2006 June Cycle Report on Comments by February 24, 2006.

A copy of the Report on Comments will be sent automatically to each commenter. Reports of the Technical Committees on documents that do not receive an Intent to Make a Motion will automatically be forwarded to the Standards Council for action at its July 28, 2006 meeting. Action on the reports of the Technical Committees on documents that do receive an Intent to Make a Motion will be taken at the June Meeting, June 4–8, 2006, in Orlando, Florida, by NFPA members.

2006 June Meeting Report on Proposals

[P = Partial revision; W = Withdrawal; R = Reconfirmation; N = New; C = Complete Revision]

NFPA 13	Standard for the Installation of Sprinkler Systems	P
NFPA 13D	Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes.	P
NFPA 13R	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height.	P
NFPA 15	Standard for Water Spray Fixed Systems for Fire Protection	P
NFPA 20	Standard for the Installation of Stationary Pumps for Fire Protection	P
NFPA 24	Standard for the Installation of Private Fire Service Mains and Their Appurtenances	P
NFPA 30A	Code for Motor Fuel Dispensing Facilities and Repair Garages	P
NFPA 30B	Code for the Manufacture and Storage of Aerosol Products	P
NFPA 32	Standard for Drycleaning Plants	P
NFPA 33	Standard for Spray Application Using Flammable or Combustible Materials	P
NFPA 34	Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids	P
NFPA 40	Standard for the Storage and Handling of Cellulose Nitrate Film	P
NFPA 72	National Fire Alarm Code®	P
NFPA 77	Recommended Practice on Static Electricity	C
NFPA 80	Standard for Fire Doors and Fire Windows	C
NFPA 80A	Recommended Practice for Protection of Buildings from Exterior Fire Exposures	P
NFPA 86	Standard for Ovens and Furnaces	P
NFPA 88A	Standard for Parking Structures	P
NFPA 101A	Guide on Alternative Approaches to Life Safety	P
NFPA 101B	Code for Means of Egress for Buildings and Structures	W
NFPA 105	Standard for the Installation of Smoke Door Assemblies	P
NFPA 130	Standard for Fixed Guideway Transit and Passenger Rail Systems	P
NFPA 150	Standard on Fire Safety in Racetrack Stables	C

2006 JUNE MEETING REPORT ON PROPOSALS—Continued

[P = Partial revision; W = Withdrawal; R = Reconfirmation; N = New; C = Complete Revision]

NFPA 232	Standard for the Protection of Records	C
NFPA 257	Standard on Fire Test for Window and Glass Block Assemblies	C
NFPA 258	Recommended Practice for Determining Smoke Generation of Solid Materials	W
NFPA 262	Standard Method of Test for Flame Travel and Smoke of Wires and Cables for Use in Air-Handling Spaces.	R
NFPA 265	Standard Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Coverings on Full Height Panels and Walls.	P
NFPA 268	Standard Test Method for Determining Ignitibility of Exterior Wall Assemblies Using a Radiant Heat Energy Source.	P
NFPA 269	Standard Test Method for Developing Toxic Potency Data for Use in Fire Hazard Modeling.	C
NFPA 287	Standard Test Methods for Measurement of Flammability of Materials in Cleanrooms Using a Fire Propagation Apparatus (FPA).	C
NFPA 288	Standard Method of Fire Tests of Floor Fire Door Assemblies Installed Horizontally in Fire Resistance Rated Floor Systems.	R
NFPA 291	Recommended Practice for Fire Flow Testing and Marking of Hydrants	P
NFPA 407	Standard for Aircraft Fuel Servicing	P
NFPA 414	Standard for Aircraft Rescue and Fire-Fighting Vehicles	P
NFPA 556	Guide for Identification and Development of Mitigation Strategies for Fire Hazard to Occupants of Road Vehicles.	N
NFPA 655	Standard for Prevention of Sulfur Fires and Explosions	C
NFPA 664	Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities.	P
NFPA 704	Standard System for the Identification of the Hazards of Materials for Emergency Response.	P
NFPA 853	Standard for the Installation of Stationary Fuel Cell Power Systems	P
NFPA 1081	Standard for Industrial Fire Brigade Member Professional Qualifications	C
NFPA 1125	Code for the Manufacture of Model Rocket and High Power Rocket Motors	P
NFPA 1142	Standard on Water Supplies for Suburban and Rural Fire Fighting	C
NFPA 1221	Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems.	C
NFPA 1500	Standard on Fire Department Occupational Safety and Health Program	C
NFPA 1582	Standard on Comprehensive Occupational Medical Program for Fire Departments	C
NFPA 2112	Standard on Flame-Resistant Garments for Protection of Industrial Personnel Against Flash Fire.	P
NFPA 2113	Standard on Selection, Care, Use, and Maintenance of Flame-Resistant Garments for Protection of Industrial Personnel Against Flash Fire.	P

Dated: May 27, 2005.

Hratch G. Semerjian,

Acting Director.

[FR Doc. 05–11117 Filed 6–2–05; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 053105A]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene its Red Snapper Advisory Panel (AP).

DATES: The meeting will be convene at 1 p.m. on Monday, June 20, 2005 and conclude no later than noon on Tuesday, June 21, 2005.

ADDRESSES: The meeting will be held at the San Luis Resort, Spa and Conference Center, 5222 Seawall Boulevard, Galveston, Texas 77551.

Council address: Gulf of Mexico Fishery Management Council, 3018 North U.S. Highway 301, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council; telephone: 813.228.2815.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) will convene its Red Snapper Advisory Panel (AP) to review the Southeast Data, Assessment and Review (SEDAR) reports of a red snapper stock assessment. The AP will receive a summary of the stock assessment and a review of the recommendations of the SEDAR Panel. Based on the information provided, the AP may make recommendations to the Council for total allowable catch (TAC) and management measures to achieve TAC, including size limits, bag limits, trip limits, closed seasons, and whether to treat red snapper in the eastern and western Gulf of Mexico as two stocks or one. The Council will receive the AP's recommendations at its July 11–15, 2005 meeting in Fort Myers Beach, Florida, along with the recommendations of the Council's Socioeconomic Panel (SEP) and Scientific and Statistical Committee (SSC), and may use these recommendations as the basis to begin preparation of a Reef Fish Regulatory Amendment to adjust the red snapper TAC and management measures.

The meeting agenda and copies of the Red Snapper Stock Assessment and the SEDAR reports can be obtained on CD by calling the Council office at 813.228.2815 (toll-free 888.833.1844). Printed copies of the materials are available upon request, but may not contain all of the information included in the CD.

Although other non-emergency issues not on the agenda may come before the Red Snapper AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (M-SFCMA), those issues may not be the subject of formal action during these meetings. Actions of the Red

Snapper AP will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the M-SFCMA, provided the public has been notified of the Council's intent to take action to address the emergency. The established times for addressing items on the agenda may be adjusted as necessary to accommodate the untimely completion of discussion relevant to other agenda items. In order to further allow for such adjustments and completion of all items on the agenda, the meeting may be extended from or completed prior to the date established in this notice.

The meeting is open to the public and physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dawn Aring at the Council (see **ADDRESSES**) by June 13, 2005.

Dated: May 31, 2005.

Emily Menashes,

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

[FR Doc. E5–2853 Filed 6–2–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 053105B]

Pacific Fishery Management Council; Public Meetings/Workshop

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

ACTION: Notice of three public meetings.

SUMMARY: Three Groundfish Stock Assessment Review (STAR) Panels will hold work sessions which are open to the public. The first STAR Panel will review new assessments for sablefish, Dover sole, shortspine thornyhead, and longspine thornyhead. The second STAR Panel will review new assessments for widow rockfish, blackgill rockfish, and kelp greenling; and an updated assessment for bocaccio. The third STAR Panel will review new assessments for canary rockfish, lingcod, and yelloweye rockfish; and an updated assessment for yellowtail rockfish.

DATES: The sablefish, Dover sole, shortspine thornyhead, and longspine thornyhead STAR Panel will meet beginning at 8 a.m., Monday, June 20, 2005. The meeting will continue through Friday, June 24, 2005 beginning at 8 a.m. every morning. The meetings will end at 5 p.m. each day, or as necessary to complete business.

The widow rockfish, blackgill rockfish, kelp greenling, and bocaccio STAR Panel will meet beginning at 8 a.m., Monday, August 1, 2005. The meeting will continue through Friday, August 5, 2005 beginning at 8 a.m. every morning. The meetings will end at 5 p.m. each day, or as necessary to complete business.

The canary rockfish, lingcod, yelloweye rockfish, and yellowtail rockfish STAR Panel will meet beginning at 8 a.m., Monday, August 15, 2005. The meeting will continue through Friday, August 19, 2005 beginning at 8 a.m. every morning. The meetings will end at 5 p.m. each day, or as necessary to complete business.

ADDRESSES: The sablefish, Dover sole, shortspine thornyhead and longspine thornyhead STAR Panel meeting will be held at the National Marine Fisheries Service (NMFS), Hatfield Marine Science Center, Captain R. Barry Fisher Building, 2032 SE Oregon State University Drive, Newport, Oregon 97365–5296; telephone: 541–867–0501.

The widow rockfish, blackgill rockfish, kelp greenling, and bocaccio STAR Panel meeting will be held at NMFS, Southwest Fisheries Science Center, Meeting Room 188, 110 Shaffer Road, Santa Cruz, California 95060; telephone: 831–420–3900.

The canary rockfish, lingcod, yelloweye rockfish, and yellowtail rockfish STAR Panel meeting will be held at NMFS, Northwest Fisheries Science Center (NWFSC), 2725 Montlake Boulevard East, Seattle, Washington 98112; telephone: 206–860–3480.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, Oregon 97220–1384; telephone: 503–820–2280.

FOR FURTHER INFORMATION CONTACT: Ms. Stacey Miller, NWFSC; telephone: 206–860–3480; or Mr. John DeVore, Pacific Fishery Management Council; telephone: 503–820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the STAR Panel meetings are to review draft stock assessment documents and any other pertinent information, work with the Stock Assessment Teams to make necessary revisions, and produce STAR Panel reports for use by the Council family and other interested persons. No management actions will be decided by these STAR Panels. The STAR Panels' role will be development of recommendations and reports for consideration by the Council at either its September meeting in Portland, Oregon or its November meeting in San Diego, California.

Although non-emergency issues not contained in the meeting agendas may come before the STAR Panel participants for discussion, those issues may not be the subject of formal STAR Panel action during these meetings. STAR Panel action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the STAR Panel participants' intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–820–2280 at least five days prior to the meeting date.

Dated: May 31, 2005.

Emily Menashes,

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

[FR Doc. E5–2852 Filed 6–2–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051905B]

Endangered Species; Permit No. 1258

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

ACTION: Issuance of permit modification.

SUMMARY: Notice is hereby given that a request for modification to an enhancement permit No. 1258 submitted by the North Carolina Zoological Park, 4401 Zoo Parkway, Asheboro, NC 27203 (David M. Jones, Principal Investigator), has been granted.

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; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701, phone (727) 824–5312, fax (727) 824–5300.

FOR FURTHER INFORMATION CONTACT: Jennifer Jefferies or Amy Sloan (301)713–2289.

SUPPLEMENTARY INFORMATION: 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 provisions of § 222.306 of the regulations governing the taking, importing, and exporting of endangered and threatened fish and wildlife (50 CFR 222–226).

The North Carolina Zoological Park is authorized to use four individual, captive-bred, non-releaseable shortnose sturgeons for an educational display exhibit. This project of displaying endangered captive bred shortnose sturgeon responds directly to a recommendation of the NMFS recovery outline for this species. This display educates the public on shortnose sturgeon life history and the reason for its declining numbers. This modification will extend the permit through July 31, 2006.

Issuance of this modification, as required by the ESA was based on a finding that this permit modification: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 24, 2005.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–11107 Filed 6–2–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052405B]

Endangered Species; File No. 1537

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Guam Division of Aquatic and Wildlife Resources (DAWR), 142 Dairy Road, Mangilao, Guam 96913, has applied in due form for a permit to take green (*Chelonia mydas*) and hawksbill (*Eretmochelys imbricata*) sea turtles for purposes of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before July 5, 2005.

ADDRESSES: The application 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; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808)973–2935; fax (808)973–2941.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 1537.

FOR FURTHER INFORMATION CONTACT: Patrick Opay or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested 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 parts 222–226).

The proposed research would annually capture 24 green and 15 hawksbill sea turtles by hand or by tangle net. Turtles would be measured, flipper tagged, Passive Integrated Transponder tagged, tissue sampled, and released. A subset of each species would also have a satellite transmitter attached to their carapace. The research would gather information on turtle population size and stratification, species distribution, and health status. This information would be used to develop conservation management measures for these species. The research would occur in the waters off of Guam. The permit would be issued for a 5-year period.

Dated: May 26, 2005.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–11108 Filed 6–2–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 5, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the

following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 27, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: New.

Title: Early Childhood Longitudinal Study-Birth Cohort: Kindergarten and First Grade Field Test and Full Scale.

Frequency: One time.

Affected Public: Individuals or household; businesses or other for-profit; not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 562;

Burden Hours: 197.

Abstract: The Early Childhood Longitudinal Study, Birth Cohort (ECLS–B) is a nationally representative longitudinal study of children born in the year 2001. Children are assessed using state of the art assessment tools, parents are interviewed as well as child care providers and school personnel. Together with the Kindergarten component of this early childhood studies program, the survey informs the research and general community about children's health, early learning, development and education experiences. The focus of this survey is on characteristics of children and their families that influence children's first experiences with the demands of formal schools as well as early health care and in- and out-of-home experiences.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 2721. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Katrina Ingalls at her e-mail address *Katrina.Ingalls@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–11071 Filed 6–2–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Overview Information; Comprehensive Centers; Notice Inviting Applications for New Awards for Fiscal Year 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.283B.

DATES: *Applications Available:* June 3, 2005.

Deadline for Notice of Intent to Apply: June 23, 2005.

Dates of Pre-Application Meetings: The Department will conduct briefings on this competition via conference call to clarify the purposes of the program and the selection criteria and process at 11 a.m. on each of the following dates: Applicants for Regional Centers June 13 and 17; Applicants for Content Centers June 22 and 23. Please e-mail Enid Simmons at *enid.simmons@ed.gov* to register for a call date and time and obtain the conference call number and code.

Deadline for Transmittal of Applications: July 18, 2005.

Deadline for Intergovernmental Review: August 17, 2005.

Eligible Applicants: Research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in this notice. An application from a consortium of eligible entities must include a consortium agreement. Letters of support do not meet the requirement for a consortium agreement.

Note: The Department will reject any application that does not meet these eligibility requirements.

Estimated Number of Awards: The Secretary intends to support 21 awards under this competition. Sixteen awards will support Regional comprehensive centers (Regional Centers) to serve States within defined geographic boundaries. The States and territories to be served by each Regional Center are described in this notice under *Absolute Priorities for Regional Centers.* Five awards will support Content comprehensive centers (Content Centers), each having a specific content expertise and focus, to support the work of the Regional Centers. These five Content Centers are: the Center on Assessment and Accountability, the Center on Instruction, the Center on Teacher Quality, the Center on Innovation and Improvement, and the Center on High Schools. The functions and activities for each of the five Content Centers are described in this notice under *Absolute Priorities for Content Centers.*

Note: The Educational Technical Assistance Act of 2002 (TA Act) provides that the Secretary must ensure that not less than one Comprehensive Center is established in each of the 10 geographic regions served by the Regional Educational Laboratories. Note that these regions differ, in some instances, from the Regional Centers described in this notice. The Secretary will consider the location of the proposed Regional Centers in the selection and negotiation of cooperative agreements to ensure that this requirement of the law is met.

Estimated Available Funds: Eighteen of the 21 Centers proposed for funding under this competition will be supported entirely with funds from the Comprehensive Centers program, authorized under Title II of the TA Act. Three of the 21 centers will be supported with funds appropriated for the Comprehensive Centers program and the Special Education Technical Assistance and Dissemination program, which is authorized under the Individuals with Disabilities Education Act, as amended (IDEA).

The estimated available funds from the Comprehensive Centers program for FY 2005 is $40 million. Of that amount, an estimated $35 million will be used to fund Regional Centers and $5 million will be used to fund the Content Centers. FY 2005 funds will support awards for the first budget period of the project, which is the first nine months of the project period. Funding for the subsequent 12-month budget periods for years two through five (FY 2006 through FY 2009) is contingent on appropriation levels. For FY 2006, the President's budget, if funded at the requested level, would provide approximately $56.8 million for the Comprehensive Centers program.

The estimated total funds from the Special Education Technical Assistance and Dissemination program for FY 2005 is $3 million to provide partial support for three of the Content Centers for the first budget period of the project.

Depending on appropriation levels, a total of up to $3 million from the Special Education Technical Assistance

and Dissemination program will be available for awards to the co-funded Content Centers in subsequent budget periods. The Department anticipates that each program will provide approximately 50 percent of the annual funding for the three co-funded Content Centers during the first budget period of the project. The co-funded Content Centers will be the Center on Instruction, the Center on Teacher Quality and the Center on High Schools.

Estimated Range of Awards: The estimated range of awards for Regional Centers is $750,000 to $4,604,348 from FY 2005 funds for the first budget period, covering the first 9 months of the project period. Funding for each Regional Center was calculated by formula, based equally on shares of population and poor children, ages 5–17 in the States (including DC, Puerto Rico, and the Outlying Areas) served by each Regional Center. Department estimates for awards to each Regional Center are provided at: *http://www.ed.gov/programs/newccp/index.html.*

The estimated range of awards for Content Centers is $1,000,000 to $2,000,000 for the first budget period, which includes the first nine months of the project period.

Estimated Average Size of Awards: Regional Centers—$2,187,500 in the first budget period (FY 2005) and approximately $2,895,313 in each subsequent budget period; the three co-funded Content Centers—$2,000,000 in the first budget period (FY 2005) and approximately $2,500,000 in each subsequent budget period; the other two Content Centers—$1,000,000 in the first budget period (FY 2005) and approximately $1,500,000 in each subsequent budget period.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Budget Period: Nine months for the first budget period only. Each subsequent budget period will be 12 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Comprehensive Centers program supports the establishment of not fewer than 20 comprehensive technical assistance centers that provide technical assistance to States as States work to help districts and schools to close achievement gaps in core content areas and raise student achievement in schools, especially those in need of improvement (as defined by Section 1116(b), of the Elementary and Secondary Act, as amended (ESEA)) in implementing the school improvement provisions under section 1116 of ESEA.

Centers established under this program will replace the existing Comprehensive Regional Assistance Centers, the Regional Technology in Education Consortia, the Eisenhower National Clearinghouse for Mathematics and Science Education, and the Regional Mathematics and Science Education Consortia.

Background: The ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB), holds States accountable for closing achievement gaps and ensuring that all children, regardless of ethnicity, income, language or disability, receive a high quality education and meet State academic standards by 2013–2014.

To that end, NCLB requires States to set standards for student performance, implement statewide testing and accountability systems to measure school and student performance toward achieving those standards, adopt research-based instructional and program improvements related to teaching and learning in the classroom, ensure that all teachers in core subject areas are highly qualified, and improve or ultimately restructure schools that are consistently low-performing.

The comprehensive centers funded under this competition will begin providing technical assistance at a time when States, districts, and schools have accomplished much of the initial implementation of NCLB.

The new centers funded under this competition will provide intensive technical assistance in several areas that are key to success in meeting NCLB goals. Recent assessments conducted to help determine technical assistance priorities for the Comprehensive Centers program indicate that States need assistance, for example, to implement school improvement efforts to help meet school and district adequate yearly progress requirements; to identify and adopt instructional and assessment methods that have been proven effective through scientifically based research, especially for students with special needs; to design programs and strategies and allocate resources to recruit, retain, and train talented teachers and school leaders; and to enhance assessment and accountability systems.

Because States have the primary responsibility for school improvement efforts, these centers will focus their technical assistance on States and on helping States increase their capacity to provide sustained support to districts and schools as they implement NCLB reforms.

The new centers will serve as field agents for the Department to further States' understanding of the provisions and purposes of NCLB and related Federal programs and help them adopt proven approaches to achieve the school improvement and student performance goals required under NCLB. The centers will work closely with, and leverage the resources of, other technical assistance providers and research organizations, including the Regional Educational Laboratories, the Special Education Technical Assistance Network, the Parental Information and Resource Centers, the Equity Assistance Centers, the Reading First National Technical Assistance Center, the Institute of Education Sciences' research centers and its What Works Clearinghouse, and other Federal, regional, and State entities and postsecondary institutions, to gather and disseminate information and knowledge about what works and to help States translate that knowledge into meaningful practice.

The approach to technical assistance delivery for the centers is two-tiered: The Regional Centers will have the primary relationships with, and provide services to, the States in their regions; in serving their State clients, the Regional Centers will draw heavily on the research-based information, products, guidance, and knowledge on key NCLB topics supplied by the Content Centers.

The Department intends to have substantial and sustained involvement in the activities of each center funded under this competition, including shaping grantee priorities, activities, and major products to meet the purposes of this program. The Department also intends to partner with the centers, particularly the Content Centers, to convene national conferences to disseminate information and resources about Departmental priorities related to NCLB. The details and parameters of the Department's expectations and involvement with each center funded under this competition will be included in the Department's cooperative agreement with the grantee that receives an award for that center under this competition.

Regional Advisory Committees: To help inform the Secretary's priorities for the centers funded under this competition, the Secretary (in accordance with section 206 of the TA Act) established 10 Regional Advisory Committees (RACs) charged with conducting education needs assessments within the geographical regions served by the current regional educational laboratories.

The RACs conducted their needs assessments during the period from December 2004 to March 2005 and

submitted their reports to the Secretary on March 31, 2005. The full reports are available at: *http://www.ed.gov/programs/newccp/index.html.*

Applicants for the centers are encouraged to consider the specific priorities and recommendations contained in the RAC reports when preparing their applications.

Priorities: This competition contains three sets of absolute priorities (*Absolute Priorities for All Centers* (priorities one and two), *Absolute Priorities for Regional Centers* (priorities three through six), and *Absolute Priorities for Content Centers* (priorities seven through eleven)). We are establishing these absolute priorities for the FY 2005 grant competition only, in accordance with section 437 (d)(1) of the General Education Provisions Act.

Absolute Priorities: For FY 2005 these priorities are absolute priorities.

For Regional Center awards, under 34 CFR 75.105 (c)(3) we consider only applications that meet the *Absolute Priorities for All Centers* (priorities one and two) and *Absolute Priorities for Regional Centers* (priorities three through six).

For Content Center awards, under 34 CFR 75.105 (c)(3) we consider only applications that meet the *Absolute Priorities for All Centers* (priorities one and two) and *one* of the priorities under *Absolute Priorities for Content Centers* (*i.e.*, priorities 7, 8, 9, 10, *or* 11).

Note: If an applicant wants to apply for funding for more than one center, it must submit separate applications for each proposed center.

Absolute Priorities for All Centers

Priority 1—Focus on States. To meet this priority, applicants must propose a plan of technical assistance specifically focused on helping States implement the provisions of NCLB applicable to States, and helping States build the capacity to help school districts and schools implement NCLB provisions and programs.

To the extent an applicant proposes to work with individual school districts and schools, the applicant must propose a technical assistance plan that only proposes work with districts and schools where the effort—(a) Involves a high leverage strategy (*i.e.*, reaches a large number or proportion of schools, teachers, and administrators needing the assistance within the State); (b) responds to a need identified by the State; *and* (c) is planned and coordinated with the State.

Note: This priority does not support research, program evaluation, or curriculum development. Thus, an applicant will not satisfy this priority if it proposes a technical assistance plan to—

(a) Design or develop curricula or instructional materials for use in classrooms or develop professional development programs where proven models already exist; or

(b) conduct basic research or program evaluations on behalf of States or districts.

Priority 2—Crosscutting Expertise. To meet this priority, an applicant must demonstrate that proposed center staff has expertise on several issues of crosscutting importance related to the delivery of technical assistance in specific regions and content areas. These issues are:

(a) Proven strategies for addressing the needs of schools with populations at risk of failure, especially children who have limited proficiency in English, children with disabilities, and children from economically disadvantaged families.

(b) Effective uses of technology to improve instruction, and as an efficient means of delivering technical assistance.

(c) Implementing school improvement reforms within urban and rural contexts.

Absolute Priorities for Regional Centers

Background: Regional Centers must provide frontline assistance to States to help them implement NCLB and other related Federal school improvement programs and help increase State capacity to assist districts and schools meet their student achievement goals. Regional Centers must be embedded in regions and responsible for developing strong relationships and partnerships within their regional community. While Content Centers must focus almost entirely on specific content areas, analyzing research, developing useful products and tools for Regional Centers and other clients, the Regional Centers will be the "on the ground" providers to States.

Drawing from the information and resources provided by the Content Centers funded through this competition and other sources, the Regional Centers must provide a program of technical assistance to States that will enable them to among other things—

(a) Assess the improvement needs of districts and schools and assist them in developing solutions to address those needs;

(b) build and sustain systemic support for district and school improvement efforts to (i) close existing achievement gaps; and (ii) adopt proven practices to improve instruction and achievement outcomes for students in schools identified as in need of improvement; and

(b) improve the tools and systems for school improvement and accountability for the achievement outcomes.

Text of Priorities

Priority 3—Location of Regional Centers. The Secretary will award grants to establish 16 Regional Centers serving States and territories. In order to meet the requirement of this priority, a proposed Regional Center must serve one of the following regions:

Regional comprehensive center	Region
New England	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
New York	New York.
Mid-Atlantic	Delaware, Maryland, New Jersey, Pennsylvania, and Washington, DC.
Appalachia	Kentucky, Tennessee, North Carolina, Virginia, and West Virginia.
Southeast	Alabama, Georgia, Mississippi, Louisiana, and South Carolina.
Florida and Islands.	Florida, Puerto Rico, and the Virgin Islands.
Great Lakes West.	Wisconsin and Illinois.
Great Lakes East.	Michigan, Indiana, and Ohio.
North Central	North Dakota, South Dakota, Minnesota, Nebraska, and Iowa.
Mid-Continent	Kansas, Oklahoma, Arkansas, and Missouri.
Texas	Texas.
West/Southwest.	Nevada, Utah, Colorado, Arizona, and New Mexico.
California	California.
Northwest	Idaho, Montana, Oregon, Washington, and Wyoming.
Alaska	Alaska.
Pacific	American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia (Chuuk, Kosrae, Pohnpei, and Yap), Guam, Hawaii, Republic of the Marshall Islands, and the Republic of Palau.

Priority 4—Regional Technical Assistance Activities. To meet this priority, the work of the proposed Regional Centers must involve activities that address State technical assistance needs by—

(a) Working closely with each State in its region on an ongoing basis;

(b) linking States with the resources of Content Centers, Department staff, Regional Educational Laboratories, The What Works Clearinghouse, and other entities that have, or may be able to,

design products and services tailored to State needs;

(c) suggesting sources of appropriate service providers or assistance for State activities that are not within the core mission of the centers—including, for example, activities to address needs related to curriculum development, designing school-level training programs, or conducting basic research or impact evaluations;

(d) assisting State efforts to build statewide systems of support for districts and schools in need of improvement, partly by leveraging the resources of Content Centers and other sources of scientifically-based education research and high-quality technical assistance on behalf of State and district clients;

(e) working to identify, broker, leverage, and deliver information, resources and services from the Content Centers and other sources that focus on research-based knowledge of promising practices, including assistance to States and districts on securing high-quality consultants and experts to meet specific education needs;

(f) convening, in partnership with Content Centers and others, as appropriate, States and districts to receive training and information on best practices and research-based improvement strategies;

(g) providing guidance and training on implementation of requirements under NCLB and other related Federal programs;

(h) facilitating collaboration at the State level to align Federal, State, district and school improvement programs and help States understand and use the flexibility provided by NCLB to target resources and programs to address the greatest needs; and

(i) helping Content Centers to identify, document and disseminate emerging promising practices by working with States to distill and document the experiences of high-performing districts and schools.

Priority 5—Knowledge and Expertise. To satisfy this priority, the proposed Regional Center must demonstrate in-depth knowledge of regional and local issues, conditions, and needs, particularly as those relate to the roles and responsibilities of States, districts, and schools in implementing the provisions of NCLB and other related Federal programs. In addition, the proposed Regional Center must have expertise in comprehensive planning, needs assessment, and State, district, and school improvement processes.

Priority 6—Coordination and Cooperation. To meet this priority, the proposed Regional Center must create and maintain cooperative working relationships with States in their region and other technical assistance providers serving the region, including the Regional Educational Laboratories, the Special Education Technical Assistance Network, Parental Information and Resource Centers, Equity Assistance Centers, the Reading First National Technical Assistance Center, and other regional and State entities, including for example, regional service providers and post-secondary institutions.

Absolute Priorities for Content Centers: There are five priorities under these *Absolute Priorities for Content Centers*. Each priority corresponds to one of the Content Centers the Department intends to fund through this competition (*i.e., Priority 7—Center on Assessment and Accountability, Priority 8—Center on Instruction, Priority 9—Center on Teacher Quality, Priority 10—Center on Innovation and Improvement, and Priority 11—Center on High Schools*). To be eligible to receive funding for a Content Center under this competition, an applicant must meet the requirements of only one of the priorities in this section.

Together, the five Content Centers cover a spectrum of inter-related school improvement and technical assistance areas. The Content Centers will work closely with Regional Centers to provide technical assistance to States.

While Regional Centers will have the primary relationships to States in their regions, Content Centers will supply much of the common research-based information, products, guidance, analyses, and knowledge on certain key NCLB topics that Regional Centers will use when working with States.

The purpose of having national level Content Centers is to avoid duplication of efforts across centers in key NCLB areas and to ensure depth of content knowledge in these areas.

Because the Content Center focus areas cut across the school improvement process, Content Centers will also connect and collaborate with each other as a network and a central source of knowledge, resources and tools that stakeholders can readily access to find information and resources to address their needs in one or more of the content areas covered by the five Content Centers.

Content Centers will have in-depth knowledge of the content and research related to the center's focus area; expertise in evaluating existing resources and synthesizing information into a meaningful and useful knowledge base; the ability to translate and communicate that knowledge; and the ability to collaborate with other providers and research institutions, broker resources and connect technical assistance resources at a national level to identify and share the best practices of States and districts.

Content Centers will facilitate access to, and use of, existing research and proven practice by analyzing, synthesizing, and disseminating information on proven, promising and emerging practices and strategies in the Center's focus area, as well as develop tools for Regional Centers to use in providing assistance to States.

In general, the Content Centers will, among other things—

(a) Identify, organize, select and translate existing key research knowledge pertaining to the Center's content-focus area and communicate the information in ways that are highly relevant and highly useful to State and local level policy makers and practitioners;

(b) Benchmark State and district practices for implementing NCLB provisions and school improvement interventions related to the center's area of focus and identify promising approaches that can be shared with States and districts;

(c) Convene States and districts, researchers and other experts to learn from each other about practical strategies for implementing NCLB provisions and programs related to the Center's area of focus;

(d) Train Regional Center staff on what is known about scientifically valid practices and programs;

(e) Collaborate with Regional Centers to address specific requests for assistance from States within the regions;

(f) Communicate to the field, including through national conferences, Department guidance related to the center's content focus and examples of workable strategies and systems for implementing provisions and programs that have produced positive outcomes for schools and students; and

(g) Design needs assessment and data analysis tools that States and districts can use to benchmark their own programs and progress.

Priority 7—Center on Assessment and Accountability. Background: The Assessment and Accountability Center will focus on State and school district implementation of NCLB assessment and accountability requirements, including support for administration of accountability plans, and the design and administration of effective models, strategies and tools for the following:

(a) Implementing valid, standards-based testing and large scale assessment programs, especially for students with

limited English proficiency and special education students, and using classroom data designed to diagnose needs, guide instruction, and regularly monitor progress.

(b) Implementing data systems that support student assessment, program accountability, reporting requirements, and school improvement efforts.

(b) Training data users, including State and district and policy makers, program and school officials, administrators and classroom teachers to use data effectively in making instructional and school improvement decisions.

Text of Priority: To meet this priority, an applicant must demonstrate—

(a) In-depth understanding of and the ability to apply that understanding to testing, assessment and data systems issues confronting States and districts as they design and manage statewide accountability systems; and

(b) In-depth knowledge and understanding of—

- The range of assessment models, methods and tests available and their applicability for various testing purposes for diverse learners, including, for example, English language learners and students with disabilities;.
- Test development, test reliability and validity issues for different types of tests, and for measuring the academic progress of diverse learners;
- Curriculum to test alignment issues and strategies;
- Methods, systems, and rubrics for scoring tests and reporting the results; and
- How to interpret and use test results to inform decisions about student progress and education practice.

To meet the priority for the Assessment and Accountability Center, an applicant also must demonstrate expertise in designing or helping States and districts design data systems, establishing system standards, policies and procedures, and implementing an integrated assessment and accountability system that can yield real-time data to inform on-going decisions about student and school performance and program improvement. The center must work closely with other technical assistance providers, including the National Center on Education Outcomes and National Collaborative Center on Standards and Assessment Development.

Priority 8—Center on Instruction. Background: The Center on Instruction will focus on helping States and districts evaluate and select evidence-based interventions and practices to improve instruction for students in the content areas of reading/literacy, language arts, mathematics, and science, and English language acquisition. The Center on Instruction will disseminate existing research and information on proven instructional practices that work to help schools and districts identified as in need of improvement to improve the academic achievement of students from diverse backgrounds, including economically disadvantaged students, students who are receiving special education, students who have limited proficiency in English, migrant students, and other students and groups of students who are at risk of academic failure.

Instructional practices must include interventions designed to provide intensive support for students with disabilities, including students with disabilities who need modified achievement standards as described in "Raising Achievement: A New Path for No Child Left Behind", which can be found at *http://www.ed.gov/news/pressreleases/2005/04/04072005.html.*

Text of Priority: To receive funding under this priority, the proposed center must—

(a) Disseminate guidance for policy makers and practitioners on how to understand and interpret scientifically based research to evaluate instructional strategies and programs and their application and effectiveness in instructional practice;

(b) On issues related to early reading/language arts instruction, work closely with the Reading First National Technical Assistance Center and act as a provider of knowledge and research, consistent with that delivered to Reading First grantees;

(c) Help identify and track proven, as well as promising and emerging, practices around adolescent literacy; and

(d) Focus on analyzing and disseminating information on practices based on scientifically valid research and other promising practices in math and science instruction.

Staff of the proposed center must have extensive content knowledge and understanding of emerging and promising practices that can be shared with States and districts. Specifically, to meet this priority, an applicant must demonstrate—

(a) In-depth knowledge of instructional practices and strategies that work to improve schools and the academic achievement of students from diverse backgrounds, including economically disadvantaged students, students who are receiving special education, students who are limited English proficient, migrant students, and other students and groups of students who are at risk of academic failure;

(b) In-depth knowledge of evidence-based instructional interventions and features that improve achievement, particularly in reading and math, of students with disabilities, including students with disabilities who need modified achievement standards (Features that are extremely important for implementing, evaluating, and sustaining effective instruction for students with disabilities include intensity, duration, development of individual education plans, student grouping, the use of data to measure progress and inform instruction, and fidelity.);

(c) In-depth knowledge of instructional practices that work to help districts and schools identified as in need of improvement to improve the academic achievement of students from diverse backgrounds; and

(d) The ability to translate and communicate that knowledge in ways that are meaningful and useful to the Content Center's Regional Center clients and to education policy makers and practitioners.

Finally, because a proportion of the funding for the Center on Instruction comes from the Special Education Technical Assistance and Dissemination program, to meet this priority, an applicant's plan of activities must provide for a level of technical assistance benefiting students with disabilities that is consistent with that proportion of funding. Thus, for the first budget period (FY 2005), grantees must target 50 percent of services to support technical assistance needs related to identifying evidence-based interventions and practices that work to improve instruction and academic achievement in the content areas of reading/literacy, language arts, mathematics, and science for students with disabilities. For subsequent years, applicants must propose technical assistance benefiting students with disabilities that is equivalent to $1 million per year.

Priority 9—Center on Teacher Quality. Background: This center will focus on helping Regional Centers and States to identify proven and promising practices and strategies to meet a range of teacher quality goals under NCLB, including: (a) Recruitment, retention and selection of highly qualified teachers who have the greatest chance to succeed, particularly in districts and schools identified as in need of improvement; (b) support, induction, pay for performance/differentiated compensation systems, and mentoring strategies and programs that may

increase the likelihood that highly qualified teachers will stay in teaching, especially in high-need districts and schools and in rural and urban settings; (c) expanding alternative routes to teacher certification and transition into teaching (including programs for mid-career professionals, paraprofessionals, and recent college graduates) that have demonstrated a level of quality and intensity of training necessary to produce teachers with the knowledge and skills needed to be effective in meeting the needs of students at high risk of academic failure, including students who with disabilities, students who are limited English proficient and migrant students; (d) development and administration of high-quality, intensive and sustained in-service professional development programs to ensure that all teachers improve and expand their content knowledge, teaching skills and success and that school leaders have the knowledge and skill to support classroom teachers and instructional and school improvements; and (e) professional development programs and strategies to ensure that all teachers are prepared to identify and address the diverse needs of students in a classroom, particularly those students at risk of academic failure.

The Center on Teacher Quality will draw on existing knowledge and resources, including research supported by the Department's Institute of Education Sciences and teacher quality grant programs such as Transition to Teaching, Troops to Teachers, Teaching American History, and School Leadership programs.

Text of Priority: To meet this priority, an applicant must demonstrate—

(a) In-depth knowledge of (i) what makes a highly qualified teacher, with a particular focus on the teaching practices and approaches that are linked to improvements in achievement for students at risk of failure; (ii) the challenges, including systemic barriers, States face in their efforts to recruit, select, train and retain highly qualified teachers, particularly to teach in high-need and low-performing districts and schools and in urban and rural settings; and (iii) the available research-based strategies, practices and tools available to address those challenges;

(b) expertise in identifying effective alternative routes into teaching and demonstrated knowledge of the various teacher credentialing and certification practices currently being employed by States; and

(c) an understanding of the importance of principal leadership to hiring and retaining high-quality teachers.

Finally, because a proportion of the funding for this Center comes from the Special Education Technical Assistance and Dissemination program, to meet this priority, an applicant's plan of activities must provide for a level of technical assistance benefiting students with disabilities that is consistent with that proportion of funding. Thus, for the first budget period (FY 2005), grantees must target 50 percent of services to support technical assistance needs related to identifying and disseminating research-based knowledge and models of best practice to recruit, select, train and retain teachers with the knowledge and skills needed to be effective in meeting the needs of students who are receiving special education services. For subsequent years, applicants must propose technical assistance benefiting students with disabilities that is equivalent to $1 million per year.

Priority 10—Center on Innovation and Improvement. Background: This center will focus on effective systems and strategies to support States and districts as they (1) plan and administer school improvement programs, and (2) implement the key choice provisions of NCLB, including public school choice, supplemental educational services, charter schools, and equitable services for private school students. This center will inform and support Regional Centers as they work to raise the capacity of States to provide sustained technical assistance to, and help build infrastructure supports in, districts and schools.

To support States' and districts' plans and implementation of school improvement programs, the Center on Innovation and Improvement will work with Regional Centers and with the other Content Centers funded under this competition to identify school improvement processes, policies and practices for analyzing problems, building infrastructures at the district and school levels, involving teachers and parents in decision-making, and using Federal (especially Title I of ESEA), State and local resources more effectively to support improved teaching and learning for all students, including limited English proficient, migrant, and disabled students.

The center will also identify, analyze, and disseminate new and emerging approaches to governance, resource management, decision processes, personnel systems, and program coordination and alignment at the district and school levels that will help make schools and districts in need of improvement high performing.

To address the key choice provisions of NCLB, the center will assist States and districts with informing and empowering the neediest parents about the public school choice provisions, and with building capacity for public school choice, including through the development of high-quality charter schools. The center will also assist States and districts with implementing supplemental educational services by supporting their efforts to increase students' access to these services, to improve the quality of service providers, and to increase the variety of provider options available to parents.

The center will also assist in expanding the number of high-quality charter schools available to students by focusing assistance on States, charter authorizers (including local school boards), and charter developers for the planning, implementation, and oversight of effective charter schools. The center will also assist States and districts in improving their implementation of the provisions in NCLB regarding the equitable participation of private school students and teachers.

Text of Priority: In order to satisfy this priority, applicants must demonstrate in-depth knowledge of systemic reform and school improvement strategies that work to help schools in need of improvement close the achievement gap, as well as in-depth knowledge of the key choice provisions of NCLB. Applicants must also demonstrate the ability to translate and communicate that knowledge in ways that are meaningful and useful to their Regional Center clients and to education policy makers and practitioners.

Priority 11—Center on High Schools. Background: The Center on High Schools will focus on the comprehensive reform of high schools to ensure that every student receives the knowledge, skills and support they need to graduate from high school prepared to succeed in postsecondary education and the workforce. The center will place particular emphasis on identifying new and emerging strategies that will benefit high schools consistently in need of improvement and students who are at risk of academic failure.

Text of Priority: To satisfy this priority for a Center on High Schools, the proposed center must—

(a) Identify new and emerging approaches, including those involving district and State systemic reforms to improve and enhance the academic performance of students in high schools;

(b) identify, analyze and disseminate knowledge on strategies for: (i) Instituting higher academic standards, more rigorous coursework requirements, and assessment programs that align with

the performance requirements of college and work; (ii) ensuring that teachers and school leaders are prepared to teach and lead to academic excellence; (iii) instituting policies and programs to reduce the incidence of dropouts and increase graduation rates; (iv) increasing access to and improving the quality of education in the general education curriculum for students with disabilities in high schools; (v) involving parents in decisions about their child's high school educational program and planning for the child's post-high school future; (vi) adopting new approaches to governance, resource management, decision processes, personnel systems, and program coordination and alignment that may better facilitate and support high-quality high school programs; (vii) facilitating better coordination between K–12 programs and postsecondary institution requirements within States; and (viii) helping States rethink how they might better use Federal, State and local programs and resources for high schools.

To meet this priority, an applicant must also demonstrate in-depth understanding of: (a) The issues and challenges confronting high schools and the current high school reform context; (b) current research and practice regarding high school reform; (c) current research and practice regarding increasing access to and improving the quality of education in the general education curriculum for students with disabilities in high schools; and (d) the State and district systemic issues that need to be addressed to facilitate improvement in student achievement in high schools.

Finally, because a proportion of the funding for the center comes from the Special Education Technical Assistance and Dissemination program, to meet this priority, an applicant's plan of activities must provide for a level of technical assistance benefiting students with disabilities that is consistent with that proportion of funding. Thus, for the first budget period (FY 2005), grantees must target 50 percent of services to support technical assistance needs related to identifying and disseminating new approaches for increasing access to and improving the quality of education in the general education high school curriculum for students receiving special education services. For subsequent years, applicants must propose technical assistance benefiting students with disabilities that is equivalent to $1 million per year. The Center on High Schools will also be expected to collaborate with the Department's National Dropout Prevention Center for Students with Disabilities.

Additional Requirements

1. *Plan of Technical Assistance.* All applicants under this competition must submit as part of their application a 5-year plan of technical assistance that describes the strategies and approaches the applicant will use to carry out the activities of the proposed center in a manner that addresses the statutory requirements of sections 203 through 207 of the TA Act, and the priorities and additional requirements described in this notice.

2. *Focus on Districts and Schools that are High-Need and Identified as in Need of Improvement.* Applicants must demonstrate how the proposed plan of technical assistance will give priority to helping States, districts and schools build the capacity to develop and implement programs targeted specifically to meet the educational needs of students in school districts and schools with high percentages or numbers of school-age children from low income families, including such school districts and schools in rural and urban areas; and schools in the region that have been identified for school improvement under section 1116(b) of the ESEA.

3. *Focus on State/Regional Priorities.* Applicants must tailor the strategies and activities they propose to address the educational priorities and related technical assistance needs of States. For Regional Centers, the proposed plan of technical assistance must reflect a thorough understanding of the technical assistance needs and propose strategies that specifically address those needs for the particular States the Regional Center will serve, considering: (a) The educational goals and priorities of States to be served, including major reform efforts underway; (b) the current status of States in meeting the requirements and goals of NCLB; (c) the types of technical assistance and related strategies that would help States, districts and schools implement the programs and goals of NCLB and close existing achievement gaps in the content areas; and (d) State and regional student demographics and other contextual factors, such as urban and rural locality. In the case of Content Centers, the proposed plan of technical assistance should address the needs of States and regions nationally.

4. *Allocation of Resources.* Proposed technical assistance plans must allocate resources to and within States and regions (or, for Content Centers, across States and regions) in a manner that reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or schools funded under the jurisdiction of the Bureau of Indian Affairs, which may require special assistance from the center.

5. *Coordination and Collaboration.* Each applicant must describe in its technical assistance plan how the proposed center will: (a) Communicate regularly with the U.S. Department of Education, other comprehensive centers, the Regional Educational Laboratories, State educational agencies, and other technical assistance providers as appropriate; and (b) how the proposed center will plan and coordinate activities funded under this competition with the activities of those other entities to leverage available knowledge and resources and avoid duplicating efforts.

6. *Advisory Board.* Each application must propose, as part of its technical assistance plan, establishing an advisory board to advise the proposed comprehensive center on: (a) The activities of the center relating to its allocation of resources to and within each State in a manner that reflects the need for assistance in accordance with section 203(d) of Title II of the TA Act; (b) strategies for monitoring and addressing the educational needs of the region, on an ongoing basis; (c) maintaining a high standard of quality in the performance of the center's activities; and (d) carrying out the center's duties in a manner that promotes progress toward improving student academic achievement.

The plan must detail the composition of the board by name and affiliation in accordance with the requirements described in section 205 of the TA Act and in the application instructions found in the application package. A letter of commitment from each proposed board member must accompany the plan.

7. *Evaluation Plan.* Each applicant must provide, as part of its technical assistance plan, a plan to assess: (a) The needs of all States served by the comprehensive center on an ongoing basis, and (b) the progress and performance of the center in meeting the educational needs of their clients. The plan must identify performance objectives the project intends to achieve and performance measures for each performance objective; explain the quantitative and qualitative methods that will be used to collect, analyze, and

report performance data; and describe the methods that will be used to monitor progress and make mid-course corrections, as appropriate.

8. *Project Meetings.* For each center under this competition, applicants must budget for—

(a) The Project Director to attend a 2-day meeting in Washington, DC at least once a year for each year of the project period; and

(b) key staff to attend the following:

(i) A 2-day post-award conference with Department officials at in Washington, DC, to be held within 45 days from the grant award date. The purpose of this conference will be to—

- Refine the grantee's technical assistance plan as appropriate;
- Review with the grantee the Department's intentions regarding the role of the grantee's center(s);
- Define how the grantee's center(s) and the Department will work together as partners to accomplish the purposes of the grant;
- Establish lines of communication and feedback between grantees and the Department; and
- Establish content for cooperative agreements; and

(ii) A 1-day annual performance review with Department officials in Washington, DC beginning one year after the post-award conference and each year of the grant thereafter.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities and other non-statutory program requirements. Section 437(d)(1) of the General Education Provisions Act (20 U.S.C. 1232 (d)(1)), however, allows the Secretary to exempt from rulemaking requirements, regulations governing the first competition under a new program authority. This is the first competition for the new Comprehensive Centers program under Title II of the TA Act and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forego public comment on the absolute priorities, selection criteria and non-statutory requirements under section 437(d)(1). These absolute priorities, selection criteria and non-statutory requirements will apply to the FY 2005 grant competition only.

Program Authority: 20 U.S.C. 9602–9606.

Applicable Regulations: The Education Department General Administration Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Cooperative agreements.

Estimated Number of Awards: The Secretary intends to support 21 awards under this competition. Sixteen awards will support Regional Centers to serve States within defined geographic boundaries. The States and territories to be served by each Regional Center are described in this notice under *Absolute Priorities for Regional Centers.* Five awards will support Content Centers, each having a specific content expertise and focus, to support the work of the Regional Centers. These five Content Centers are: The Center on Assessment and Accountability, the Center on Instruction, the Center on Teacher Quality, the Center on Innovation and Improvement, and the Center on High Schools. The functions and activities for each of the five Content Centers are described in this notice under *Absolute Priorities for Content Centers.*

Note: The TA Act provides that the Secretary must ensure that not less than one Comprehensive Center is established in each of the 10 geographic regions served by the Regional Educational Laboratories. Note that these regions differ, in some instances, from the Regional Centers described in this notice. The Secretary will consider the location of the proposed Regional Centers in the selection and negotiation of cooperative agreements to ensure that this requirement of the law is met.

Estimated Available Funds: Eighteen of the 21 Centers proposed for funding under this competition will be supported entirely with funds from the Comprehensive Centers program, authorized under Title II of the TA Act. Three of the 21 centers will be supported with funds appropriated for the Comprehensive Centers program and the Special Education Technical Assistance and Dissemination program, which is authorized under IDEA.

The estimated available funds from the Comprehensive Centers program for FY 2005 is $40 million. Of that amount, an estimated $35 million will be used to fund Regional Centers and $5 million will be used to fund the Content Centers. FY 2005 funds will support awards for the first budget period of the project, which is the first nine months of the project period. Funding for the subsequent 12-month budget periods for years two through five (*i.e.* FY 2006 through FY 2009) is contingent on appropriation levels. For FY 2006, the President's budget, if funded at the requested level, would provide approximately $56.8 million for the Comprehensive Centers program.

The estimated total funds from the Special Education Technical Assistance and Dissemination program for FY 2005 is $3 million to provide partial support for three of the Content Centers for the first budget period of the project.

Depending on appropriation levels, a total of up to $3 million from the Special Education Technical Assistance and Dissemination program will be available for awards to the co-funded Content Centers in subsequent budget periods. The Department anticipates that each program will provide approximately 50 percent of the annual funding for the three co-funded Content Centers during the first budget period of the project. The co-funded Content Centers will be the Center on Instruction, the Center on Teacher Quality and the Center on High Schools.

Estimated Range of Awards: The estimated range of awards for Regional Centers is $750,000 to $4,604,348 from FY 2005 funds for the first budget period, covering the first 9 months of the project period. Funding for each Regional Center was calculated by formula, based equally on shares of population and poor children, ages 5–17 in the States (including DC, Puerto Rico, and the Outlying Areas) served by each Regional Center. Department estimates for awards to each Regional Center are provided at: *http://www.ed.gov/programs/newccp/index.html.*

The estimated range of awards for Content Centers is $1,000,000 to $2,000,000 for the first budget period, which includes the first nine months of the project period.

Estimated Average Size of Awards: Regional Centers—$2,187,500 in the first budget period (FY 2005) and approximately $2,895,313 in each subsequent budget period; the three co-funded Content Centers—$2,000,000 in the first budget period (FY 2005) and approximately $2,500,000 in each subsequent budget period; the other two Content Centers—$1,000,000 in the first budget period (FY 2005) and approximately $1,500,000 in each subsequent budget period.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Budget Period: Nine months for the first budget period only. Each subsequent budget period will be 12 months.

III. Eligibility Information

1. *Eligible Applicants:* Research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in this notice. An application from a consortium of eligible entities must include a consortium agreement. Letters of support do not meet the requirement for a consortium agreement.

2. *Cost Sharing or Matching:* This competition 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 the Internet or from the Education Publications Center (ED Pubs). To obtain an application via the Internet, use the following address: *http://www.ed.gov/programs/newccp/index.html.*

To obtain a copy from ED Pubs, write or call the following: Education Publications Center (ED Pubs), 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: *http://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 package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.283B.

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 elsewhere in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of the application, together with the forms you must submit, are in the application package for this competition. If an applicant is applying for more than one center, the applicant must submit a separate application for each center. Notice of Intent to Apply: In order to expedite the process for reviewing grant applications, we strongly encourage each potential applicant to send a notification of its intent to apply for funding to the following address: *OESE.cc@ed.gov.*

In this notice, please indicate the comprehensive center(s) for which you intend to apply. The notification of intent to apply for funding is optional and should not include information regarding your proposed application(s).

Page Limit: Applicants are strongly encouraged to limit their application to 150 pages.

3. *Submission Dates and Times:*

Applications Available: June 3, 2005.

Deadline for Notice of Intent to Apply: June 23, 2005. Dates of Pre-Application Meetings: The Department will conduct briefings on this competition via conference call to clarify the purposes of the program and the selection criteria and process at 11 AM on each of the following dates: Applicants for Regional Centers June 13 and 17; Applicants for Content Centers June 22 and 23. Please e-mail Enid Simmons at *enid.simmons@ed.gov* to register for a call date and time and obtain the conference call number and code.

Deadline for Transmittal of Applications: July 18, 2005.

Applications for grants under this competition must be submitted electronically using the Electronic Grant Application System (e-Application) available through the Department's e-Grants system. For information (including dates and times) about how to submit your application electronically or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6.

Note: We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: August 17, 2005.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically, unless you qualify for an exception to this requirement in accordance with the instructions in this section.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

a. *Electronic Submission of Applications.* Applications for grants under the new Comprehensive Center Competition CFDA Number 84.283B must be submitted electronically using e-Application available through the Department's e-Grants system, accessible through the e-Grants portal page at: *http://e-grants.ed.gov.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

- You must complete the electronic submission of your grant application by 4:30 p.m., Washington, DC time, on the application deadline date. The e-Application system will not accept an application for this competition after 4:30 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.
- The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight Saturday, Washington, DC time. Please note that the system is unavailable on Sundays, and between 7 p.m. on Wednesdays and 6 a.m. on Thursdays, Washington, DC time, for maintenance. Any modifications to these hours are posted on the e-Grants Web site.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including 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 must 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.

• Prior to submitting your electronic application, you may wish to print a copy of it for your records.

• After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the ED 424 to the Application Control Center after following these steps:

(1) Print ED 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the ED 424.

(4) Fax the signed ED 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of e-Application System Unavailability: If you are prevented from electronically submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and,

(2) (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or (b) The e-Application system is unavailable for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either: (1) The person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If the system is down and therefore the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application. Extensions referred to in this section apply only to the unavailability of the Department's e-Application system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the e-Application system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Department's e-Application system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Enid Simmons, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E307, Washington, DC 20202. FAX: (202) 250–5870.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.* If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address: *By mail through the U.S. Postal Service:* U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.283B, 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 84.283B), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.* If you qualify for an exception to electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.283B), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 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

1. *Selection Criteria:* We will use the following selection criteria to evaluate applications under this competition. The maximum score for each criterion is indicated in parentheses with the criterion. The maximum number of points an application may earn based on the selection criteria is 100 points.

a. *Need for the Center (10 points).* In determining the need for the proposed

center, the Secretary considers the following:

(i) The extent to which the proposed plan of technical assistance presents strategies that address the priority technical assistance needs of States as evidenced by in-depth knowledge and understanding of—

(A) In the case of Content Centers, data and evidence on State and district technical assistance needs and demands related to standards and accountability, teacher quality, innovation and improvement, instruction, or high school reform;

(B) For Regional Centers, the specific educational goals and priorities of the States to be served by the center, including relevant major reform efforts underway;

(C) For Regional Centers, the status of States in meeting the requirements of NCLB, including the number and proportion of districts and schools in need of improvement within each State, the number and proportion of students not meeting State standards in the reading and mathematics; and

(D) For Regional Centers, applicable State and, regional demographics and other contextual factors and their relevance for the purposes, goals, and challenges for implementing the provisions of NCLB.

(ii) For both Regional and Content Centers, the likelihood that activities of the proposed center will result in products and services that are of high quality, high relevance, and high usefulness to clients.

b. *Significance (10 points).* In determining the significance of the proposed center, the Secretary considers the following:

(i) The extent to which the proposed technical assistance plan presents an approach that will likely result in systems change or improvement at the State or district levels.

(ii) The potential contribution of the center proposal to increase knowledge or understanding of effective strategies.

(iii) The importance of outcomes likely to be attained by the proposed center, especially improvements in teaching and student achievement.

c. *Quality of the Project Design (25 points).* In determining the quality of the design of the proposed center, the Secretary will consider the following factors:

(i) The extent to which the application proposes an exceptional approach for carrying out the purposes and activities for the center for which the applicant is applying.

(ii) The extent to which the application proposes high-leverage approaches that focus assistance at the State level and on helping States build capacity to support district and school improvement and programs.

(iii) The extent to which the proposed technical assistance plan reflects in-depth knowledge and understanding of NCLB, as well as supporting regulations and guidance pertinent to carrying out the purposes and activities of the center for which the applicant is applying.

(iv) The extent to which the proposed technical assistance plan reflects in-depth knowledge and understanding of available scientifically valid, research-based and/or evidence-based practices to improve student achievement and close achievement gaps and demonstrates knowledge of and access to reliable sources for obtaining such knowledge on an ongoing basis.

(v) The extent to which the proposed technical assistance plan reflects in-depth knowledge and understanding of current scientifically valid, research-based and/or evidence-based technical assistance methods and practices.

d. *Quality of Project Personnel and Adequacy of Grantee Resources (25 points).* In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

In addition, the Secretary will consider the following factors under this criterion:

(i) The extent to which the application presents evidence of professional preparation and successful prior experience of the center director and other key staff, including sub-grantees and key consultants and partners that would indicate that each has the knowledge, skills and ability to successfully carry out the responsibilities they are assigned. For example, the extent to which the application presents evidence of:

(A) In the case of Content Centers, (1) in-depth knowledge of content and research in the proposed center's focus area, particularly those practices and approaches that are linked to improvements in achievement for students at risk of failure, including students from low-income families, students who have limited English proficiency, students with disabilities, and migrant students; (2) the ability to translate and communicate that knowledge; and (3) the demonstrated ability to collaborate with other providers and research institutions, broker relationships, and connect stakeholders at a regional and/or national level, as appropriate, to identify and share best practices.

(B) In the case of Regional Centers, expertise and demonstrated successful experience assisting States with comprehensive planning, needs assessments and implementing school improvement programs and processes, with a particular focus on improving outcomes for students at risk of failure, including students from low-income families, disabled students, students with limited proficiency in English, and migrant students.

(ii) The extent to which proposed center staff have expertise using technology to deliver technical assistance and implementing school improvement reforms within urban and rural contexts.

(iii) The extent to which the applicant has demonstrated experience providing technical assistance and professional development in reading, mathematics, science and technology, especially in schools and districts identified as in need of improvement.

(iv) The extent to which the applicant has prior relevant experience operating a project of the scope required for the purposes of the center being proposed.

(v) The extent to which the application proposes an advisory board membership in accordance with the requirements of the TA Act and includes reasonable assurance of their commitment to serve on the board. The extent to which the resources and plans for the board's operation are reasonable and cost-efficient.

(vi) The adequacy of resources for the proposed project, including facilities and equipment, to successfully carry out the purposes and activities of the proposed project.

e. *Quality of the Management Plan (20 points).* In determining the quality of the management plan for the proposed project, the Secretary will consider the following factors:

(i) The extent to which resources are allocated within the region in a manner that reflects the need for assistance.

(ii) The adequacy of the management plan to achieve the objectives of the project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(iii) The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(iv) The adequacy of procedures for ensuring feedback on performance measures and continuous improvement in the operation of the proposed project.

(v) The extent to which the application proposes exceptional, innovative and workable approaches and plans to—

(A) Communicate on an ongoing basis with other comprehensive centers, as appropriate, the Regional Educational Laboratories, the client State educational agencies and other technical assistance providers serving the region; and

(B) Coordinate the plans and activities funded by this grant with the plans and activities of the State and other agencies, in order to leverage resources, avoid duplications and otherwise maximize the effectiveness of services; and make effective use of available technologies to widely disseminate information about proven practices.

f. *Quality of the Project Evaluation (10 points).* In determining the quality of the evaluation plan, the Secretary will consider the following factors:

(i) The extent to which the performance goals and objectives for the project are clearly specified and measurable in terms of the project activities to be accomplished and their stated outcomes for clients.

(ii) The extent to which the methods for monitoring performance and evaluating the effectiveness of project strategies in terms of outcomes for clients are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(iii) The extent to which the methods of evaluation will provide continuous performance feedback and permit the continuous assessment of progress toward achieving intended outcomes.

(iv) The extent to which the applicant demonstrates a strong capacity to provide reliable data on performance measures.

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 will 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, 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.

4. *Performance Measures:* To evaluate the overall success of the Comprehensive Center Program, beginning in FY 2006, the Department will use three performance measures to assess the quality, relevance, and usefulness of center activities funded under this competition. These new measures, adapted from a set of common measures developed to help assess performance across the Department's technical assistance programs, are: (1) The percentage of technical assistance services that are deemed to be of high quality by an independent review panel of expert stakeholders; (2) the percentage of technical assistance services that are deemed to be of high relevance to educational policy or practice by an independent review panel of qualified practitioners; and (3) the percentage of technical assistance services that are deemed to be of high usefulness to educational policy or practice by target audiences.

All grantees will be expected to submit, as part of their performance report, quantitative data documenting their progress with regard to these performance measures. The Department will provide information to grantees about the independent panels conducting the review, the review process, and the definitions and criteria that will be used to evaluate quality, relevance and usefulness.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Enid Simmons, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E307, Washington, DC 20202–6335. Telephone: (202) 401–0039 or by e-mail: *OESE.cc@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: May 31, 2005.

Raymond Simon,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 05–11097 Filed 6–2–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.345A]

Office of Postsecondary Education; Underground Railroad Educational and Cultural Program (URR)

ACTION: Correction; Notice correcting the Deadline for Intergovernmental Review date.

SUMMARY: We correct the *Deadline for Intergovernmental Review* in the notice published on May 13, 2005 (70 FR 25553).

SUPPLEMENTARY INFORMATION: On May 13, 2005, we published a notice in the **Federal Register** inviting applications for new awards for FY 2005 for the Underground Railroad Educational and Cultural Program. The date listed under *Deadline for Intergovernmental Review* was incorrect. The correct *Deadline for Intergovernmental Review* is August 12, 2005.

FOR FURTHER INFORMATION CONTACT: Beverly Baker, Fund for the Improvement of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., suite 6140, Washington, DC 20006–8544. Telephone: (202) 502–7503 or by e-mail: *beverly.baker@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call

the Federal Relay Service (FIRS) 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.

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 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.

For additional program information call the FIPSE office (202) 502–7500 between the hours of 8 a.m. and 5 p.m., eastern time, Monday through Friday.

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: May 31, 2005.

Sally L. Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. 05–11099 Filed 6–2–05; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services (OSERS); Notice Reopening the Small Business Innovative Research (SBIR) Program Fiscal Year (FY) 2005 Competition

Catalog of Federal Domestic Assistance (CFDA) Number: 84.133S–1.

SUMMARY: On March 10, 2005, we published in the **Federal Register** (70 FR 11954) a notice inviting applications for the SBIR program's FY 2005 competition. The original notice for this FY 2005 competition established a May 9, 2005 deadline date for eligible applicants to apply for funding under this program.

In order to afford as many eligible applicants as possible an opportunity to receive funding under this program, we are reopening the SBIR Phase I program FY 2005 competition. The new application deadline date for the competition is June 10, 2005.

DATES: Deadline for Transmittal of Applications: June 10, 2005.

Note: Applications for grants under the SBIR Phase I program may be submitted either electronically using the Grants.gov site by 4:30 p.m., Washington, DC time or in paper format. Through the Grants.gov site, you will be able to register, 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. For information about how to submit your application electronically or in paper format, please refer to Section IV. 7. *Other Submission Requirements* in the March 10, 2005 notice (70 FR 11956).

The deadline for the exception to the electronic submission requirement no longer applies.

Note: Grants.gov registration is a one-time process that takes several days to complete. You cannot submit an application until all of the Get Started steps are complete. For detailed information on the Get Started Steps, please go to: *http://www.grants.gov/GetStarted.*

FOR FURTHER INFORMATION CONTACT: Carol Cohen, U.S. Department of Education, 400 Maryland Avenue, SW., room 6035, Potomac Center Plaza, Washington, DC 20202–2700. Telephone: (202) 245–7303 or by e-mail: *carol.cohen@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.

SUPPLEMENTARY INFORMATION: Any eligible applicant may apply for funding under this program by the deadline date in this notice. Eligible applicants that submitted their applications in a timely manner for the SBIR program FY 2005 competition's original deadline date of 4:30 p.m. Washington, DC time on May 9, 2005, are not required to re-submit their applications or re-apply in order to be considered for FY 2005 awards under this program. We encourage eligible applicants to submit their applications as soon as possible to avoid any problems with filing electronic applications on the last day. For technical support and assistance on using grants.gov or for any technical problems you may experience contact the Grants.gov Customer Service Desk at 1–800–518–4726. The deadline for submission for applications will not be extended any further.

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.*

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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: May 27, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–11100 Filed 6–2–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Hanford. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, June 16, 2005, 9 a.m.–5 p.m., Friday, June 17, 2005, 8:30 a.m.–4 p.m.

ADDRESSES: Red Lion Hanford House, 825 Jadwin Avenue, Richland, WA.

Phone Number: (509) 946–7611.

Fax Number: (509) 943–8564.

FOR FURTHER INFORMATION CONTACT: Yvonne Sherman, Public Involvement Program Manager, Department of Energy Richland Operations Office, 825 Jadwin, MSIN A7–75, Richland, WA 99352; phone: (509) 376–6216; Fax: (509) 376–1563.

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:

- Estimated Completion for the Waste Treatment and Immobilization Plant.
- Burial Ground Cleanup.

- Advice from the River and Plateau Committee concerning U Area for Soil Site Cleanup.
- Hanford Advisory Board Leadership Retreat.
- Site-Specific Advisory Board Update.
- 300 Area End States Workshop.
- Advice from the River and Plateau Committee concerning Integrated Disposal Facility.
- Yucca Mountain Update.
- Contracting Structure and Frequency.
- Public Comment.

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 Yvonne Sherman's office at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments. This notice is being published less than 15 days before the date of meeting due to programmatic issues that had to be resolved.

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–Friday, except Federal holidays. Minutes will also be available by writing to Erik Olds, Department of Energy, Richland Operations Office, 825 Jadwin, MSIN A7–75, Richland, WA 99352, or by calling him at (509) 376–1563.

Issued at Washington, DC on May 31, 2005.

R. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 05–11073 Filed 6–2–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC05–520–000; FERC–520]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

May 27, 2005.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments on the collection of information are due August 8, 2005.

ADDRESSES: Copies of sample filings of the proposed collection of information can be obtained from the Commission's Web site (*http://www.ferc.gov/docs-filings/elibrary.asp*) or to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director Officer, ED–33, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC05–520–000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on "Make an E-filing", and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact *FERCOlineSupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–520 "Application for Authority to Hold Interlocking Directorate Positions" (OMB No. 1902–0083) is used by the Commission to implement the statutory provisions of Section 305(b) of the Federal Power Act (FPA) (16 U.S.C. 825d). Section 305(b) makes the holding of certain defined interlocking corporate positions unlawful unless the Commission has authorized the interlocks to the held and, requires the applicant to show in a form and manner as prescribed by the Commission, that neither public nor private interests will be adversely affected by the holding of the position. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 45.

Under part 45, each person that desires to hold interlocking positions must submit an application to the Commission for authorization, or if qualified, comply with the requirements for automatic authorization. The interlocking positions application requirements are set forth in section 45.8; automatic authorization requirements are set forth in section 45.9. In addition, a person already holding an existing authorized interlocking position, must apply for separate authorization under section 45.4(a) when appointed to a new position within the same company. The information required under part 45 generally identifies the applicant, describes the various interlocking positions the applicant seeks authorization to hold, provides information on the applicant's financial interests, other officers and directors of the firms involved, and the nature of the business relationships among the firms.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1) × (2) × (3)
28	1	51.8	1450

Estimated cost burden to respondents is $75,677. (1450 hours/2080 hours per year times $108,558 per year average per employee = $ 75,677.) The cost per respondent is $2,703.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2817 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC05–521–001, FERC–521]

Commission Information Collection Activities, Proposed Collection; Comment Request; Submitted for OMB Review

May 27, 2005.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review of this information collection requirement. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of March 25, 2005 (70 FR 15312–13) and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by June 30, 2005.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira_submission@omb.eop.gov* and include the OMB Control No. as a point of reference. The Desk Officer may be reached by telephone at 202–395–4650. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Executive Director, ED–33, Attention: Michael Miller, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings, such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC05–521–001.

Documents filed electronically via the Internet must be prepared in, MS Word, Portable Document Format, Word Perfect or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on "Make an E-filing," and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of comments. User assistance for electronic filings is available at 202–502–8258 or by e-mail to *efiling@ferc.gov*. Comments should not be submitted to the e-mail address.

All comments are available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION:

Description

The information collection submitted for OMB review contains the following:

1. *Collection of Information:* FERC–521" Payments for Benefits from Headwater Improvements".

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* 1902–0087.

The Commission is now requesting that OMB approve with a three-year extension of the expiration date, with no changes to the existing collection. The information filed with the Commission is mandatory.

4. *Necessity of the Collection of Information:* The information is used by the Commission to implement the statutory provisions of section 10(f) of the Federal Power Act (FPA). The FPA authorizes the Commission to determine headwater benefits received by downstream hydropower project owners. Headwater benefits are the additional energy production possible at a downstream hydropower project resulting from the regulation of river flows by an upstream storage reservoir.

When the Commission completes a study of a river basin, it determines headwater benefits charges that will be apportioned among the various downstream beneficiaries. A headwater benefits charge, and the cost incurred by the Commission to complete an evaluation are paid by downstream hydropower project owners. In essence,

the owners of non-federal hydropower power projects that directly benefit from a headwater(s) improvement must pay an equitable portion of the annual charges for interest, maintenance, and depreciation of the headwater project to the U.S. Treasury. The regulations provide for the apportionment of these costs between the headwater project and downstream projects based on a downstream energy gains and propose equitable apportionment methodology that can be applied to all river basins in which headwater improvements are built. The data the Commission requires owners of non-federal hydropower projects to file for determining annual charges is specified in 18 Code of Federal Regulations (CFR) Part 11.

5. *Respondent Description:* The Commission estimates that it will receive annually on average 3 filings per year.

6. *Estimated Burden:* 120 total hours, 3 respondents (average per year), 1 response per respondent, and .40 hours per response (average).

7. *Estimated Cost Burden to respondents:* The estimated total cost to respondents is $6,263. (120 hours ÷ 2080 × $108,558).

Statutory Authority: Section 10(f) of the Federal Power Act, 16 U.S.C. 803.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2818 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL05–113–000]

Acadia Power Partners LLC, Cleco Power LLC, Cleco Evangline LLC, Perryville Partners, L.L.C.; Notice of Institution of Proceeding and Refund Effective Date

May 26, 2005.

On May 25, 2005, the Commission issued an order that instituted a proceeding in Docket No. EL05–113–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, concerning the justness and reasonableness of the Cleco Companies' market-based rates in the Cleco Power LLC, Cleco Evangline LLC, Perryville Energy Partners, L.L.C. and Acadia Power Partners control area. *South Point Energy Center, LLC, et al.*, 111 FERC ¶ 61,239 (2005).

The refund effective date in Docket No. EL05–113–000, established pursuant to section 206(b) of the FPA, will be 60 days from the date of publication of this notice in the **Federal Register.**

Magalie R. Salas,

Secretary.

[FR Doc. E5–2860 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–314–003]

Colorado Interstate Gas Company; Notice of Compliance Filing

May 27, 2005.

Take notice that, on May 25, 2005, Colorado Interstate Gas Company (CIG) submitted a compliance filing pursuant to the Commission's Order issued May 10, 2005, in Docket No. RP04–314–001 and 002.

CIG states that copies of the filing were served on parties on the official service list.

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. E5–2824 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–255–006]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

May 27, 2005.

Take notice that on May 25, 2005, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Eighth Revised Sheet No. 320, with a proposed effective date of May 8, 2004.

Columbia states that on February 10, 2005, it made a compliance filing to revise tariff sheets that, among other things, added new language to the minimum pressure and hourly flow rate provisions of its General Terms and Conditions. The Commission accepted the compliance filing on May 10, 2005, subject to additional modifications. The instant filing reflects those changes.

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. E5–2822 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–632–015]

Dominion Transmission, Inc.; Notice of Filing

May 27, 2005.

Take notice that on May 11, 2005, Dominion Transmission, Inc. (Dominion) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Twenty-Third Revised Sheet No. 31, Nineteenth Revised Sheet No. 35 and Eleventh Revised Sheet No. 39, to become effective June 1, 2005.

Dominion states that the purpose of this filing is to revise the Fuel Retention Percentages for Rate Schedules GSS, ISS and MCS (Balancing) to reflect Dominion's suspension of its Storage Amortization Adder.

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 § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2819 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC05–87–000]

EME Homer City Generation L.P., Metropolitan Life Insurance Company, General Electric Capital Corporation; Notice of Filing

May 27, 2005.

Take notice that on May 24, 2005, EME Homer City Generation L.P., (EME Homer City) Metropolitan Life Insurance Company (MetLife) and General Electric Capital Corporation (GECG) filed with the Commission an application pursuant to section 203 of the Federal Power Act for authorization of an indirect disposition of jurisdictional facilities whereby interests in a passive, non-power-selling lessor of the Homer City generating station in Pennsylvania will be transferred by GECG or an affiliate to MetLife or an affiliate.

Any person desiring to intervene or to protest in the above proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other and the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filing in the above proceeding is accessible in the Commission's eLibrary system. It is also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlinSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2814 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–64–005]

Gulf South Pipeline Company, LP; Notice of Compliance Filing

May 27, 2005.

Take notice that on May 20, 2005, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, with an effective date of June 27, 2005:

Third Revised Sheet No. 301
Fourth Revised Sheet No. 400
Fifth Substitute Original Sheet No. 1205
Fourth Revised Sheet No. 1413
Third Revised Sheet No. 1417
Third Revised Sheet No. 3702
Fifth Revised Sheet No. 3706

Gulf South states that it has modified Sheet No. 1205 to be effective August 17, 2004 to provide that a new non-creditworthy Customer shall provide security based upon 10% of its estimated usage for the first seven months of business. Gulf South states that it also has removed the requirement that Gulf South credit that cash pool with any proceeds retained due to

customer default related to transportation imbalance security.

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. E5–2820 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–353–000]

Gulf South Pipeline Company, LP; Notice of Proposed Changes in FERC Gas Tariff

May 27, 2005.

Take notice that on May 25, 2005, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to become effective June 24, 2005.

Tenth Revised Sheet No. 20,
Seventh Revised Sheet No. 21,
Seventh Revised Sheet No. 22,
Seventh Revised Sheet No. 23,
First Revised Sheet No. 103,
First Revised Sheet No. 104,
Second Revised Sheet No. 105,
First Revised Sheet No. 106,
Second Revised Sheet No. 202,
First Revised Sheet No. 203,
Second Revised Sheet No. 204,
Original Sheet Nos. 205,
Sheet Nos. 206–299.

Gulf South states that it is seeking authority to eliminate the fuel charge component of its transportation rate for selected transactions that will be posted on Gulf South's Web site.

Gulf South states that copies of this filing have been served upon Gulf South's customers, state commissions and other interested parties.

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. E5–2828 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC05–86–000]

La Paloma Generating Company, LLC, La Paloma Holding Company, LLC and La Paloma Acquisition Co, LLC; Notice of Filing

May 27, 2005.

Take notice that on May 24, 2005, La Paloma Generating Company, LLC (Genco), La Paloma Holding Company, LLC (La Paloma Holding), and La Paloma Acquisition Co, LLC (La Paloma Acquisition Co) (collectively, Applicants) submitted an application pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities, whereby La Paloma Holding proposes to transfer to La Paloma Acquisition Co one-hundred percent of the membership interests in Genco, which owns and operates an approximately 1,022 MW combined cycle generating facility in the California Independent System Operator (CAISO) market, and certain related rights and assets. Genco states that the sale of the membership interests in Genco from La Paloma Holding to La Paloma Acquisition Co will constitute the indirect disposition of certain jurisdictional facilities and assets held by Genco, including a market-based rate wholesale power sales tariff on file with the Commission, certain interconnection facilities associated with the generating facility, and related FPA jurisdictional accounts, books and records. Genco also states that the Applicants seek expedited review of the application and request confidential treatment of certain documents submitted therewith.

Applicants state that a copy of the application was served upon the California Public Utilities Commission.

Any person desiring to intervene or to protest in the above proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously

intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filing in the above proceeding is accessible in the Commission's eLibrary system. It is also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlinSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2813 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–352–000]

Northwest Pipeline Corporation; Notice of Tariff Filing and Filing of Non-Conforming Service Agreement

May 27, 2005.

Take notice that on May 24, 2005, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Eleventh Revised Sheet No. 373, to become effective June 24, 2005. Northwest states that it also tendered for filing a Rate Schedule TF–1 non-conforming service agreement.

Northwest states that the purpose of this filing is to: (1) Submit a restated non-conforming Rate Schedule TF–1 service agreement for Commission acceptance for filing, (2) revise the listing of this restated agreement on the list of non-conforming service agreements in Northwest's tariff; and (3) remove a restated service agreement from the list of non-conforming service agreements in Northwest's tariff.

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. E5–2827 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–157–004]

Saltville Gas Storage Company L.L.C.; Notice of Compliance Filing

May 27, 2005.

Take notice that, on May 24, 2005, Saltville Gas Storage Company L.L.C. (Saltville) tendered for filing a revised negotiated rate transaction: a Firm Storage Service Agreement with Washington Gas Light Company (WGL) pursuant to Saltville's Rate Schedule FSS.

Saltville states that the purpose of this filing is to comply with the Commission's Order on March 24, 2005 in Saltville Gas Storage Company L.L.C., (110 FERC ¶ 61,324 (2005)).

Saltville states that copies of the filing were mailed to all people on the official service list maintained by the Commission for this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed 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. E5–2825 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER05–717–000, ER05–717–001, ER05–721–000, ER05–721–001]

Spring Canyon Energy LLC; Judith Gap Energy LLC; Notice of Issuance of Order

May 26, 2005.

Spring Canyon Energy LLC and Judith Gas Energy LLC (together, Applicants) filed applications for market-based rate authority, with accompanying rate tariffs. The proposed rate tariffs provide for the sales of capacity, energy and ancillary services at market-based rates. Applicants also requested waiver of various Commission regulations. In particular, Applicants requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Applicants.

On May 25, 2005, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Applicants should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is June 24, 2005.

Absent a request to be heard in opposition by the deadline above, Applicants are authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Applicants, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Applicants issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E5–2859 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC05–88–000]

TransCanada Hydro Northeast Inc., the Town of Rockingham, VT; Notice of Filing

May 27, 2005.

Take notice that on May 24, 2005, TransCanada Hydro Northeast Inc. (TC Hydro NE) and the Town of Rockingham, Vermont (collectively, Applicants) submitted an application pursuant to section 203 of the Federal Power Act (FPA) requesting authorization of the transfer of TC Hydro NE's interests in the jurisdictional facilities associated with the 49 MW Bellows Falls Hydroelectric Project (Facility).

Any person desiring to intervene or to protest in the above proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filing in the above proceeding is accessible in the Commission's eLibrary system. It is also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. on June 14, 2004.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2815 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–35–001]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

May 27, 2005.

Take notice that on May 25, 2005, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute First Revised Sheet No. 255 and Fifth

Revised Sheet No. 256, with a November 22, 2005 effective date.

Transco states that the filing is being made in compliance with the Commission's Order issued May 10, 2005, in Docket No. RP05–35–000. Transco states that such filing clarifies certain provisions set forth in section 5(a), Measuring Stations, of the General Terms and Conditions of Transco's Volume No. 1 Tariff.

Transco states that copies of the filing were served on parties on the official service list.

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. E5–2826 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–313–003]

Wyoming Interstate Company, Ltd; Notice of Compliance Filing

May 27, 2005.

Take notice that on May 25, 2005, Wyoming Interstate Company, (WIC) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute Second Revised Sheet No. 49D and Substitute Second Revised Sheet No. 85B, with an effective date of June 27, 2005.

WIC states that the filing is being made to comply with the Commission's Order issued May 10, 2005 in this proceeding.

WIC states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2823 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL05–119–000]

Devon Power LLC, Complainant v. ISO New England, Inc., Respondent; Notice of Complaint

May 26, 2005.

Take notice that on May 24, 2005, Devon Power LLC (Devon) filed a Complaint against ISO New England, Inc. (ISO–NE). Devon requests that the Commission issue an order (1) finding that ISO–NE failed to properly compensate Devon for the services it provided to ISO–NE from August 1, 2004 through September 30, 2004, pursuant to a Reliability Must Run Agreement (RMR Agreement) between Devon and ISO–NE; (2) directing ISO–NE to pay $802,000 to Devon to appropriately compensate it for the reliability services Devon provided under the RMR Agreement; and (3) providing any other relief the Commission deems appropriate.

Devon states that copies of the filing were served on ISO–NE and other potentially affected entities, as required by Rule 206(c) of the Commission's Rules of Practice and Procedure (18 CFR 385.206(c)(2004).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online link at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be

listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filing in the above proceeding is accessible in the Commission's eLibrary system. It is also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. on June 15, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2816 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL05–93–000]

PJM Industrial Customer Coalition, Complainant v. PJM Interconnection, L.L.C. and American Electric Power Service Corporation, Respondents; Notice Requiring Reply

May 26, 2005.

On April 15, 2005, PJM Industrial Customer Coalition (PJMICC) filed a complaint requesting that the Commission direct PJM Interconnection, L.L.C. (PJM) and American Electric Power Service Corporation (AEP) to allow certain PJMICC members located within the AEP service territory to participate in PJM's demand response programs. In its answer to the complaint, AEP asserts that, under PJM's tariff, PJMICC members may be prohibited from participating in PJM's demand response program in AEP's service territory, because relevant state retail tariffs and certain contractual obligations preclude such participation. In its answer, PJM asserts that its tariff recognizes that state or contractual requirements may preclude participation in PJM's demand response programs.

In order to further elucidate the issues raised in AEP's and PJM's answer, notice is hereby given that PJMICC must file a reply to the answers on or before June 10, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–2858 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. PR04–15–000, PR04–16–000, PR02–10–005, and PR05–3–000]

Enogex Inc.; Notice of Technical Conference

May 27, 2005.

Take notice that a technical conference will be held on Tuesday, June 7, 2005, and Wednesday, June 8, 2005, at 10 a.m. (EST), in a room to be designated at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The technical conference will deal with issues raised in the referenced proceedings (Docket Nos. PR04–15–000, PR04–16–000, PR02–10–005 and PR05–3–000). The purpose of the conference will be to discuss the filings made by Enogex including a range of cost of service issues associated with Enogex's three year general rate filing. The technical conference will also address responses to those filings, including offers of settlement.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

All interested parties and staff are permitted to attend. For further information please contact Eric Winterbauer at (202) 502–8329 or e-mail *eric.winterbauer@ferc.gov*.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2821 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Teleconference Santa Felicia Hydroelectric Project (Project No.2153–012)

May 26, 2005.

a. *Date and Time of Meeting:* June 9, 2005, 12 noon to 2 p.m. (P.d.t.).

b. *Place:* All interested parties are invited to participate in a teleconference from their location.

c. *FERC Contact:* Kenneth Hogan, (202) 502–8434: *Kenneth.Hogan@ferc.gov.*

d. *Applicant Contact:* Mr. John Dickenson, (805) 525–4431.

e. *Purpose of the Meeting:* The Federal Energy Regulatory Commission seeks clarification of the additional information response filed on April 29, 2005, by the United Water Conservation District. This information was filed as response to the Commission's request dated April 1, 2005.

f. All local, State, and Federal agencies, and interested parties, are hereby invited to listen in on the teleconference. The phone number and passcode to the teleconference will be provided upon a request made by interested parties. Please contact Kenneth Hogan via e-mail at: *kenneth.hogan@ferc.gov* no later than close of business June 7, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–2857 Filed 6–2–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OW–2004–0026; FRL–7920–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Baseline Standards and Best Management Practices for the Coal Mining Point Source Category—Coal Remining Subcategory and Western Alkaline Coal Mining Subcategory (Renewal), EPA ICR Number 1944.03, OMB Control Number 2040–0239

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office

of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on May 31, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 5, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OW–2004–0026, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *OW-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket, Mail Code 4101T, 1200 Pennsylvania Ave., NW.; Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jack Faulk, Mail Code 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–0768; fax number: 202–564–6431; e-mail address: *faulk.jack@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On August 30, 2004 (69 FR 52883), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OW–2004–0026, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the 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 docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: Baseline Standards and Best Management Practices for the Coal Mining Point Source Category—Coal Remining Subcategory and Western Alkaline Coal Mining Subcategory (Renewal)

Abstract: This ICR presents estimates of the burden and costs to the regulated community (*i.e.*, coal remining sites and western alkaline surface coal mining sites) and NPDES permit control authorities for data collection and record keeping associated with modeling, Best Management Practice (BMP) implementation, baseline monitoring, and performance monitoring requirements of the Coal Mining Point Source—Coal Remining Subcategory and Western Alkaline Coal Mining Subcategory Effluent Limitations Guidelines (40 CFR 434.70 and 434.80).

Coal remining is the mining of surface mine lands, underground mine lands, and coal refuse piles that have been previously mined and abandoned. Acid mine drainage from abandoned coal mines is a significant problem in Appalachia, with approximately 1.1 million acres of abandoned coal mine lands and over 9,700 miles of streams polluted by acid mine drainage.

During the remining process, acid forming materials are removed with the extraction of the coal, pollution abatement BMPs are implemented under applicable regulatory requirements, and the abandoned mine land is reclaimed. During remining, many of the problems associated with abandoned mine land, such as dangerous highwalls, vertical openings, and abandoned coal refuse piles can be corrected without using public funds.

The remining regulations include a requirement that the operator implement BMPs to demonstrate the potential to improve water quality. The site-specific BMPs will be incorporated into a pollution abatement plan. Data collection and record keeping requirements under this Subcategory will include baseline determination, annual monitoring and reporting for pre-existing discharges and a description of site-specific BMPs. In most cases, EPA believes that the BMP requirements for the pollution abatement plan will be satisfied by an approved SMCRA plan.

Western alkaline coal mines include surface and underground mining operations located in the interior western United States. EPA estimates that 46 mine sites will be affected by this subcategory, representing 2% of the total number of U.S. coal mines, but accounting for 1/3 of U.S. coal production.

The subcategory establishes nonnumeric limitations on the amount of sediment that can be discharged from coal mine reclamation areas. In lieu of numeric standards, the mine operator must develop a site-specific sediment control plan for surface reclamation areas identifying BMP design, construction, and maintenance specifications and expected effectiveness. The operator will be required to demonstrate, using models accepted by the regulatory authority, that implementation of the BMPs will ensure that average annual sediment levels in drainage from reclamation areas would not exceed predicted natural background levels of sediment discharges at that site. Data collection and record keeping requirements under this Subcategory will include a description of site-specific sediment control BMPs and watershed model results. EPA believes that plans developed to comply with SMCRA requirements will usually fulfill the EPA requirements for sediment control plans.

EPA does not expect that any confidential business information or trade secrets will be required from coal mining operators as part of this ICR. If information submitted in conjunction with this ICR were to contain confidential business information, the respondent has the authority to request that the information be treated as confidential business information. All data so designated will be handled by

EPA pursuant to 40 CFR part 2. This information will be maintained according to procedures outlined in EPA's Security Manual Part III, Chapter 9, dated August 9, 1976. Pursuant to section 308(b) of the CWA, effluent data may not be treated as confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 21 hours per response for the coal remining sites and 405 hours annually for the ten state NPDES permitting authorities. No additional burden is projected for the 46 western alkaline coal mining sites. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are coal remining sites with pre-existing discharges; western alkaline coal mining sites with sediment control; and NPDES permit control authorities.

Estimated Number of Respondents: 88.

Frequency of Response: varies (generally ranging between monthly and annually).

Estimated Total Annual Hour Burden: 5,685.

Estimated Total Annual Cost: $340,000, includes $0 annualized capital or O&M costs.

Changes in the Estimates: There is decrease in burden hours and responses currently identified in the OMB Inventory of Approved ICR Burdens due to an adjustment. The previous ICR had mistakenly used 3-year burden hours to calculate associated costs, this renewal ICR corrects this error and reports the annual burden estimates.

Dated: May 18, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–11101 Filed 6–2–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2004–0031; FRL–7920–9]

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; NESHAP for Friction Materials Manufacturing (Renewal), ICR Number 2025.03, OMB Control Number 2060–0481

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on July 31, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 5, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OECA–2004–0031, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, (Mail Code 2223A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On December 1, 2004 (69 FR 69909), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OECA–2004–0031, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center Docket is: (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket*. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May

31, 2002), or go to *http://www.epa.gov/edocket.*

The First **Federal Register** dated Wednesday, December 1, 2004, published on page 69910 under "List of ICRs Planned to be Submitted" number (2) NESHAP for Friction Materials Manufacturing (40 CFR part 63, subpart OOOO), should have read NESHAP for Friction Materials Manufacturing (40 CFR part 63, subpart QQQQQ). We are hereby correcting the subpart to reflect the change as QQQQQ in this **Federal Register** document.

Title: NESHAP for Friction Materials Manufacturing (Renewal).

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP), for Friction Materials Manufacturing were proposed on October 4, 2001 (66 FR 50768), and promulgated on October 18, 2002 (67 FR 64498). These standards apply to any new, reconstructed, or existing solvent mixers located at a friction materials manufacturing facility engaged in the manufacture of friction materials such as brake and clutch linings. A friction materials manufacturing facility is only subject to the regulation if it is a major source of hazardous air pollutant (HAP) if it emits or has the potential to emit any single HAP at a rate of 10 tons (9.07 megagrams) or more per year or any combination of HAP at a rate of 25 tons (22.68 megagrams) or more per year.

Owners or operators must submit notification reports upon the construction or reconstruction of any friction materials manufacturing facility. Semiannual reports for periods of operation during which the emission limitation is exceeded (or reports certifying that no exceedances have occurred) also are required. Records and reports will be required to be retained for a total of five years: two years at the site, and the remaining three years at an off-site location.

Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated, and the standard is being met. The information generated by monitoring, recordkeeping and reporting requirements described in this ICR is used by the Agency to ensure that facilities that are affected by the standard continue to operate the control equipment and achieve continuous compliance with the regulation.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 162 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of friction materials manufacturing facilities.

Estimated Number of Respondents: 4.

Frequency of Response: Initially, annually, semiannually and occasionally.

Estimated Total Annual Hour Burden: 1,296.

Estimated Total Annual Costs: $103,424, which includes $0 annualized capital/startup costs, $1,000 annual O&M costs, and $103,424 Respondent Labor Costs.

Changes in the Estimates: There is no change in the number of respondents identified in the active ICR, however, there is a decrease of 94 hours in the estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. The decrease is attributed to the fact that the renewal ICR reflects that all four sources are in compliance with the standard and there are no new sources with reporting requirements.

Dated: May 23, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–11102 Filed 6–2–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OW–2002–0011, FRL–7921–1]

Agency Information Collection Activities: Proposed Collection; Comment Request; Laboratory Quality Assurance Evaluation Program for Analysis of *Cryptosporidium* Under the Safe Drinking Water Act, EPA ICR Number 2067.02, OMB Control Number 2040–0246

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request to renew an existing approved collection. This ICR is scheduled to expire on October 31, 2005. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before August 2, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OW–2002–0011, to EPA online using EDOCKET (our preferred method), by e-mail to *ow-docket@epamail.epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, W–01–17 Comment Clerk, Water Docket (MC–4101), EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Sean Conley, Environmental Protection Agency, Mail Stop 4607M, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–1781; fax number: 202–564–3767; e-mail address: *conley.sean@epa.gov.* For technical inquiries, contact Carrie Moulton, EPA, Office of Ground Water and Drinking Water, Technical Support Center, 26 West Martin Luther King Drive (MS–140), Cincinnati, Ohio 45268; fax number: (513) 569–7191; e-mail address: *moulton.carrie@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number OW–2002–0011, which is available for public viewing at the Water Docket Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m.,

Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the 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 docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Affected entities: Entities potentially affected by this action are public and private water testing laboratories. EPA estimates that a total of 65 laboratories (approximately 22 laboratories per year) will seek EPA recognition under the Laboratory QA Program.

Title: Laboratory Quality Assurance Evaluation Program for Analysis of *Cryptosporidium* under the Safe Drinking Water Act.

Abstract: In September 2000, the Stage 2 Microbial and Disinfection Byproducts Federal Advisory Committee (Committee) signed an Agreement in Principle (Agreement) (65 FR 83015, Dec. 29, 2000) (EPA, 2000) with consensus recommendations for two future drinking water regulations: the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) and the Stage 2 Disinfectants and Disinfection Byproducts Rule. The LT2ESWTR will address risk from microbial pathogens, specifically *Cryptosporidium.* The Committee recommended that the LT2ESWTR require public water systems (PWSs) to monitor their source water for *Cryptosporidium* using EPA Method 1622 or EPA Method 1623. Additional *Cryptosporidium* treatment requirements for public water systems (PWSs) would be based on the source water *Cryptosporidium* levels. EPA took into account the Committee's recommendations as it developed the proposed LT2ESWTR, which was published on August 11, 2003, (68 FR 47639), and is taking the recommendations into account as it develops the final regulation.

In the LT2ESWTR proposed rule, EPA indicated that PWSs would be required to use approved laboratories when conducting *Cryptosporidium* monitoring under the LT2ESWTR. EPA also indicated that laboratories approved to analyze *Cryptosporidium* samples under the rule must meet the criteria in the Laboratory Quality Assurance Evaluation Program (Lab QA Program) described in this notice. The purpose of the Lab QA Program is to identify laboratories that can reliably measure for the occurrence of *Cryptosporidium* in surface water. Other existing laboratory approval programs do not include *Cryptosporidium* analysis.

EPA initiated the Lab QA Program prior to promulgation of the final LT2ESWTR to provide the time necessary to approve a sufficient number of laboratories to assure adequate capacity for LT2ESWTR monitoring. Early initiation of the Lab QA Program was also necessary to conform with the Agreement recommendation that water systems with "historical" *Cryptosporidium* data that are equivalent to data that will be collected under the LT2ESWTR be afforded the opportunity to use those "historical" data in lieu of collecting new data under LT2ESWTR. In the LT2ESWTR proposed rule, EPA proposed such provisions to allow water systems to "grandfather" the historical data.

EPA anticipates the data generated by laboratories which meet the evaluation criteria would be very high quality, thus increasing the likelihood that such data would warrant consideration as acceptable "grandfathered" data. However, laboratory evaluation would not guarantee that data generated will be acceptable as "grandfathered" data, nor would failure to meet evaluation criteria necessarily preclude use of "grandfathered" data. For these reasons, EPA established the Lab QA Program as a discretionary and voluntary program under the Safe Drinking Water Act, section 1442 (42 U.S.C. 300j–1(a)).

Through today's notice, EPA is inviting comment on the continuation of the Lab QA Program. Under the Lab QA Program, EPA evaluates laboratories on a case-by-case basis through evaluating their capacity and competency to reliably measure for the occurrence of *Cryptosporidium* in surface water using EPA Method 1622 or EPA Method 1623. To obtain approval under the program, the laboratory must submit an application package and provide a demonstration of availability of qualified personnel and appropriate instrumentation, equipment and supplies; a detailed laboratory standard operating procedure for each version of the method that the laboratory will use to conduct the *Cryptosporidium* analyses; a current copy of the table of contents of their laboratory's quality assurance plan for protozoa analyses; and an initial demonstration of capability (IDC) data for EPA Method 1622 or EPA Method 1623, which include precision and recovery (IPR) test results and matrix spike/matrix spike duplicate (MS/MSD) test results for *Cryptosporidium.*

After the laboratory submits to EPA an application package including supporting documentation, EPA and the laboratory conduct the following steps to complete the process:

1. EPA contacts the laboratory for follow-up information and to schedule participation in the performance testing program.

2. EPA sends initial proficiency testing (IPT) samples to the laboratory (unless the laboratory has already successfully analyzed such samples under EPA's Protozoan PE program). IPT samples packets consist of eight spiked samples shipped to the laboratory within a standard matrix.

3. The laboratory analyzes IPT samples and submits data to EPA.

4. EPA conducts an on-site evaluation and data audit.

5. The laboratory analyzes ongoing proficiency testing (OPT) samples three times per year and submits the data to EPA. OPT sample packets consist of three spiked samples shipped to the laboratory within a standard matrix.

6. EPA contacts laboratories by letter within 60 days of their laboratory on-site evaluation to confirm whether the laboratory has demonstrated its capacity and competency for participation in the program.

The procedure for obtaining an application package, the criteria for

demonstrating capacity and competency, and other guidance to laboratories that are interested in participating in the Lab QA Program, are provided at *http://www.epa.gov/safewater/lt2/cla_final.html.*

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA is soliciting comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement: The burden estimate for the Lab QA Program information collection includes all the burden hours and costs required for gathering information, and developing and maintaining records associated with the Lab QA Program. The annual public reporting and record keeping burden for this collection of information is estimated for a total of 65 respondents. For each respondent, an average of 19 hours is estimated per response, with 3.3 responses per year, for a total of 3,980 hours at a cost of $166,393. The average cost per response is estimated at $776 per response. The proposed frequency of responses is three times a year for analysis and reporting of PT samples and once every three years for the on-site evaluation. This estimate assumes that laboratories participating in the Lab QA program have the necessary equipment needed to conduct the analyses. Therefore, there are no start-up costs. The estimated total annual capital costs is $0.00. The estimated Operation and Maintenance (O&M) costs is $108,504.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: May 26, 2005.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 05–11103 Filed 6–2–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6664–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **Federal Register** dated April 1, 2005 (70 FR 16815).

Draft EISs

EIS No. 20050068, ERP No. D–AFS–G65072–00, Ouachita National Forest, Proposed Revised Land and Resource Management Plan, Implementation, Several Counties, AR; and LeFlore and McCurtain Counties, OK.

Summary: EPA has no objections to the proposed action.

Rating LO.

EIS No. 20050076, ERP No. D–NOA–A91071–00, Atlantic Large Whale Take Reduction Plan, Proposed Amendments to Implement Specific Gear Modifications for Trap/Pot and Gillnet Fisheries, Broad—Based Gear Modifications, Exclusive Economic Zone (EEZ), ME, CT and RI.

Summary: EPA has no objections to the proposed action.

Rating LO.

EIS No. 20050077, ERP No. D–AFS–G65098–AR, Ozark-St. Francis National Forests Proposed Revised Land and Resource Management Plan, Implementation, Several Counties, AR.

Summary: EPA has no objections to the proposed action.

Rating LO.

EIS No. 20050135, ERP No. DS–COE–E39050–FL, Herbert Hoover Dike Major Rehabilitation Evaluation Study, Proposed to Reduce the Probability of a Breach of Reach One, Lake Okeechobee, Martin and Palm Beach Counties, FL.

Summary: EPA's previous concerns have been resolved; therefore, EPA has no objection to the proposed action.

Rating LO.

Final EISs

EIS No. 20050102, ERP No. F–COE–F36166–OH, Mill Creek, Ohio Flood Damage Reduction Project, To Reduce Damages to Communities, Hamilton County, OH.

Summary: EPA's previous concerns relating to Total Maximum Daily Load issues were adequately addressed; therefore, EPA has no objections to the proposed action.

EIS No. 20050146, ERP No. F–NPS–E65068–00, Vicksburg Campaign Trail (VCT) Feasibility Study, To Examine and Evaluate a Number of Sites, Implementation, Mississippi River, AR, LA, TN, MS and KY.

Summary: EPA has no objection to the preferred alternative, which includes acquiring and/or managing and protecting nationally significant Vicksburg Campaign battlefield sites.

EIS No. 20050088, ERP No. FC–NOA–E91015–00, Reef Fish Fishery Management Plan (FMP) Amendment 23, to Set Vermilion Snapper Sustainable Fisheries Act Targets and Thresholds and to Establish a Plan to End Overfishing and Rebuild the Stock, Implementation, Gulf of Mexico.

Summary: EPA's comments on the Draft Supplemental EIS have been addressed; there, EPA has no objections to the proposed action.

Dated: May 31, 2005.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 05–11109 Filed 6–2–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6663–9]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements filed 05/23/2005 through 05/27/2005 pursuant to 40 CFR 1506.9.

EIS No. 20050206, Draft EIS, SFW, NC, Roanoke River National Wildlife Refuge, Comprehensive Conservation Plan, To Determine and Evaluate a Range of Reasonable Management Alternatives, Bertie County, NC, Comment Period Ends: 07/18/2005, Contact: Bob Glennon 252–482–2364.

EIS No. 20050207, Final EIS, AFS, 00, Pacific Northwest Region Invasive Plant Program, Preventing and Managing Invasive Plants, Implementation, Portions of Del Norte and Siskiyou Counties, CA, portions of Nez Perce, Salmon, Idaho, and Adam Counties, ID, OR, and WA, Wait Period Ends: 07/05/2005, Contact: Eugene Skrine 503–808–2685.

EIS No. 20050208, Final EIS, AFS, SD, Sioux Ranger District Oil and Gas Leasing Project, Implementation, Sioux Ranger District, Custer National, Harding County, SD, Wait Period Ends: 07/05/2005, Contact: Laurie Walters-Clark 605–797–4432.

EIS No. 20050209, Draft EIS, NPS, WY, Grand Teton National Park Transportation Plan, Implementation, Grand Teton National Park, Teton County, WY, Comment Period Ends: 07/18/2005, Contact: Adrienne Anderson 303–987–6730.

EIS No. 20050210, Draft EIS, AFS, CO, Rock Creek Integrated Management Project, Propose Treatment to Address Mountain Beetle Epidemics, and to Reduce Wildfires within the Rock Creek Analysis Area, Medicine Bow-Routt National Forests and Thunder Basin National Grassland, Glenwood Springs Resource Area, Routt and Grand Counties, CO, Comment Period Ends: 07/18/2005, Contact: Andy Cadenhead 970–870–2220.

EIS No. 20050211, Draft EIS, SFW, IA, Driftless Area National Wildlife Refuge Comprehensive Conservation Plan, To Recover and Conserve the Northern Monkshood and Iowa Pleistocene Snail, IA, Comment Period Ends: 07/22/2005, Contact: John Lindell 563–873–3423 Ext. 2. This document is available on the Internet at: *http://www.fws.gov/midwest/planning/DriftlessArea/.*

EIS No. 20050212, Final EIS, AFS, WA, Dean Project Area, Proposes to Implement Multiple Resource Management Actions, Black Hills National Forest, Bearlodge Ranger District, Sundance, Crook County, WA, Wait Period Ends: 07/05/2005, Contact: Steve Kozel 307–283–1361

EIS No. 20050213, Draft EIS, FHW, MN, Trunk Highway 23 Improvements Project, From 0.25 Miles West of CSAH 6 in Kandiyohi County to 0.3 Miles Southwest of CSAH 123 Stearns County, City of Paynesville, Kandiyohi and Stearns Counties, MN, Comment Period Ends: 07/18/2005, Contact: Cheryl Martin 651–291–6120

EIS No. 20050214, Final EIS, AFS, MT, McSutten Decision Area, Implementation of Harvest and Associated Activities, Prescribed Burning, and Road Management, Kootenai National Forest, Rexford Ranger District, Lincoln County, MT, Wait Period Ends: 07/05/2005, Contact: Chris Fox 406–296–7155

EIS No. 20050215, Final EIS, AFS, AZ, Bar T Bar Anderson Springs Allotment Management Plans to Authorize Permitted Livestock Grazing for a 10-Year Period, Coconino National Forest, Mogollon Rim and Mormon Lake Ranger District, Coconino County, AZ, Wait Period Ends: 07/05/2005, Contact: Carol Holland 928–477–2255

EIS No. 20050216, Draft EIS, IBR, CA, San Luis Drainage Feature Re-evaluation Project, Provide Agricultural Drainage Service to the San Luis Unit, Several Counties, CA, Comment Period Ends: 08/03/2005, Contact: Gerald Robbins 916–978–5061

EIS No. 20050217, Final EIS, AFS, NM, Ojo Caliente Proposed Transmission Line, Propose to Authorize, Construct, Operate and Maintain a New 115kV Transmission Line and Substation, Carson National Forest and BLM Taos Field Office, Taos and Rio Arariba Counties, NM, Wait Period Ends: 07/05/2005, Contact: Ben Kuykendall 505–758–6311

Amended Notices

EIS No. 20050126, Draft EIS, COE, CA, PROGRAMMATIC—San Luis Obispo Creek Watershed, Waterway Management Plan, Stream Maintenance and Management Plan, City of San Luis Obispo and County of San Luis Obispo, Community of Avila Beach, San Luis Obispo County, CA, Comment Period Ends: 05/09/2005, Contact: Bruce Henderson 805–585–2145 Revision of Federal Register Notice Published 03/25/2005: Correction to Review Period Ending 07/10/2005 should have Ended on 05/09/2005.

EIS No. 20050127, Draft EIS, AFS, MI, Hiawatha National Forest, Proposed Land and Resource Management Plan, Forest Plan Revision, Implementation, Alger, Cheboygan, Chippewa, Delta, Luce and Mackinac Counties, MI, Comment Period Ends: 06/27/2005 Contact: Dave Maercklein 906–786–4062 Revision of **Federal Register** Notice Published on 03/25/2005: Correction to Title

EIS No. 20050202, Draft EIS, CGD, 00, PROGRAMMATIC—Vessel and Facility Response Plans for Oil: 2003 Removal Equipment Requirements and Alternative Technology Revisions, To Increase the Oil Removal Capability, U.S. Exclusive Economic Zone (EEZ), United States, Alaska, Guam, Puerto Pico and other U.S. Territories, Comment Period Ends: 07/26/2005, Contact: Brad McKitrick 202–267–0995 Revision of **Federal Register** Notice Published on 05/27/2005: Correction to CEQ Comment Period Ending 07/11/2005 should be 07/26/2005.

Dated: May 31, 2005.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 05–11110 Filed 6–2–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0414; FRL–7692–4]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket identification (ID) number OPP–2004–0414, must be received on or before July 5, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in

Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Mike Mendelsohn, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8715; e-mail address:*mendelsohn.mike@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2004–0414. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

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 listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the

system, select "search," and then key in docket ID number OPP–2004–0414. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2004–0414. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency (7502C), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2004–0414.

3. *By hand delivery or courier.* Deliver your comments to:Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2004–0414. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the registration activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and Federal Register citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients not Included in any Previously Registered Products

1. *File Symbol*: 29964–L. *Applicant*: Pioneer Hi-Bred International, A Dupont Company, 7250 N.W. 62nd Ave., P.O. Box 552, Johnston, IA 50131–0552. *Product Name*: Herculex Xtra Insect Protection. Plant-incorporated protectant. *Active ingredient*: *Bacillus thuringiensis* Cry34/35Ab1 insecticidal crystal protein and the genetic material for its production (plasmid insert PHP 17662) in event DAS–59122–7 corn and *Bacillus thuringiensis* Cry1F protein and the genetic material for its production (plasmid insert PHI 8999) in corn. *Proposed classification/Use*: None. For use on corn.

2. *File Symbol*: 68467–A. *Applicant*: Mycogen Seeds c/o Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268. *Product Name*: Mycogen Seeds Herculex Xtra Insect Protection. Plant-incorporated protectant. *Active ingredient*: *Bacillus thuringiensis* Cry34/35Ab1 insecticidal crystal protein and the genetic material for its production (plasmid insert PHP 17662) in event DAS–59122–7 corn and *Bacillus thuringiensis* Cry1F protein and the genetic material for its production (plasmid insert PHI 8999) in corn. *Proposed classification/Use*: None. For use on corn.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: May 17, 2005.

Phil Hutton,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 05–11104 Filed 6–2–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0132; FRL–7715–9]

Pesticide Product Registrations; Conditional Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to conditionally register the pesticide products MeloCon WG, *Chondrostereum purpureum* strain HQ1 Concentrate, and Myco-Tech Paste containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), listed in the table in this unit:

Regulatory Action Leader	Telephone number/e-mail address	Mailing address	Product/EPA Reg. No.
Barbara Mandula	(703) 308–7378; *Mandula.Barbara@epa.gov.*	Biopesticides and Pollution Prevention Division (7511C), Office of Pesticides Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001	MeloCon 72444–2
Jim Downing	(703) 308–9071; *Downing.Jim@epa.gov.*	Do.	*Chondrostereum purpureum* strain HQ1 Concentrate 74128–1 Myco-Tech Paste 74128–2

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2005–0132.The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, Arlington, VA (703) 305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Such requests should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

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 listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

II. Did EPA Conditionally Approve the Application?

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed uses of *Paecilomyces lilacinus* strain 251, and of *Chondrostereum purpureum* strain HQ1, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that uses of *Paecilomyces lilacinus* strain 251, and of *Chondrostereum purpureum* strain HQ1 during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of these pesticides is in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to

ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

III. Conditionally Approved Registrations

1. EPA issued a notice, published in the **Federal Register** ofNovember 14, 2003 (68 FR 64623) (FRL–7331–8), which announced that Prophyta Biologischer Pflanzenschutz GmbH, Germany, c/o WF Stoneman Company, LLC, P.O. Box 465, (formerly 6307 Mourning Dove Drive), McFarland, WI 53558–0465, had submitted an application to register the pesticide product, MeloCon WG, a nematicide specific for plant root nematodes (72444–E), containing the fungus *Paecilomyces lilacinus* strain 251 at 6.0%, an active ingredient not included in any previously registered product.

The application was conditionally approved on March 30, 2005 for the end-use product listed below:

MeloCon, for use against parasitic plant root nematodes on vegetables, certain fruits, turf, ornamentals, and tobacco (EPA Reg. No. 72444–2).

2. EPA issued a notice, published in the **Federal Register** of December 24, 2003 (68 FR 74576) (FRL–7338–2), which announced that Myco-Forestis Corporation Canada, c/o SciReg, Inc., Science and Regulatory Consultants, 12733 Director's Loop, Woodbridge, VA 22192 (former address, Route 344 P.O. Box 3158 L'Assomption, Quebec Canada, J5W 4M9), had submitted applications to register the pesticide products, *Chondrostereum purpureum* strain HQ1 Concentrate (MUP: 74128–R) for manufacturing use and Myco-Tech Paste (EP: 74128–E), a biological herbicide used to inhibit sprouting and regrowth of cut tree stumps, containing the naturally-occurring fungus *Chondrostereum purpureum* strain HQ1 at MUP Concentrate, 24.8%; EP 9.1%, an active ingredient not included in any previously registered product.

The applications were conditionally approved on March 30, 2005 for the products listed below:

i. The Manufacturing Use Product, "*Chondrostereum purpureum* strain HQ1 Concentrate" for manufacturing purposes only (EPA Reg. No. 74128–1).

ii. The End-Use Product, "Myco-Tech Paste" to inhibit sprouting and regrowth of cut tree stumps (EPA Reg. No. 74128–2).

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: May 17, 2005.

Phil Hutton,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 05–11106 Filed 6–2–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0134; FRL–7714–7]

Sodium Chlorite; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a public health exemption request to use the pesticide product sodium chlorite (CAS No. 7758–19–2) to treat up to 2,500 boxes of papers, pictures, negatives, and other items stored in a fumigation chamber in the garage basement of the Boca Building, in Boca Raton, FL, to control or inactivate potential contamination with *Bacillus anthracis* (anthrax) spores. The Applicant proposed the use of sodium chlorite specifically for inactivation of anthrax spores. Due to the urgent nature of this request, EPA authorized decontamination procedures at this site which involved sodium chlorite on April 4, 2005, in advance of this Notice. With this notice, EPA is soliciting public comments on this action.

DATES: Comments, identified by docket identification (ID) number OPP–2005–0134, must be received on or before June 20, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Carmen Rodia, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; telephone number: (703) 306–0327; fax number: (703) 308–5433; e-mail address: *rodia.carmen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a person in the vicinity of the "Boca Building," which is located at 5401 Broken Sound Boulevard, Boca Raton, FL 33487–3512, or pesticide manufacturer (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) code has been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket ID number OPP–2005–0134. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Room 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA 22202–4501. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

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 listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not

included in the official public docket, will not be available for public viewing in EPA Dockets. EPA's policy is that copyrighted material will not be placed in EPA Dockets but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA Dockets. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA Dockets. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA Dockets.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA Dockets as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA Dockets. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA Dockets. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA Dockets. Where practical, physical objects will be photographed, and the photograph will be placed in EPA Dockets along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA Dockets. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA Dockets to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in docket ID number OPP–2005–0134. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0134. In contrast to EPA Dockets, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through EPA Dockets, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA Dockets.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0134.

3. *By hand delivery or courier.* Deliver your comments to:Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Room 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA 22202–4501, Attention: Docket ID Number OPP–2005–0134. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA Dockets or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA Dockets. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA Dockets without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the Administrator, any Federal or State agency may be exempted from any provision of FIFRA if the Administrator determines that emergency conditions exist which require the exemption. EPA's Office of Solid Waste and Emergency Response has requested the Administrator to issue a public health exemption for the use of the pesticide product Sabrechlor 25 (which contains the active ingredient sodium chlorite) on various items present in the "Boca Building," which is located at 5401 Broken Sound Boulevard, Boca Raton, FL 33487–3512 to inactivate potential contamination with *Bacillus anthracis* (anthrax) spores. Information in accordance with 40 CFR part 166 was submitted as part of this request. The West Palm Beach County Department of Health closed (quarantined) the Boca Building on October 7, 2001, after two employees were admitted to the hospital with symptoms of anthrax exposure.

As part of this request, the Applicant asserted that approximately 2,500 boxes containing items (e.g., papers, pictures, negatives, and other items) potentially contaminated with anthrax spores needed to be fumigated so that they no longer pose a human health risk and so that the quarantine imposed on the Boca Building by the West Palm Beach County Department of Health could be lifted and the building can be cleared for normal use. No pesticide product is currently registered for this use. The Remedial Action Plan (RAP) proposed that the 2,500 boxes be treated in a tarp-covered, sealed chamber measuring 16' x 7.5' x 100' that is set up in the garage basement of the Boca Building. Because the chamber will hold only about 180 to 270 boxes per fumigation, a total of 9 to 15 fumigations will be required to decontaminate the entire lot. The requested decontamination method is the best alternative for these circumstances and will be effective in killing anthrax spores and will not pose unreasonable adverse effects to workers, the surrounding community, and the environment.

The regulations governing section 18 of FIFRA require publication of a notice of receipt of an application for a public health exemption proposing the use of sodium chlorite specifically for inactivation of *Bacillus anthracis* (anthrax) spores because this is similar to previous requests and a complete application for registration under section 3 has not been received (40 CFR 166.24(a)(6)). No pesticide products are currently registered by EPA for this use. The requested public health exemption was granted in advance of the public notification because EPA concluded that the need for the decontamination procedures was urgent, owing to the ongoing threat posed by the stored material that may have contained spores of the bacteria that causes anthrax. The decontamination work described in this notice commenced on or about the issue date for this public health exemption request (April 4, 2005) and will conclude by or before July 4, 2005, the expiration date for this exemption. This notice provides an opportunity for public comment on the granting of the exemption. The Agency, will review and consider all comments received during the 15–day public comment period regarding the public health exemption requested by EPA's Office of Solid Waste and Emergency Response.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 19, 2005.

Lois A. Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 05–11105 Filed 6–2–05; 8:45 am]

BILLING CODE 6560–50–S

EXPORT-IMPORT BANK OF THE UNITED STATES

Economic Impact Policy

This notice is to inform the public that the Export-Import Bank of the United States has received an application to finance the export of approximately $81.6 million in U.S. equipment and services to Saudi Arabia to construct a Direct Reduced Iron (DRI) production facility. The DRI produced by this plant will be an input used in the production of about 1.2 million metric tons per year of hot rolled coil steel in the same production complex. Available information indicates that the hot rolled coil will be sold in Saudi Arabia, the Middle East and North Africa starting in early 2008. Interested parties may submit comments on this transaction by e-mail to *economic.impact@exim.gov* or by mail to 811 Vermont Avenue, NW., Room 1238, Washington, DC 20571, within 14 days of the date this notice appears in the **Federal Register**.

Helene S. Walsh,

Director, Policy Oversight and Review.

[FR Doc. 05–11003 Filed 6–2–05; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 27, 2005.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia

30303: 1. *Omni Financial Services, Inc.*, Atlanta, Georgia; to acquire 100 percent of the voting shares of Omni Interim, N.A., Dalton, Georgia. Comments on this application must be received by June 13, 2005.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166–2034: 1. *Trubank Securities Trust*, St. Louis, Missouri; to become a bank holding company by acquiring 25 percent of the voting shares of Truman Bancorp, Inc., St. Louis, Missouri, and thereby indirectly acquire Truman Bank, St. Louis, Missouri.

Board of Governors of the Federal Reserve System, May 27, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–11022 Filed 6–2–05; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center web site at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 16, 2005.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414: 1. *Marshall & Ilsley Corporation*, Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of LAH Merger Corporation, and thereby indirectly acquire Med-i-Bank, Inc., Waltham, Massachusetts, and thereby engage in data processing activities pursuant to section 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, May 27, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–11021 Filed 6–2–05; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

BILLING CODE 6750–01–M

TRANSACTIONS GRANTED EARLY TERMINATION - 05/09/2005

TRANS #	ACQUIRING	ACQUIRED	ENTITIES
20050886	Andersen Corporation	Linsalata Capital Partners Fund IV, L.P.	Eagle Window & Door Holding Company

TRANSACTIONS GRANTED EARLY TERMINATION - 05/10/2005

TRANS #	ACQUIRING	ACQUIRED	ENTITIES
20050890	Medtronic, Inc.	Gary K. Michelson, M.D.	Gary K. Michelson, M.D.
20050891	Medtronic, Inc.	GKM Trust	Karlin Technology, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION - 05/13/2005

TRANS #	ACQUIRING	ACQUIRED	ENTITIES
20050878	Siemens AG	Citigroup Inc.	Flender Holding GmbH
20050922	O. Bruton Smith	W.I. Simonson, Inc.	W.I. Simonson Mercedez-Benz
20050927	OSIM Brookstone Holdings, L.P.	Brookstone, Inc.	Brookstone, Inc.
20050928	Quest Software, Inc.	Insight Venture Partners IV, L.P.	Imceda Software, Inc.
20050935	Hellman & Friedman Capital Partners V, L.P.	Zurich Financial Services	Universal Underwriters Acceptance Corporation Universal Underwriters Insurance Company Universal Underwriters Management Company Universal Underwriters Service Corporation Universal Underwriters Service Corporation of Texas
20050941	Marathon Oil Corporation	Ashland, Inc.	ATB Holdings Inc.

TRANSACTIONS GRANTED EARLY TERMINATION - 05/16/2005

TRANS #	ACQUIRING	ACQUIRED	ENTITIES
20050497	Cobham plc	Robert B. McKeon	H. Koch & Sons Co.

TRANSACTIONS GRANTED EARLY TERMINATION - 05/17/2005

TRANS #	ACQUIRING	ACQUIRED	ENTITIES
20050944	MDCP IV Global Investments LP	Sirona Dental Systems Beteiligungs- und Verwaltungs GmbH	Sirona Dental Systems Beteiligungs- und Verwaltungs GmbH

TRANSACTIONS GRANTED EARLY TERMINATION - 05/18/2005

TRANS #	ACQUIRING	ACQUIRED	ENTITIES
20050893	Francisco Partners, L.P.	RedPrairie Corporation	RedPrairie Corporation
20050926	West Pharmaceutical Services, Inc.	Steven K. Uhlmann	The Tech Group, Inc
20050932	The Home Depot, Inc.	Raymond Taccolini	Crown Bolt, Inc.

20050933	William H. Gates III	Berkshire Hathaway, Inc.	Berkshire Hathaway, Inc.
20050953	BPC Holding Corporation	Fremont Partners, L.P.	Kerr Group, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION - 05/19/2005

TRANS #	ACQUIRING	ACQUIRED	ENTITIES
20050871	Morton Plant Hospital Association, Inc.	Trustees of Mease Hospital, Inc.	Mease Hospital, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION - 05/20/2005

TRANS #	ACQUIRING	ACQUIRED	ENTITIES
20050885	PrairieWave Communications, Inc.	Black Hills Corporation	Black Hills Fiber Systems, Inc.
20050945	Forstmann Little & Co. Equity Partnership VII, L.P.	24 Hour Fitness Worldwide, Inc.	24 Hour Fitness Worldwide, Inc.
20050951	Stantec Inc.	The Keith Companies, Inc.	The Keith Companies, Inc.
20050955	Juniper Networks, Inc.	Peribit Networks, Inc.	Peribit Networks, Inc.
20050957	Code Hennessy & Simmons IV, L.P.	Weston Presidio Capital IV, L.P.	American Asphalt Holdings Corp.
20050958	Bain Capital Fund VIII, L.P.	Summit Venture VI-A, L.P.	FleetCor Technologies, Inc.
20050959	Marathon Fund Limited Partnership V	ShopKo Stores, Inc.	ShopKo Stores, Inc.
20050974	Barry Diller	Barry Diller	IAC/InterActive Corp
20050982	Pitney Bowes Inc.	Imagitas, Inc.	Imagitas, Inc.

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay, Contract Representative
Or
Renee Hallman, Case Management Assistant, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 05–11027 Filed 6–2–05; 8:45 am]

BILLING CODE 6750–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Fleet Alternative Fuel Vehicle Acquisition and Compliance Report

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: Pursuant to 42 United States Code 13218(b), the Department of Health and Human Services gives notice that the Department's FY 2004 Fleet Alternative Fuel Vehicle Acquisition and Compliance Report is available on-line at *http://www.knownet.hhs.gov/log/AgencyPolicy/HHSLogPolicy/afvcompliance.htm*

FOR FURTHER INFORMATION CONTACT: Jim Kerr at (202) 720–1904, or via e-mail at *jim.kerr@hhs.gov.*

Dated: May 24, 2005.

Evelyn M. White,

Acting Assistant Secretary for Administration and Management.

[FR Doc. 05–11075 Filed 6–2–05; 8:45 am]

BILLING CODE 4161–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI), the Acting Assistant Secretary for Health, and another Federal agency have taken final action in the following case:

Jason W. Lilly, Ph.D., Boyce Thompson Institute: Based on the report of an investigation conducted by the Boyce Thompson Institute (BTI Report), the investigation report of another Federal agency, and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that Jason W. Lilly, Ph.D., former postdoctoral fellow at BTI, engaged in scientific misconduct in research supported by the National Research Service Award, National Institutes of Health (NIH) postdoctoral fellowship, F32 GM64276. This case has been jointly handled by ORI and another Federal agency under the government-wide debarment regulations.

Specifically, PHS found that:

A. Dr. Lilly falsified Figure 4, presenting a hierarchical cluster analysis of differential mRNA accumulation in cells grown in medium deficient in sulfate or phosphate in "The Chlamydonomas reinhardtii organellar genomes respond transcriptionally and post-transcriptionally to abiotic stimuli," The

Plant Cell 14:2681:2706, 2002 (hereafter referred to as the Plant Cell paper) by claiming it was an average of three experiments when only one had been conducted;

B. Dr. Lilly further falsified Figure 4 of the Plant Cell paper by falsely coloring two cells in the blown-up portion of the figure that illustrated the induction of high levels of mRNA from the Sac1 gene;

C. Dr. Lilly falsified the supplemental gene array experiments published online claimed to be replicate assays by manipulation of both spreadsheet and image data from a single assay to make the altered data sufficiently different to appear to be separate assays;

D. Dr. Lilly falsified the text describing Figure 5 of the Plant Cell paper by claiming that the run-on assays had been replicated when they had not been;

E. Dr. Lilly falsified the purported replicates of run-on transcription experiments provided in the on-line supplemental material by manipulation of a single assay to make the variant versions appear different; and

F. Dr. Lilly falsified Figure 1 of the Plant Cell paper by using the same 16S control bands for RNA blots of two different genes (psbF and PsaG).

Dr. Lilly has been debarred by the lead agency for a period of two (2) years, beginning on March 4, 2005, and ending on March 4, 2007, and has entered into a Voluntary Exclusion Agreement (Agreement) with PHS in which he has voluntarily agreed:

(1) To exclude himself from serving in any advisory capacity to PHS including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as consultant, for a period of four (4) years, beginning on April 18, 2005; and

(2) That he will ensure that any institution employing him submits, in conjunction with each application for PHS funds or report, manuscript, or abstract of PHS funded research in which Dr. Lilly is involved, a certification that the data provided by Dr. Lilly are based on actual experiments or are otherwise legitimately derived, and that the data, procedures, and methodology are accurately reported in the application or report for a period of two (2) years, beginning on April 18, 2007, approximately corresponding to the termination date of the debarment period initiated by the lead agency. Dr. Lilly must ensure that the institution also sends a copy of the certification to ORI.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (301) 443–5330.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. 05–11017 Filed 6–2–05; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Sentinel Network for Detecting Emerging Infections Among Allograft Donors and Recipients

Announcement Type: New.

Funding Opportunity Number: AA081.

Catalog of Federal Domestic Assistance Number: 93.283.

Key Dates:

Letter of Intent Deadline: July 5, 2005.

Application Deadline: August 2, 2005.

Executive Summary: Over the last decade, there has been a large increase in the number of allografts (*e.g.*, solid organs and other tissues) recovered from donors for use in transplants. Each year in the United States, over 25,000 solid organs are recovered, and over a million tissue allografts are distributed for life-saving transplantations, including bone, musculoskeletal, vascular, and corneal tissues. Organs and tissues are distributed to different settings: Organs are distributed to transplant services in hospitals, and tissues are distributed to tissue banks, biotechnology companies, and healthcare consignees, including hospitals, outpatient centers, and individual surgeons. A single donor with undetected infection potentially can infect over a hundred organ and tissue recipients located around the world. In addition, tissues may be stored for up to ten years; thus, infections may be transmitted to recipients many years after the death of the donor. Recent investigations have demonstrated severe infections and death from transmission of various agents from donors to recipients, including: Clostridia spp. (e.g., C. sordellii, C. perfringens, C. septicum), West Nile virus, Group A Streptococcus, Trypanosoma cruzi, Lymphocytic choriomeningitis virus, rabies virus, and others. A recent Institute of Medicine report highlighted the urgent need to detect infectious diseases among organ and tissue donor and transplant recipients. Recently, additional regulatory mechanisms have been put in place. For solid organs, through the Organ Procurement and Transplantation Network (OPTN), new standards have been put in place to detect and report adverse events among organ transplant recipients; for other tissues, there will be new FDA rules for organ and tissue procurement organizations (OPOs) and tissue banks, implemented May 1, 2005. Despite these new regulatory standards, challenges remain. A surveillance network for surveillance of allograft-associated infections that would enhance communication between public health officials and organizations responsible for recovering and processing tissues would have high potential as a tool for risk assessment and response, in collaboration with regulatory efforts.

I. Funding Opportunity Description

Authority: 42 U.S.C. 247b(k)(2)

Purpose: The purpose of the program is to develop a national sentinel network of organizations that recover, process, and distribute tissues from organ/tissue donors. The participants in this activity can include OPOs, tissue processors, tissue distributors, and others. This collection of participants has been termed the tissue community. At present, many procurement organizations provide regional tissue recovery services. This program addresses the "Healthy People 2010" focus area(s) of Immunization and Infectious Diseases.

Measurable outcomes of the program will be in alignment with the following performance goal for the National Center for Infectious Diseases (NCID): Protect Americans from death and serious harm caused by medical errors and preventable complications of healthcare.

This announcement is only for non-research activities supported by CDC/ATSDR. If research is proposed, that portion of any application will not be reviewed or considered for funding. For the definition of research, please see the CDC Web site at the following Internet address: *http://www.cdc.gov/od/ads/opspoll1.htm.*

Objectives

The objective of the network will be to detect and prevent emerging infectious diseases through:

- Improved communication among those in the tissue community (e.g., tissue recovery organizations, OPOs that recover tissues, tissue processors, tissue distributors), healthcare facilities, and public health officials, concerning potential risks for transmission of infection.
- Improved identification and tracking of tissues to facilitate

interventions following recognition of infections among recipients.

• Improved pathologic and microbiologic capabilities on cadaveric donor specimen samples through shared resources and collaborations to identify improvements in donor screening, donor eligibility laboratory testing, critical control points for improved tissue safety, and detection of novel pathogens.

• Development of recommendations to improve the safety of organ and tissue transplantation. Any recommendations regarding activities of OPOs or tissue establishments will be congruent with regulatory requirements and other oversight.

The data from this project will be directly applicable to improvements in blood safety and patient safety.

Activities

Awardee activities for this program are as follows:

A. Develop and maintain a national sentinel network of organizations that recover, process, and distribute tissues from organ/tissue donors and other members of the tissue community. Specifically, conduct the following activities:

1. Develop an electronic communication forum accessible only to network members:

○ To discuss possible infectious complications in transplant recipients potentially originating from organ/tissue donors or associated with tissue processing or handling.

○ To be rapidly informed of important public health and infectious disease issues.

○ To improve communication between participating members of the tissue community and public health officials, transplant clinicians, surgeons, and blood banks.

○ To facilitate recognition of donor infection through sharing of knowledge on optimal screening and diagnostic methods.

2. Develop and implement a mechanism for assigning tissue donors with a unique donor identifier to improve tissue tracking. Currently, different donor identifiers are assigned by various tissue recovery, processing, and distribution entities. Developing a common, unique donor identifier will allow members of the tissue community to link their various donor identifiers to a common identifier. This activity will require development of a mechanism for users to acquire and maintain these identifiers and for allowing access to them when needed for tracking tissues from an infected donor. For those donors that are a source of both organs and tissues, this activity also will require collaboration with the United Network for Organ Sharing (UNOS) and affiliated partners to utilize or link to existing UNOS unique donor identifiers.

3. Develop collaborations among members in the tissue community for testing of existing cadaveric donor samples, including serum or plasma samples and tissue, allowing:

○ A method for linkage to allow for subsequent investigation without the use of personal identifiers.

○ A mechanism to share use of diagnostic methods for unusual or emerging pathogens.

○ A mechanism to discuss donor clinical history and interpretation of testing results to facilitate further investigation.

Note that this cooperative agreement is not intended to fund establishment of a tissue bank, collection of specimens, or research on specimens. Therefore, applicants should not include these activities in the application. Although the network may provide the infrastructure for research at a later date, the intent of this cooperative agreement is solely to support network participant activities within the scope of this announcement and to foster collaborations within the organ and tissue community.

B. Develop a series of recommendations, based on network experiences and collaborative investigations with public health, to improve the safety of organ and tissue transplantation and identify emerging infectious diseases in organ and tissue transplant recipients. These recommendations will be made in concert with existing regulatory oversight agencies.

In a cooperative agreement, CDC staff is substantially involved in the program activities, above and beyond routine grant monitoring.

CDC Activities for this program are as follows:

○ Assist recipient as needed on network design:

○ Provide technical assistance on development of a secure network platform for communication between members of the tissue community using experiences from implementing other CDC-sponsored networks.

○ Assist recipient as needed to ensure that appropriate public health agencies are represented and participating in the network.

○ Assist recipient and healthcare partners as needed in defining adverse events for monitoring and appropriate interventions for suspectedallograft-associated infections.

○ Provide scientific and technical assistance:

○ Participate as needed with recipient and representatives from the tissue community in development of mechanisms for assigning, registering, maintaining, and controlling access to donor identifiers in collaboration with other federal agencies.

○ Serve as subject matter resource on laboratory detection of pathogens causing allograft-associated infections.

○ Provide technical assistance to ensure that design of algorithms for diagnostic testing will fulfill the objectives of the network.

○ Participate as needed with other federal and state public health agencies to provide scientific resources and policy guidance.

• Evaluate performance of the network:

○ Monitor progress to determine if network objectives are being met.

○ Assist recipient as needed in modification of network activities to address problems that are encountered.

• Assist recipient as needed in communication of network findings:

○ Facilitate presentations at national meetings.

○ Facilitate reports to peer-reviewed journals.

○ Facilitate development of new policies for improved allograft tissue safety.

• Facilitate communication of data and results among stakeholders.

II. Award Information

Type of Award: Cooperative Agreement.

CDC involvement in this program is listed in the Activities Section above.

Fiscal Year Funds: 2005.

Approximate Current Fiscal Year Funding: $250,000 (This amount is an estimate, and is subject to availability of funds. This amount includes both direct and indirect costs.)

Approximate Number of Awards: One.

Approximate Average Award: $250,000.

This amount is for the first 12-month budget period, and includes both direct and indirect costs. This amount assumes all activities (*i.e.*, A.1., A.2., and A.3., above) are funded. See **Note** in budget instructions under Section IV.2. "Application" below.

Floor of Award Range: None.

Ceiling of Award Range: None.

Anticipated Award Date: August 1, 2005.

Budget Period Length: 12 months.

Project Period Length: Three years.

Throughout the project period, CDC's commitment to continuation of awards

will be conditioned on the availability of funds, evidence of satisfactory progress by the recipient (as documented in required reports), and the determination that continued funding is in the best interest of the Federal Government.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies, such as:

- Public nonprofit organizations
- Private nonprofit organizations
- Universities
- Colleges
- Research institutions
- Hospitals
- Community-based organizations
- Faith-based organizations
- Federally recognized Indian tribal governments
- Indian tribes
- Indian tribal organizations
- State and local governments or their Bona Fide Agents (this includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau)
- Political subdivisions of States (in consultation with States)

A Bona Fide Agent is an agency/organization identified by the State as eligible to submit an application under the State eligibility in lieu of a state application. If you are applying as a bona fide agent of a State or local government, you must provide a letter from the State or local government as documentation of your status. Place this documentation behind the first page of your application form.

III.2. Cost Sharing or Matching

Matching funds are not required for this program.

III.3. Other

Special Requirements: If your application is incomplete or non-responsive to the special requirements listed in this section, it will not be entered into the review process. You will be notified that your application did not meet submission requirements.

- Late applications will be considered non-responsive. See section "IV.3. Submission Dates and Times" for more information on deadlines.

Note: Title 2 of the United States Code Section 1611 states that an organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

IV. Application and Submission Information

IV.1. Address To Request Application Package

To apply for this funding opportunity use application form PHS 5161. Application forms and instructions are available on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

To submit your application electronically, please utilize the forms and instructions posted for this announcement at *http://www.grants.gov.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) staff at: 770–488–2700. Application forms can be mailed to you.

IV.2. Content and Form of Submission

Letter of Intent (LOI): Your LOI must be written in the following format:

- Maximum number of pages: Five.
- Font size: 12-point unreduced.
- Double spaced.
- Paper size: 8.5 by 11 inches.
- Page margin size: One inch.
- Printed only on one side of page.
- Written in plain language, avoid jargon.

Your LOI must contain the following information:

- Descriptive title of the proposed project.
- Name, address, E-mail address, telephone number, and FAX number of the Project Director.
- Description of experience in the scientific, administrative, and policy aspects of organ and tissue procurement or distribution.
- Involvement with establishing standards for the above activities.
- Number and title of this Announcement.

Application: You must submit a project narrative with your application forms. The narrative must be submitted in the following format:

- Maximum number of pages: 25. If your narrative exceeds the page limit, only the first pages which are within the page limit will be reviewed.
- Font size: 12 point unreduced.
- Double spaced.
- Paper size: 8.5 by 11 inches.
- Page margin size: One inch.
- Printed only on one side of page.
- Held together only by rubber bands or metal clips; not bound in any other way.

Your narrative should address activities to be conducted over the entire project period, and must include the following items in the order listed:

- Background and Need
- Understanding
- Capacity
- Operational Plan
- Objectives
- Timeline
- Staff
- Performance Measures
- Budget and Justification (will not count toward the page limit).

Note: Provide three separate budgets—one each for Activities A.1., A.2., and A.3. Activity B should be factored into each budget. Depending on funding availability, CDC will fund A.1., A.2., and A.3., in priority order.

Additional information may be included in the application appendices. The appendices will not be counted toward the narrative page limit. This additional information includes:

- Curriculum Vitaes
- Resumes
- Organizational Charts
- Letters of Support

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 Federal Government. The DUNS 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. For more information, see the CDC Web site at: *http://www.cdc.gov/od/pgo/funding/pubcommt.htm.*

If your application form does not have a DUNS number field, please write your DUNS number at the top of the first page of your application, and/or include your DUNS number in your application cover letter.

Additional requirements that may require you to submit additional documentation with your application are listed in section "VI.2. Administrative and National Policy Requirements."

IV.3. Submission Dates and Times

LOI Deadline Date: July 5, 2005.

CDC requests that you submit a LOI if you intend to apply for this program. Although the LOI is not required, not binding, and does not enter into review of your subsequent application, the LOI will be used to gauge the level of

interest in this program, and to allow CDC to plan the application review.

Application Deadline Date: August 2, 2005.

Explanation of Deadlines: LOIs and Applications must be received in the CDC Procurement and Grants Office by 4 p.m. eastern time on the deadline date. If you submit your LOI or application by the United States Postal Service or commercial delivery service, you must ensure that the carrier will be able to guarantee delivery by the closing date and time. If CDC receives your submission after closing due to: (1) Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, you will be given the opportunity to submit documentation of the carrier's guarantee. If the documentation verifies a carrier problem, CDC will consider the submission as having been received by the deadline.

This announcement is the definitive guide on LOI and application content, submission address, and deadline. It supersedes information provided in the application instructions. If your submission does not meet the deadline above, it will not be eligible for review, and will be discarded. You will be notified that you did not meet the submission requirements.

If you submit your application electronically, you will receive an e-mail notice of receipt.

Otherwise, CDC will not notify you upon receipt of your submission. If you have a question about the receipt of your LOI or application, first contact your courier. If you still have a question, contact the PGO–TIM staff at: 770–488–2700. Before calling, please wait two to three days after the submission deadline. This will allow time for submissions to be processed and logged.

IV.4. Intergovernmental Review of Applications

Your application is subject to Intergovernmental Review of Federal Programs, as governed by Executive Order (EO) 12372. This order sets up a system for State and local governmental review of proposed federal assistance applications. You should contact your state single point of contact (SPOC) as early as possible to alert the SPOC to prospective applications, and to receive instructions on your state's process. Click on the following link to get the current SPOC list: *http://www.whitehouse.gov/omb/grants/spoc.html.*

IV.5. Funding Restrictions

Restrictions, which must be taken into account while writing your budget, are as follows:

- Funds may not be used for research.
- Reimbursement of pre-award costs is not allowed.

If you are requesting indirect costs in your budget, you must include a copy of your indirect cost rate agreement. If your indirect cost rate is a provisional rate, the agreement should be less than 12 months of age.

Guidance for completing your budget can be found on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/funding/budgetguide.htm.*

IV.6. Other Submission Requirements

LOI Submission Address: Submit your LOI by express mail, delivery service, fax, or E-mail to: Machel Forney, Public Health Analyst, Division of Health Quality Promotion, Centers for Disease Control and Prevention, 1600 Clifton Road, N.E., Mailstop A–07, Atlanta, GA 30329, telephone: (404) 498–1174, Fax: (404) 498–1188; E-mail: *MForney@cdc.gov.*

Application Submission Address: You may submit your application electronically at: *http://www.grants.gov,* OR submit the original and two hard copies of your application by mail or express delivery service to: Technical Information Management—CI05–078, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341.

V. Application Review Information

V.1. Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the "Purpose" section of this announcement. Measures must be objective and quantitative, and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation.

Your application will be evaluated against the following criteria:

1. Background/Need (40 Points)

Does the applicant demonstrate a strong understanding of the need to develop a sentinel network of organizations that recover tissues for transplantation? Does the applicant illustrate the need for this project? Does the applicant present a clear goal for this project?

2. Capacity (30 Points)

Does the applicant demonstrate that it has the expertise, facilities, and other resources necessary to accomplish the program requirements? Does the applicant have experience and success in management of organ/tissue recovery? Has the applicant demonstrated past collaborations with organ/tissue procurement organizations? Has the applicant demonstrated past collaborations with local, State, and Federal public health officials? Does the applicant have an efficient administrative infrastructure to support the requirements of the cooperative agreement?

3. Operational Plan (20 Points)

Does the applicant present clear, time-phased objectives that are consistent with the stated program goal and a detailed operational plan outlining specific activities that are likely to achieve the objective? Does the plan clearly outline the responsibilities of each of the key personnel?

4. Measures of Effectiveness (10 Points)

Does the applicant provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement? Are the measures objective/quantitative and do they adequately measure the intended outcome?

5. Budget (Not Scored)

Does the applicant present a detailed budget with a line-item justification and any other information to demonstrate that the request for assistance is consistent with the purpose and objectives of this grant program?

V.2. Review and Selection Process

Applications will be reviewed for completeness by the Procurement and Grants Office (PGO) staff, and for responsiveness by the Center for Infectious Diseases. Incomplete applications and applications that are non-responsive to the eligibility criteria will not advance through the review process. Applicants will be notified that their application did not meet submission requirements.

An objective review panel will evaluate complete and responsive applications according to the criteria listed in the "V.1. Criteria" section above. The objective review panel will consist of CDC employees from outside the funding division who will evaluate the technical merit of applications for the purpose of advising the awarding official. As part of the review process, all applications will:

- Receive a written Summary Statement of the findings of the Objective Review Panel.

• Receive a vote of approval or disapproval and an approval score.

• Receive a second programmatic level review by Division senior staff based on rank order.

Award Criteria: Criteria that will be used to make award decisions during the programmatic review include:

• Technical Merit (as determined by the objective review)

• Availability of funds

• Applicants must possess significant experience in the scientific, administrative, and policy aspects of organ and tissue procurement. Funding preference will be given to: organ/tissue procurement organizations; Associations or professional societies that represent organ/tissue procurement organizations; and organizations involved with establishing standards for the above activities.

CDC will provide justification for any decision to fund out of rank order.

V.3. Anticipated Announcement and Award Dates

August 1, 2005.

VI. Award Administration Information

VI.1. Award Notices

Successful applicants will receive a Notice of Grant Award (NGA) from the CDC Procurement and Grants Office. The NGA shall be the only binding, authorizing document between the recipient and CDC. The NGA will be signed by an authorized Grants Management Officer, and mailed to the recipient fiscal officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review by mail.

VI.2. Administrative and National Policy Requirements

45 CFR Part 74 and Part 92

For more information on the Code of Federal Regulations, see the National Archives and Records Administration at the following Internet address: *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html.*

The following additional requirements apply to this project:

• AR–9 Paperwork Reduction Act Requirements

• AR–10 Smoke-Free Workplace Requirements

• AR–11 Healthy People 2010

• AR–12 Lobbying Restrictions

• AR–15 Proof of Non-Profit Status

• AR–21 Small, Minority, and Women-Owned Business

• AR–23 States and Faith-Based Organizations

• AR–24 Health Insurance Portability and Accountability Act Requirements

• AR–25 Release and Sharing of Data

Additional information on these requirements can be found on the CDC Web site at the following Internet address: *http://www.cdc.gov/od/pgo/funding/ARs.htm.*

VI.3. Reporting Requirements

You must provide CDC with an original, plus two hard copies of the following reports:

1. Interim progress report, due no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current Budget Period Activities Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activity Objectives.

d. Budget.

e. Measures of Effectiveness.

f. Additional Requested Information.

2. Financial status report no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

These reports must be mailed to the Grants Management or Contract Specialist listed in the "Agency Contacts" section of this announcement.

VII. Agency Contacts

We encourage inquiries concerning this announcement.

For general questions, contact: Technical Information Management Section, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341; Telephone: 770–488–2700.

For program technical assistance, contact: Dan Jernigan, M.D., Division of Healthcare Quality Promotion, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, N.E., Mailstop A–35, Atlanta, GA 30333, Telephone: 404–639–2621; E-mail: *DJernigan@cdc.gov.*

For financial, grants management, or budget assistance, contact: Mattie B. Jackson, Grants Management Specialist, CDC Procurement and Grants Office, 2920 Brandywine Road, MS K14, Atlanta, GA 30341, Telephone: 770–488–2696; E-mail: *mij3@cdc.gov.*

VIII. Other Information

This and other CDC funding opportunity announcements can be found on the CDC Web site, Internet address: *http://www.cdc.gov.* Click on "Funding" then "Grants and Cooperative Agreements."

Dated: May 27, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–11044 Filed 6–2–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Adaptation and Evaluation of a Brief, Nurse-Delivered Sexual Risk Reduction Intervention for HIV-Positive Women in the South

Announcement Type: New.

Funding Opportunity Number: PS05–083.

Catalog of Federal Domestic Assistance Number: 93.941.

*Key Dates:*sea

Letter of Intent Deadline: July 5, 2005.

Application Deadline: July 18, 2006.

I. Funding Opportunity Description

Authority: The program is authorized under sections 317(k)(2) and 318b of the Public Health Service Act [42 U.S.C. Sections 247b(k)(2) and 247c], as amended.

Purpose: The purpose of the project is to adapt and evaluate a prevention intervention for the growing population of HIV-positive women in the Southern United States (U.S.), and to study factors associated with risk among women. The primary outcome will be the evaluation of a brief, nurse-delivered prevention intervention adapted for use with HIV-positive women in the Southern U.S. using behavioral risk measures. The project will also conduct a small number of in-depth qualitative interviews of young, recently infected women to assess social and environmental factors contributing to behavioral risk for HIV infection, as well as potential for future interventions that go beyond the individual level. This program addresses the "Healthy People 2010" focus areas of HIV.

Measurable outcomes of the program will align with one or more of the following performance goals for the National Center for HIV, STD, and TB Prevention (NCHSTP):

• Decrease the number of persons at high risk for acquiring or transmitting HIV infection.

• Strengthen the capacity nationwide to monitor the epidemic, develop and implement effective HIV prevention interventions, including those based on

the "ABC" approach (Abstinence, Be Faithful, and, as appropriate, Correct and Consistent Condom Use), and evaluate prevention programs.

Research Objectives: The objectives of this study include:

- Using and adopting Demonstration Adaptation of Prevention Techniques (ADAPT) guidelines to adapt and tailor "Sister to Sister: the Black Woman's Health Project," (a brief nurse-delivered prevention intervention) to HIV-positive women in the Southern U.S.
- Training nurses to deliver the single-session HIV prevention intervention to HIV-positive women in order to reduce HIV transmission risk behavior in this population.
- Monitoring the delivery of the intervention for quality assurance.
- Evaluating the intervention by implementing a randomized comparison study, including pre-intervention and six-month post-intervention behavioral risk assessments.
- Conducting qualitative interviews with a subgroup of recently diagnosed participants to assess factors contributing to risk, and exploring innovative ways to prevent HIV transmission among at-risk women in the South.

Activities: The program will support health departments in one or two states in the Southern U.S. Health departments will be expected to work collaboratively with federal investigators and another awardee (if applicable) in conducting an intervention study to reduce sexual transmission risk among HIV-positive women in both rural and urban settings in the Southern U.S. It is expected that grantees will enroll a total of 330 women (one site or two sites combined), a proportion of whom will be living in rural areas. This proportion will be determined between CDC and grantee after the award.

The intervention to be evaluated will be an adaptation of "Sister to Sister: The Black Woman's Health Project," a rigorously evaluated, 20-minute nurse-delivered intervention that was effective in reducing sexually-transmitted infection (STI) incidence at a 12-month follow-up with HIV-negative urban African American women. The intervention will be adapted utilizing the ADAPT guidance (available through the Extramural Program Official listed in Section VII of this announcement) for adapting and tailoring prevention interventions. The intervention would be evaluated with behavior change in a randomized wait list comparison design with a six-month follow-up period. That is, six months after having delivered the intervention to the first group of women, women in the comparison condition would also receive the intervention.

Semi-structured, focused, qualitative interviews will be conducted with a subgroup of young, recently-diagnosed participants following their participation in the intervention study. During the qualitative interviews, women will discuss the behavioral, social, and contextual conditions that may have contributed to their risk for HIV infection, and ideas about possible ways to address the STI and HIV epidemics in this region, i.e., how to prevent other women from becoming infected. Ultimately, the qualitative data will be used to inform future social, structural, policy, or other interventions. Thus, the proposed project will evaluate an individually based approach and gather information for approaches with the potential to have greater impact on this epidemic than might be anticipated with individual-level interventions alone.

Awardee activities for this program are as follows:

- Establish a community advisory board comprised of representative members of the community to consult on all aspects of the study.
- Develop recruitment strategies that will identify a minimum of 165 to 330 (depending on the number of awards) HIV-seropositive women within the applicant state(s), in rural and urban areas, and retain 85 percent of participants through their risk behavior assessment at six months following the delivery of the intervention.
- In collaboration with ODC investigators, adapt the existing intervention to the target population.
- In collaboration with CDC and other funded investigators (if applicable), develop a plan for a randomized behavioral intervention trial with research and intervention protocols and assessment instruments.
- In collaboration with CDC and other funded investigators (if applicable), develop a semi-structured qualitative individual interview protocol focusing on women's perceptions of factors involved in their infection, including social and structural parameters of risk. The protocol would specify criteria for purposefully selecting a subgroup of 25–30 study participants for the qualitative interviews.
- Identify five to ten nurses who will be trained to deliver the intervention and arrange for their participation in the proposed project.
- Conduct the research study in accordance with the study protocol and CDC mutually-established timeline.
- Collaborate with CDC and other funded investigators (if applicable) to develop and use common data collection instruments and data management and reporting procedures. Recipients will be required to pool data for analysis and publication as agreed to by the collaborators.
- Attend meetings at CDC and elsewhere to develop a collaborative research protocol and monitor progress.
- Participate in regular conference calls with all collaborators.
- Develop the research study protocols and standardized data collection forms access sites, including standardized measures of HIV-related risk behavior.
- Establish procedures to maintain the rights and confidentially of all study participants.
- Prepare an Institutional Review Board (IRB) protocol for approval at the local and CDC levels.
- Identify, recruit, enroll, and obtain informed consent from an adequate number of study participants, as determined by the study protocols and the program requirements.
- Follow study participants as determined by the study protocols.
- Collaborate and share data (when appropriate) with other collaborators to answer specific research questions.
- Participate in the presentation and publishing of research findings.
- Collaborate with other awardees (if applicable) on all aspects of the study.

In a cooperative agreement, CDC staff is substantially involved in the program activities, above and beyond routine grant monitoring.CDC activities for this program are as follows:

- Providing technical assistance, as needed, in intervention adaptation and in the design and conduct of research.
- Providing training on the adapted intervention to nurses who will deliver the intervention.
- Providing training on HIV-related nursing care, if requested by applicant.
- Training project staff to conduct behavioral risk assessment interviews and qualitative interviews.
- Assisting in the development of a research protocol for IRB review by all cooperating institutions participating in the research project. CDC's IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.
- Assisting in designing an integrated data management system, including coordinating data submission to CDC via the Secure Data Network (SDN) and developing cleaned, combined data sets.
- Working collaboratively with investigators to help facilitate research activities across sites involved in the same research project.

• Analyzing data and presenting findings at meetings and in publications.

II. Award Information

Type of Award: Cooperative Agreement. CDC involvement in this program is listed in the Activities Section above.

Mechanism of Support: U01.

Fiscal Year Funds: 2005.

Approximate Total funding: $200,000. (This amount is an estimate, and is subject to availability of funds.)

Approximate Number of Awards: One to Two.

Approximate Average Award: $100,000 to $200,000. (This amount includes both indirect and direct costs for the first 12-month budget period, and would increase in subsequent years depending on availability of funds.)

Floor of Award Range: None.

Ceiling of Award Range: $200,000. (This ceiling is for the first 12-month budget period.)

Anticipated Award Date: August 31, 2005.

Budget Period Length: 12 months.

Project Period Length: Four years. Throughout the project period, CDC's commitment to the continuation of awards will be conditioned on the availability of funds, evidence of satisfactory progress by the recipient (as documented in required reports), and the determination that continued funding is in the best interest of the Federal Government.

It is anticipated that in subsequent years of the project, the average award will increase in order to support project activities, including the staff and materials necessary to conduct recruitment, retention, intervention, and evaluation activities.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by:

• State health departments in the following states: North Carolina, South Carolina, Georgia, Texas, Delaware, Maryland, Alabama, Mississippi, Florida, Louisiana, Tennessee or their Bona Fide Agents.

A Bona Fide Agent is an agency/organization identified by the state as eligible to submit an application under the state eligibility in lieu of a state application. If you are applying as a bona fide agent of a state government, you must provide a letter from the state as documentation of your status. Place this documentation behind the first page of your application form.

Eligibility is limited to these state health departments due to dramatic increases in HIV, AIDS and STI rates among women, particularly among women of color in these states. Over the past 15 years, the HIV infection rate among women in the Southern U.S. has steadily increased. Seven of the ten states with the highest case rates among women are in the South, and the South hs led the way in total number of reported AIDS cases among female adults and adolescents, compared to all other regions of the country. As is the case nationally, in Southern U.S., black women make up the vast majority of newly reported HIV infections.

Given that women in the Southern U.S. are disproportionately affected by HIV, this competition is limited to health departments in the Southern U.S. with demonstrated ability to reach HIV positive women at risk for further transmission, in adequate numbers to generate the required sample size for this project, and with demonstrated research capability.

III.2. Cost Sharing or Matching

Matching funds are not required for this program.

III.3. Other

If you are requesting a funding amount greater than the ceiling of the award range, your application will be considered non-responsive, and will not be entered into the review process. You will be notified that your application did not meet the submission requirements.

Special Requirements: If your application is incomplete or not responsive to the requirements listed in this section, it will not be entered into the review process. You will be notified that your application did not meet submission requirements.

• Late applications will be considered nonresponsive. See section "IV.3. Submission Dates and Times" for more information on deadlines.

• **Note:** Title 2 of the United States Code Section 1611 states that an organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive federal funds constituting an award, grant, or loan.

Individuals Eligible to Become Principal Investigators: Any individual with the skills, knowledge, and resources necessary to carry out the proposed research is invited to work with their state health department to develop an application for support. Individuals from underrepresented racial and ethnic groups, as well as individuals with disabilities, are always encouraged to apply for CDC programs.

Additional Principal Investigator qualifications are as follows:

• Experience adapting, delivering, and evaluating HIV prevention interventions, including those based on the "ABC" approach (Abstinence, Be Faithful, and, as appropriate, Correct and Consistent Condom Use).

• Knowledge and training in theories of behavioral change.

• A track record of participation in conducting and publishing research.

IV. Application and Submission Information

IV.1. Address To Request Application Package

To apply for this funding opportunity, use application form PHS 398 (OMB number 0925–0001 rev. 9/2004). Forms and instructions are available in an interactive format at *http://www.cdc.gov/od/pgo/forminfo.htm.*

Forms and instructions are also available in an interactive format at *http://grants.nih.gov/grants/funding/phs398/phs398.html.*

If you do not have access to the Internet, or if you have difficulty accessing the forms online, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) staff at: 770–488–2700. Application forms can be mailed to you.

IV.2. Content and Form of Application Submission

Letter of Intent (LOI): Your LOI must be written in the following format:

• Maximum number of pages: Two.
• Font size: 12-point unreduced.
• Line spacing: Single.
• Paper size: 8.5 by 11 inches.
• Page margin size: One inch.
• Printed only on one side of page.
• Written in plain language, avoid jargon.

Your LOI must contain the following information:

• Descriptive title of the proposed research.
• Name, address, e-mail address, telephone number, and FAX number of the Principal Investigator.
• Names of other key personnel.
• Participating institutions.
• Number and title of this announcement.

Application: Follow the PHS 398 application instructions for content and formatting of your application. If the instructions in this announcement differ in any way from the PHS 398 instructions, follow the instructions in this announcement. For further assistance with the PHS 398 application form, contact the PGO–TIM staff at 770–488–2700, or contact GrantsInfo by phone at (301) 435–0714 or by e-mail at *GrantsInfo@nih.gov.*

Your research plan should address activities to be conducted over the entire project period.

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 Federal Government. Your DUNS number must be entered on line 11 of the face page of the PHS 398 application form. The DUNS 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, go to *http://www.dunandbradstreet.com* or call 1–866–705–5711. For more information, go to the CDC Web site at: *http://www.cdc.gov/od/pgo/funding/pubcommt1.htm.*

This announcement uses the modular budgeting as well as non-modular budgeting formats. See: *http://grants.nih.gov/grants/funding/modular/modular.htm* for additional guidance on modular budgets. Specifically, if you are submitting an application with direct costs in each year of $250,000 or less, use the modular budget format. Otherwise, follow the instructions for non-modular budget research grant applications.

Additional requirements to submit more documentation with your application are listed below in Section "VI.2. Administrative and National Policy Requirements."

IV.3. Submission Dates and Times

LOI Deadline Date: July 5, 2005.

CDC requests that you send a LOI if you intend to apply for this program. Although the LOI is not required, not binding, and does not enter into the review of your subsequent application, the LOI will be used to gauge the level of interest in this program, and to allow CDC to plan the application review.

Application Deadline Date: July 18, 2005.

Explanation of Deadlines: LOIs must be received in the Office of Public Health Research (OPHR) and applications must be received in the CDC Procurement and Grants Office by 4 p.m. eastern time on the deadline date. If you submit your application by the United States Postal Service or a commercial delivery service, you must ensure that the carrier will be able to guarantee delivery by the closing date and time. If CDC receives your submission after closing due to: (1) Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time; or (2) significant weather delays or natural disasters, you will be given the opportunity to submit documentation of the carriers guarantee. If the documentation verifies a carrier problem, CDC will consider the submission as having been received by the deadline.

This announcement is the definitive guide on LOI and application content, submission address, and deadline. It supersedes information provided in the application instructions. If your application does not meet the deadline above, it will not be eligible for review, and will be discarded. You will be notified that you did not meet the submission requirements.

CDC will not notify you upon receipt of your submission. If you have a question about the receipt of your application, first contact your courier. If you still have a question, call the PGO–TIM staff at 770–488–2700. Before calling, please wait two to three days after the submission deadline. This will allow time for submissions to be processed and logged.

IV.4. Intergovernmental Review of Applications

Your application is subject to Intergovernmental Review of Federal Programs, as governed by Executive Order (EO) 12372. This order sets up a system for State and local governmental review of proposed federal assistance applications. You should contact your state single point of contact (SPOC) as early as possible to alert the SPOC to prospective applications, and to receive instructions on your state's process. To get the current SPOC list, go to *http://www.whitehouse.gov/omb/grants/spoc.html.*

IV.5. Funding Restrictions

Restrictions, which must be taken into account while writing your budget, are as follows:

- Funds relating to the conduct of research will not be released until the appropriate assurances and Institutional Review Board approvals are in place.
- Reimbursement of pre-award costs is not allowed.

If you are requesting indirect costs in your budget, you must include a copy of your indirect cost rate agreement. If your indirect cost rate is provisional, the agreement should have been made within the past 12 months.

IV.6. Other Submission Requirements

LOI Submission Address: Submit your LOI by express mail or delivery service to: Mary Lerchen, DrPH, Scientific Review Administrator, Centers for Disease Control and Prevention, One West Court Square, Suite 7000, MS D–72, Decatur, GA 30030, Telephone: 404–371–5277, Fax: 404–371–5277, Fax: 404–371–5215, E-mail: *Mlerchen@cdc.gov.*

LOIs may not be submitted electronically at this time.

Application Submission Address: Submit the original and one hard copy of your application by express mail or delivery service to: Technical Information Management—PS05–083, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341.

At the time of submission, four additional copies of the application and all appendices must be sent to: Mary Lerchen, DrPH, Scientific Review Administrator, Centers for Disease Control and Prevention, One West Court Square, Suite 7000, MS D–72, Decatur, GA 30030, Telephone: 404–371–5277, Fax: 404–371–5215, E-mail: *Mlerchen@cdc.gov.*

Applications may not be submitted electronically at this time.

V. Application Review Information

V.1. Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the Purpose section of this announcement. Measures must be objective and quantitative, and must measure the intended outcomes. These measures of effectiveness must be submitted with the application and will be an element of evaluation.

The goals of CDC-supported research are to advance the understanding of biological systems, improve the control and prevention of disease and injury, and enhance health. In the written comments, reviewers will be asked to evaluate the application in order to judge the likelihood that the proposed research will have a substantial impact on the pursuit of the goals appropriate to this announcement.

The scientific review group will address and consider each of the following criteria in assigning the application's overall score, weighting them as appropriate for each application. The application does not need to be strong in all categories to be judged likely to have major scientific impact and thus deserve a high priority score. For example, an investigator may propose to carry out important work that by its nature is not innovative, but is essential to move a field forward.

The review criteria are as follows:

Significance: Does this study address an important problem? If the aims of the

application are achieved, how will scientific knowledge be advanced? What will be the effect of these studies on the concepts or methods that drive this field? Does the applicant demonstrate an understanding of the need for and intent of the research? Does the applicant provide a description of study activities that are likely to lead to meeting the objectives of this project? Are the proposed study activities likely to have a positive impact on the field of HIV prevention for HIV positive women in the southern U.S.?

Approach: Are the conceptual framework, design, methods, and analyses adequately developed, well-integrated, and appropriate to the aims of the project? Does the applicant acknowledge potential problem areas and consider alternative tactics? Does the applicant address all of the activities listed on pages four through eight of this announcement? Will the applicant establish a community advisory board to assist on all aspects of conducting the study? Does the applicant agency demonstrate adequate knowledge of the epidemic in its geographic area and the target population? Does the applicant provide a timeframe for the proposed project? Does the applicant propose an adequate plan to recruit the required minimum number of eligible participants? Does the applicant propose an adequate plan to retain at least 85 percent of the study sample across the follow-up period? Does the applicant present an adequate plan for recruitment and organizational support of nurses to deliver the intervention? Does the applicant present an adequate plan for quality assurance of the delivery of the intervention? Does the applicant present an adequate plan for assuring client and data confidentiality?

Innovation: Does the project employ novel concepts, approaches or methods? Are the aims original and innovative? Does the project challenge existing paradigms or develop new methodologies or technologies?

Investigator: Is the investigator appropriately trained and well suited to carry out this work? Is the work proposed appropriate to the experience level of the principal investigator and other researchers (if any)? Does the investigator have and demonstrate an understanding of the issues relating to the proposed target population and experience working with this population? Does the investigator have experience recruiting the targeted study population and retaining this group in a study? Does the investigator have experience with delivery and evaluation of behavioral interventions? Does the investigator have previous experience conducting a randomized controlled trial? Does the key staff have sufficient time devoted to this project to ensure success? Does the investigator have experience collaborating with community advisory boards? Does the investigator demonstrate a willingness to collaborate with CDC and, if applicable, other health department, to adapt the intervention and design the intervention evaluation and qualitative interviews?

Environment: Does the scientific environment in which the work will be done contribute to the probability of success? Do the proposed experiments take advantage of unique features of the scientific environment or employ useful collaborative arrangements? Is there evidence of institutional support? Is the planned location for the study in an area with access to adequate numbers of the target population? Does the applicant include letters of support demonstrating a strong partnership with health care facilities and/or the agencies with which it proposes collaboration, including proposed location of intervention delivery? Does the applicant demonstrate how levels of administrative support, community involvement, facilities, and other resources at the research site(s) will contribute to the probability of success of the project?

Additional Review Criteria: In addition to the above criteria, the following items will be considered in the determination of scientific merit and priority score:

Protection of Human Subjects From Research Risks: Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects? The involvement of human subjects and protection from research risks relating to their participation in the proposed research will be assessed.

Inclusion of Women and Minorities in Research: Does the application adequately address the CDC Policy requirements regarding the inclusion of women and ethnic and racial groups in the proposed research? This includes: (1) The proposed plan for the inclusion of women and racial and ethnic minority populations for appropriate representation; (2) The proposed justification when representation is limited or absent; (3) A statement as to whether the design of the study is adequate to measure differences when warranted; and (4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

Budget: Is the proposed budget and the requested period of support reasonable in relation to the proposed research?

V.2. Review and Selection Process

Applications will be reviewed for completeness by the Procurement and Grants Office (PGO) and for responsiveness by OPHR. Incomplete applications and applications that are non-responsive to the eligibility criteria will not advance through the review process. Applicants will be notified that their application did not meet submission requirements.

Applications that are complete and responsive to the announcement will be evaluated for scientific and technical merit by an appropriate peer review group or charter study section convened by OPHR in accordance with the review criteria listed above. As part of the initial merit review, all applications may:

- Undergo a process in which only those applications deemed to have the highest scientific merit by the review group, generally the top half of the applications under review, will be discussed and assigned a priority score.
- Receive a written critique.
- Receive a second programmatic level review by the NCHSTP.

Award Criteria: Criteria that will be used to make award decisions during the programmatic review include:

- Scientific merit (as determined by peer review)
- Availability of funds
- Programmatic priorities

V.3. Anticipated Announcement and Award Dates

It is anticipated that awards will be made on or before August 31, 2005.

VI. Award Administration Information

VI.1. Award Notices

Successful applicants will receive a Notice of Award (NoA) from the CDC Procurement and Grants Office. The NoA shall be the only binding, authorizing document between the recipient and CDC. The NoA will be signed by an authorized Grants Management Officer, and mailed to the recipient fiscal officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review by mail.

VI.2. Administrative and National Policy Requirements

45 CFR Part 74 and Part 92

For more information on the Code of Federal Regulations, go to the National

Archives and Records Administration Internet address at *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html.*

The following additional requirements apply to this project:

- AR-1 Human Subjects Requirements.
- AR-2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research.
- AR-4 HIV/AIDS Confidentiality Provisions.
- AR-5 HIV Program Review Panel Requirements.
- AR-6 Patient Care.
- AR-7 Executive Order 12372.
- AR-9 Paperwork Reduction Act Requirements.
- AR-10 Smoke-Free Workplace Requirements.
- AR-11 Healthy People 2010.
- AR-12 Lobbying Restrictions.
- AR-22 Research Integrity.
- AR-24 Health Insurance Portability and Accountability Act Requirements.
- AR-25 Release and Sharing of Data.

Additional information on these requirements can be found on the CDC Web site at: *http://www.cdc.gov/od/pgo/funding/ars.htm.*

VI.3. Reporting

You must provide CDC with an original, plus two hard copies of the following reports:

1. Interim progress report. Use form PHS 2590, OMB Number 0925–0001, rev. 9/2004 as posted on the CDC Web site at: *http://www.nih.gov/grants/funding/2590/2590.htm.* Submit report no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current Budget Period Objectives and Activities.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Objectives and Activity.

d. Budget.

e. Measures of Effectiveness.

f. Additional Requested Information.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

These reports must be mailed to the grants management specialist listed in the Agency Contacts section of this announcement.

VII. Agency Contacts

Inquiries concerning this announcement are encouraged.

For general questions, contact: Technical Information Management Section, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341, Telephone: 770–488–2700.

For scientific/research issues, contact: Amy L. Sandul, Extramural Program Official, Office of the Associate Director for Science, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS E07, Atlanta, Georgia 30030, Telephone: 404–639–6485, Fax: 404–639–8600, E-mail: *ASandul@cdc.gov.*

For questions about peer review, contact: Mary Lerchen, DrPH, Scientific Review Administrator, Office of Public Health Research, Centers for Disease Control and Prevention, 1600 Clifton Road, Mailstop D72, Atlanta, GA 30030, Telephone: 404–371–5277, Fax: 404–371–5215, E-mail: *mlerchen@cdc.gov.*

For financial, grants management, or budget assistance, contact: Merlin Williams, Grants Management Officer, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341, Telephone: 404–498–1918, E-mail: *mqw6@cdc.gov.*

VIII. Other Information

This and other CDC funding opportunity announcements can be found on the CDC Web site, at Internet address: *http://www.cdc.gov.* Click on "Funding" then "Grants and Cooperative Agreements."

Dated: May 24, 2005.

Alan A. Kotch,

Acting Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–10867 Filed 5–31–05; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Environmental Health/Agency for Toxic Substances and Disease Registry

The Program Peer Review Subcommittee of the Board of Scientific Counselors (BSC), Centers for Disease Control and Prevention (CDC), National Center for Environmental Health (NCEH)/Agency for Toxic Substances and Disease Registry (ATSDR): Teleconference.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), The Centers for Disease Control and Prevention, NCEH/ATSDR announces the following subcommittee meeting:

Name: Program Peer Review Subcommittee (PPRS).

Time and Date: 12:30 p.m.–2 p.m., June 20, 2005.

Place: The teleconference will originate at the National Center for Environmental Health/Agency for Toxic Substances and Disease Registry in Atlanta, Georgia. Please see "Supplementary Information" for details on accessing the teleconference.

Status: Open to the public, teleconference access limited only by availability of telephone ports.

Purpose: Under the charge of the Board of Scientific Counselors, NCEH/ATSDR the Program Peer Review Subcommittee will provide the BSC, NCEH/ATSDR with advice and recommendations on NCEH/ATSDR program peer review. They will serve the function of organizing, facilitating, and providing a long-term perspective to the conduct of NCEH/ATSDR program peer review.

Matters To Be Discussed: The teleconference agenda will include an update on the new Federal Advisory Committee Act rules and regulations; an update on the peer review for the Environmental Health Services Branch; a discussion on the Peer Review Questionnaires; a review of Action Items.

Agenda Items are subject to change as priorities dictate.

SUPPLEMENTARY INFORMATION: This conference call is scheduled to begin at 12:30 p.m. Eastern Standard Time. To participate in the teleconference, please dial (877) 315–6535 and enter conference code 383520.

FOR FURTHER INFORMATION CONTACT: Sandra Malcom, Committee Management Specialist, Office of Science, NCEH/ATSDR, M/S E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/498–0003.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

Dated: May 27, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–11045 Filed 6–2–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10014]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Informatics, Telemedicine, and Education Demonstration Project; *Form No.:* CMS–10014 (OMB# 0938–0806); *Use:* The Informatics, Telemedicine and Education Demonstration Project studies the use of advanced computer and telecommunication technology in the collection of data for diabetes management. It aims to demonstrate the feasibility of a large-scale web-based system for electronic delivery of health care services that complies with the date security requirements of the Health Insurance Portability and Accountability Act (HIPAA); assesses impacts of telemedicine on the process of care for Medicare beneficiaries with diabetes; assesses impacts on diabetes related health outcomes; and assesses the cost-effectiveness of the telemedicine intervention. The information collection seeks approval for an extension as the demonstration project enters Phase 2. Phase 2 of the project employs new advanced technologies to reduce the public burden associated with the information collection, while maintaining, to the extent possible, continuity of design, eligibility criteria, recruitment and enrollment, intervention, and data collection procedures already established in Phase 1. *Frequency:* Semi-Annually; *Affected Public:* Business or other not-for-profit, Individuals or households; *Number of Respondents:* 4,100; *Total Annual Responses:* 7,094; *Total Annual Hours:* 12,379.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/regulations/pra/*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 27, 2005.

Michelle Shortt,

Acting Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–11135 Filed 6–2–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–838 and CMS–10148]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Credit Balance Reporting Requirements and Supporting Regulations in 42 CFR 405.371, 405.378, and 413.20; *Form Nos.:* CMS–838 (OMB # 0938–0600); *Use:* Section 1815(a) of the Social Security Act authorizes the Secretary to request information from providers which is necessary to properly administer the Medicare program. Quarterly credit balance reporting is needed to monitor and control the identification and timely collection of improper payments. The reporting requirements provide CMS with the authority to impose sanctions such as the suspension of program payments in accordance with 42 CFR 413.20(e) and 405.371 if providers do not report credit balances on a timely basis. Furthermore, once a credit balance has been identified on an 838 and demand for payment is made, CMS has the authority to charge interest if the amount is not repaid within 30 days in accordance with 42 CFR 405.378. The collection of credit balance information is needed to ensure that millions of dollars in improper program payments are collected. Approximately 48,300 health care providers will be required to submit a quarterly credit balance report that identifies the amount of improper payments they received that are due to Medicare. The intermediaries will monitor the reports to ensure these funds are collected; *Frequency:* Quarterly; *Affected Public:* Not-for-profit institutions, Business or other for-profit; *Number of Respondents:* 48,300; *Total Annual Responses:* 193,200; *Total Annual Hours:* 579,600.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* HIPAA Administrative Simplification Non-Privacy Enforcement; *Form Nos.:* CMS–10148(OMB # 0938–0948); *Use:* The

Health Insurance Portability and Accountability Act (HIPAA) became law in 1996 (Pub. L. 104–191). Subtitle F of Title II of HIPAA, entitled "Administrative Simplification," (A.S.) requires the Secretary of Health and Human Services to adopt national standards for certain information-related activities of the health care industry. The HIPAA provisions, by statute, apply only to "covered entities" referred to in section 1320d–2(a)(1) of this title. Responsibility for administering and enforcing the HIPAA A.S. Transactions, Code Sets, Identifiers and Security Rules has been delegated to the Centers for Medicare & Medicaid Services; *Frequency:* Reporting—On occasion; *Affected Public:* Business or other for-profit, Individuals or Households; Not-for-profit institutions, Federal Government, and State, Local or Tribal Government; *Number of Respondents:* 500; *Total Annual Responses:* 500; *Total Annual Hours:* 500.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra/*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice to the address below: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: William N. Parham, III, PRA Analyst, Room C5–13–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 27, 2005.

Michelle Shortt,

Acting Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–11136 Filed 6–2–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10156]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320. This is necessary to ensure compliance with an initiative of the Administration. We cannot reasonably comply with the normal clearance procedures because the normal procedures are likely to cause a statutory deadline to be missed. It is critical that the Medicare Retiree Drug Subsidy (RDS) applications be available to plan sponsors on August 1, 2005 in order for there to be enough time for the RDS Center to process the applications.

Under Section 1860D–22 of the Social Security Act, added by the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) and implementing regulations at 42 CFR 423.880 plan sponsors (employers, unions etc.) who offer prescription drug coverage to their qualified covered retirees are eligible to receive a 28% tax-free subsidy for allowable drug costs. Plan sponsors must submit a complete application to CMS in order to be considered for the RDS program.

CMS is requesting OMB review and approval of this collection by July 4, 2005, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below by July 3, 2005.

Type of Information Collection Request: New Collection.

Title of Information Collection: Retiree Drug Subsidy (RDS) Application and Instructions.

Use: Under the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003 and implementing regulations at 42 CFR Subpart R plan sponsors (employers, unions) who offer prescription drug coverage to their qualified covered retirees are eligible to receive a 28% tax-free subsidy for allowable drug costs. In order to qualify, plan sponsors must submit a complete application to CMS with a list of retirees for whom it intends to collect the subsidy.

Form Number: CMS–10156 (OMB#: 0938–NEW).

Frequency: Quarterly, Monthly, Annually.

Affected Public: Business or other for-profit, Not-for-profit institutions, Federal Government, and State, Local or Tribal Government.

Number of Respondents: 50,000.

Total Annual Responses: 50,000.

Total Annual Hours: 2,025,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/regulations/pra* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below by July 3, 2005:

Centers for Medicare & Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Room C5–13–27, 7500 Security Boulevard, Baltimore, MD 21244–1850. Fax Number: (410) 786–

0262. Attn: Melissa Musotto, CMS–10156;
and,
OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: June 1, 2005.

Jimmy Wickliffe,

CMS Paperwork Reduction Act Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Regulations Development Group.

[FR Doc. 05–11178 Filed 6–2–05; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005M–0005]

Medical Devices Regulated by the Center for Biologics Evaluation and Research; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of premarket approval applications (PMAs) that have been approved by the Center for Biologics Evaluation and Research (CBER). This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMAs through the Internet and FDA's Division of Dockets Management.

ADDRESSES: Submit written requests for copies of summaries of safety and effectiveness data to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Please include the appropriate docket number as listed in table 1 of this document when submitting a written request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries of safety and effectiveness data.

FOR FURTHER INFORMATION CONTACT: Nathaniel L. Geary, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 30, 1998 (63 FR 4571), FDA published a final rule that revised 21 CFR 814.44(d) and 814.45(d) to discontinue individual publication of PMA approvals and denials in the **Federal Register**, providing instead to post this information on the Internet at *http://www.fda.gov*. In addition, the regulations provide that FDA publish a quarterly list of available safety and effectiveness summaries of PMA approvals and denials that were announced during the quarter. FDA believes that this procedure expedites public notification of these actions because announcements can be placed on the Internet more quickly than they can be published in the **Federal Register**, and FDA believes that the Internet is accessible to more people than the **Federal Register**.

In accordance with section 515(d)(4) and (e)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(4) and (e)(2)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the act. The 30-day period for requesting administrative reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

The following is a list of PMAs approved by CBER for which summaries of safety and effectiveness were placed on the Internet from October 1, 2004, through December 31, 2004. There were no denial actions during the period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1.—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS MADE AVAILABLE OCTOBER 1, 2004, THROUGH DECEMBER 31, 2004

PMA No./Docket No.	Applicant	Trade Name	Approval Date
BP 040046/02005M–0005	Bio-Rad Laboratories	Multispot HIV–1/HIV–2 Rapid Test	November 12, 2004

II. Electronic Access

Persons with access to the Internet may obtain the documents at *http://www.fda.gov/cber/products.htm*.

Dated: April 11, 2005.

Jesse Goodman,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 05–11072 Filed 6–2–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Method of Diagnosing Cancer Using beta-Catenin Splice Variants

Mark J. Roth and Konrad Huppi (NCI); U.S. Provisional Application No. 60/652,154 filed 10 Feb 2005 (DHHS Reference No. E–018–2005/0–US–01); *Licensing Contact:* Susan S. Rucker; (301) 435–4478; *ruckersu@mail.nih.gov.*

This application relates to methods for early detection, diagnosis, and prognosis of cancers and their associated preneoplastic lesions. The methods are useful in evaluating the status of preneoplastic lesions as well as tumor tissue. Because of this, the methods can be used to track the progression and therapeutic response of disease in cell and tissue samples of normal, dysplasia or cancerous epithelium procured by routine cytology, i.e., exfoliated/brush or fine needle aspiration, or surgical methods.

The methods are particularly useful with respect to adenocarcinomas and squamous cell carcinomas. In particular, the methods described and claimed in the application are useful with respect to preneoplasias and carcinomas involving the upper aerodigestive tract.

The methods involve the measurement of levels of one or more pairs of transcripts or the protein products of these pairs of transcripts or the cellular localization of the transcripts or proteins. The primary transcripts or protein products useful in this method are those of the beta-Catenin gene (CTNNB1). In particular, the levels of the 16A and 16B CTNNB1 transcripts or protein products are of importance in carrying out the methods of this patent application. Other gene transcripts or protein products that may be used in conjunction with CTNNB1 16A and 16B to provide additional information are WAF1 (p21) and cMYC.

The methods can be practiced using fresh or frozen cell and/or tissue specimens and techniques such as laser capture microdissection (LCM) RT–PCR.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Method of Diagnosing and Treating Cancer Using beta-Catenin Splice Variants

Mark J. Roth and Konrad Huppi (NCI); U.S. Provisional Application No. 60/667,084 filed 30 Mar 2005 (DHHS Reference No. E–018–2005/1–US–01); *Licensing Contact:* Susan S. Rucker; (301) 435–4478; *ruckersu@mail.nih.gov.*

This application relates to methods for treatment of cancers and preneoplastic lesions. The treatment methods may also be used in conjunction with the diagnostic/prognostic methods disclosed in related provisional patent application 60/652,154 (NIH Ref: E–018–2005/0–US–01).

The methods are particularly useful with respect to adenocarcinomas and squamous cell carcinomas. In particular, the methods described and claimed in the application are useful with respect to preneoplasias and carcinomas involving the upper aerodigestive tract.

The methods employ small interfering RNA molecules (siRNAs) as a means to alter the expression of one or more particular CTNNB1 transcripts. In particular, preferred siRNA molecules alter the expression of the CTNNB1 transcripts 16A and/or 16B. The siRNA molecules may be single-stranded (ss) or double-stranded (ds). The siRNA molecules may be delivered using a construct, which is capable of expressing the siRNA molecule upon delivery to the target cell.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Framework Residue Substituted Humanized COL–1 Antibodies and Their Use

Syed Kashmiri (NCI), Eduardo Padlan (NIDDK), and Jeffrey Schlom (NCI); U.S. Provisional Application No. 60/640,672 filed 30 Dec 2004 (DHHS Reference No. E–339–2004/0–US–01); *Licensing Contact:* Michelle A. Booden; (301) 451–7337; *boodenm@mail.nih.gov.*

Carcinoembryonic antigen (CEA) has been found to be an important marker of colorectal cancer. CEA is expressed in 85 percent of all gastric cancers and may function as a metastatic potentiator of such cancers. In addition, it has been shown that CEA is up regulated when certain cancers are treated with standard chemotherapy drugs. A treatment modality that focuses specifically on CEA could be an effective way of treating many carcinomas, including colorectal, gastric, pancreatic, lung and breast cancers.

The present invention relates to humanized monoclonal antibodies that bind to CEA. Specifically, these antibody variants have amino acid substitutions in the heavy chain framework that reduces the likelihood of human anti-mouse antibodies (HAMA).

The original murine COL–1 antibody has been shown to be reactive to CEA without cross reactivity with other potential antigens of the CEA family: specifically Antigens NCA–1 and normal fecal antigen Ag1. The increased specificity to CEA and reduced human immunogenicity of these COL–1 humanized variants makes these antibodies attractive therapeutic and/or diagnostic compounds.

The COL–1 antibody is described in the following background publications:

(i) Gonzales NR, Padlan EA, De Pascalis R, Schuck P, Schlom J, and Kashmiri SV. SDR grafting of a murine antibody using multiple human germline templates to minmize its immunogenicity. Mol. Immunol. 41(9): 863–872, 2004.

(ii) De Pascalis R, Iwahashi M, Tamura M, Padlan EA, Gonzales NR, Santos AD, Giuliano M, Schuck P, Schlom J, and Kashmiri SV. Grafting of "abbreviated" complementarity-determining regions containing specificity-determining residues essential for ligand contact to engineer a less immunogenic humanized monoclonal antibody. J. Immunol. 169: 3076–3084, 2002.

(iii) Gonzales NR, Padlan EA, De Pascalis R, Schuck P, Schlom J, Kashmiri SV. Minimizing immunogenicity of the SDR-grafted humanized antibody CC49 by genetic manipulation of the framework residues. Mol. Immunol. 40:337–349, 2003.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Inhibiting IL–13 Receptor-Expressing Cancer Cells With Anti-IL–13 Receptor Immunotoxin and Alkylating Agents

Raj Puri and Syed Husain (FDA); U.S. Provisional Application No. 60/621,035 filed 20 Oct 2004 (DHHS Reference No. E–302–2003/0–US–01); *Licensing Contact:* Brenda Hefti; (301) 435–4632; *heftib@mail.nih.gov.*

The present invention relates to methods of inhibiting the growth of cancer cells expressing the IL–13 receptor. Most generally, the patent application claims immunotoxins consisting of anti-IL–13 antibodies bound to toxins such as pseudomonas exotoxin or diphtheria toxin, or a cytotoxic fragment thereof, used in combination with alkylating agents. This combination appears to have significant advantages over use of either agent alone in the treatment of malignant gliomas, head and neck cancers, adenocarcinomas of the colon, stomach of skin, and Hodgkin's disease.

Regulation of RNA Stability

Wi Lai *et al.* (NIEHS); U.S. Provisional Application No. 60/451,976 filed 06 Mar

2003 (DHHS Reference No. E–314–2002/0–US–01); PCT Application No. PCT/US04/06703 filed 05 Mar 2004, which published as WO 2004/081179 A2 on 10 Feb 2005 (DHHS Reference No. E–314–2002/0–PCT–02); *Licensing Contact:* Jesse S. Kindra; (301) 435–5559; *kindraj@mail.nih.gov.*

This invention relates to the discovery that tristetraprolin (TTP) can promote the poly(A)RNase (PARN) mediated deadenylation of polyadenylated substrates containing AU-rich elements (AREs). As one aspect of the invention, the inventors have developed a cell free system that may be used for the purposes of assessing the effects of the various system components or their derivatives (*i.e.* AREs, PARN, or TTP) on the deadenylation process or the effects of various test agents on the deadenylation process. Aspects of this work have been published as follows: Lai *et al.*, 2003, Tristetraprolin and Its Family Members Can Promote the Cell-Free Deadenylation of AU-Rich Element-Containing mRNAs by Poly(A) Ribonuclease, MCB 23(11):3798–3812.

This technology is available for licensing on an exclusive or a non-exclusive basis.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Tristetraprolin (TTP) Knockout Mice

Perry Blackshear *et al* (NIEHS). DHHS Reference No. B–015–1999/0—Research Material.

Licensing Contact: Michelle A. Booden; 301/451–7337; *boodenm@mail.nih.gov.*

National Institutes of Health researchers have developed knockout mice that do not express Tristetraprolin (TTP). TTP is an AU-rich element (ARE) binding protein and the prototype of a family of CCCH zinc finger proteins. AREs were identified as conserved sequences found in the 3' untranslated region (3' UTR) of a variety of transiently expressed genes including early respsonse genes, proto-oncogenes, and other growth regulatory genes. AREs function as instability sequences that target ARE-containing transcripts for rapid mRNA decay. TTP functions by binding directly to the ARE sequence contained in the TNF-alpha mRNA, which destabilizes and mediates rapid decay of the TNF-alpha mRNA. More recent studies demonstrate TTP's ability to downregulate IL–2 gene expression.

TTP knockout mice appear normal at birth but soon develop inflammatory arthritis, dermatitis, cachexia, autoimmunity, and myeloid hyperplasia. Almost all aspects of these phenotypes can be prevented with repeated injections of antibodies to TNF. Moreover, macrophages isolated from these mice exhibit increased production of TNF-alpha and increased amounts of TNF-alpha mRNA.

This transgenic mouse model will be valuable in advancing our understanding of the mechanisms controlling mRNA turnover in immune homeostasis as well as autoimmune diseases. This model will also permit the development of screening assays to elucidate the functions and binding partners for other members of the CCCH zinc finger family as well as compounds capable of inhibiting aberrant TNF-alpha and IL–2 biosynthesis. Lastly, this model will advance understanding of the pathogenetic role for IL–2 and/or TNF in various autoimmune and inflammatory diseases. The mice will be made available on a non-exclusive basis under a Biological Materials License Agreement.

Background scientific detail may be found in Immunol. 2005 Jan 15; 174(2):953–61; Arthritis Res Ther. 2004; 6(6):248–64; and Science. 1998 Aug 14; 281(5379):1001–5.

Dated: May 23, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–11096 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center on Minority Health and Health Disparities; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center on Minority Health and Health Disparities Special Emphasis Panel, NCMHD Endowment.

Date: June 27–28, 2005.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Merlyn M. Rodrigues, PhD, MD, Director, Office of Extramural Activities, National Center On Minority Health and Health Disparities, National Institutes of Health, 6707 Democracy Blvd. Suite 800, Bethesda, MD 20894, (301) 402–1366, *rodrigm1@mail.nih.gov.*

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11095 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Disorders; 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 purpose of this meeting is to evaluate requests for preclinical development resources for potential new therapeutics for Type 1 diabetes. The outcome of the evaluation will be a decision whether NIDDK should support the request and make available contract resources for development of the potential therapeutic to improve the treatment or prevent the development of Type 1 diabetes and its complications. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Disorders Special Emphasis Panel; Type 1 Diabetes—Rapid Access to Intervention Development.

Date: June 21, 2005.

Time: 3 p.m.–4 p.m.

Agenda: To evaluate requests for preclinical development resources for

potential new therapeutics for Type 1 diabetes and its complications.

Place: 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dr. Myrlene Staten, Senior Advisor, Diabetes Translation Research, Division of Diabetes, Endocrinology and Metabolic Diseases, NIDDK, NIH, 6707 Democracy Boulevard, Bethesda, MD 20892–5460, 301 402–7886.

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. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 98.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11085 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Sodium Chloride Cotransporter.

Date: June 23, 2005.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carol J. Goter-Robinson, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Radiological Imaging Studies of Polycystic Kidney Disease (CRISP) Extended Cohort Study.

Date: June 28, 2005.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Bethesda Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: XIaodu Guo, MD, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 705, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 596–4724, *quox@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11086 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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.

This meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Obstetrics and Maternal-Fetal Biology Subcommittee.

Date: June 20–21, 2005.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Bldg Rm 5B01, Rockville, MD 20852, (301) 435–6889, *bhatnagg@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11087 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, NIGMS National Centers for System Biology.

Date: June 20–21, 2005.

Time: 6 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points by Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Arthur L. Zachary, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–12, Bethesda, MD 20892, (301) 594–2886, *zacharya@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88,

Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11089 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, RFA 05–007 Identifying Autism Susceptibility Genes.

Date: June 21, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Bethesda North Hotel and Conference Center, 5701 Marinelli Road, North Bethesda, MD 20892.

Contact Person: A. Roger Little, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6157, MSC 9608, Bethesda, MD 20892–9608, (301) 402–5844, *alittle@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11090 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Cooperative Drug Discovery Group.

Date: June 24, 2005.

Time: 12 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, HIV and Psychiatric Comorbidity.

Date: June 29, 2005.

Time: 10 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 25, 2005.

Laverne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11091 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee. National Institute of General Medical Sciences Special Emphasis Panel, Pilot-Scale Libraries for High-Throughput Screening Grant Applications.

Date: June 21–22, 2005.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Richard I. Martinez, PhD, MD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN12, Bethesda, MD 20892–6200, 301–594–2849, *rm63f@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11092 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Health Special Emphasis Panel, Mental Health Dissertation Grants.

Date: June 16, 2005.

Time: 4 p.m. to 5:15 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone conference call.)

Contact Person: Martha Ann Carey, PhD, RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd, Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301/443–1606. *mcarey@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11093 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 Child Health and Human Development Special Emphasis Panel, The Effects of Aspirin in Gestation and Reproduction (EAGR) Trial.

Date: June 21, 2005.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852. (Telephone conference call.)

Contact Person: Hameed Khan, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892. (301) 435–6902. *khanh@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11094 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel, Scholarly Works—G13's.

Date: June 24, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Hua-Chuan Sim, MD, Health Science Administrator, National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11079 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (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 commerical property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel, IADL Review.

Date: July 22, 2005.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Hua-Chuan Sim, MD, Scientific Review Administrator, National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11080 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel, R03/R21 Review.

Date: July 15, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Hua-Chuan Sim, MD, Health Science Administrator, National Library of Medicine, Extramural Programs, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11081 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel, Translational Informatics.

Date: July 26, 2005.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Hua-Chuan Sim, MD, Health Science Administrator, National Library of Medicine, Extamural Programs, Bethesda, MD 20892–796.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11082 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Toxicology Program (NTP); Meeting of the NTP Board of Scientific Counselors Nanotechnology Working Group

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Meeting announcement.

SUMMARY: The National Toxicology Program (NTP) has established the Nanotechnology Working Group ("the NWG") to the NTP Board of Scientific Counselors in order to enhance public and stakeholder input into the NTP nanotechnology research program. The NWG is a technical advisory body established to provide a structured and formal mechanism for bringing stakeholders together to learn about NTP nanotechnology research related to public health, address issues related to that research, and promote dissemination of those discussions to other Federal agencies, nanotechnology stakeholders, and the public. The first meeting of the NWG is scheduled for June 24, 2005, at the NIEHS, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

DATES: The working group meeting will be held June 24, 2005. The meeting will begin at 12:30 p.m. and end at approximately 4:30 p.m. Individuals who plan to attend are encouraged to register by June 17, 2005, in order to ensure access to the NIEHS campus (*see* **FOR FURTHER INFORMATION CONTACT** below). Persons needing special assistance, such as sign language interpretation or other reasonable accommodation, in order to attend are asked to notify the NTP at least 7 business days in advance of the meeting.

ADDRESSES: The meeting will be held in the Rodbell Auditorium, Rall Building at the NIEHS, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709. A copy of the agenda, working group roster, and any additional information, when available, will be posted on the NTP Web site (*http://ntp.niehs.nih.gov/* select "Advisory Board & Committees") or may be requested in hardcopy from the NWG Executive Secretary (*see* **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Correspondence should be submitted to Dr. Kristina Thayer (NIEHS, P.O. Box 12233, MD A3–01, Research Triangle

Park, NC 27709; telephone: 919–541–5021, fax 919–541–0295; or e-mail: *thayer@niehs.nih.gov*).

SUPPLEMENTARY INFORMATION:

Background

In recent years, nanotechnology has become an increasing focus of U.S. and global research and development efforts. As with many technological advances, novel materials are created, and as a result, the potential exists for new and unanticipated human exposures for which the impact on human health is unknown. The NTP is developing a broad-based research program to address potential human health hazards associated with the manufacture and use of nanoscale materials. This research program will include studies of nanoscale materials that apply existing and novel toxicological methods to assess potential health effects associated with exposure to these materials. In order to enhance public and stakeholder input into this program, the NTP has established the Nanotechnology Working Group to provide advice to the NTP Board of Scientific Counselors on NTP nanotechnology research. Additional information on the NWG, including charge and roster, is available at the NTP Web site (*http://ntp.niehs.nih.gov/* select "Advisory Board & Committees").

Preliminary Agenda

NTP Board of Scientific Councelors Nanotechnology Working Group (NWG); National Institute of Environmental Health Sciences, Rodbell Auditorium B, Rall Building, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709. (A photo ID is required to access the NIEHS campus.)

12:30 p.m.:

- Call to Order and Introductions.
- Welcome and Remarks from the National Toxicology Program (NTP).
- Structure and Goals of the NWG.
- Overview of the National Nanotechnology Initiative (NNI).
- U.S Federal Agency Efforts in Nanotechnology.
  - National Toxicology Program.
  - National Institute of Environmental Health Sciences.
  - National Institute for Occupational Safety and Health.
  - Food and Drug Administration.
  - Environmental Protection Agency.
- Public Comment.
- General Discussion.

Attendance and Registration

The meeting is scheduled for June 24, 2005, from 12:30 p.m. to adjournment (approximately 4:30 p.m.) and is open to the public with attendance limited only by the space available. Please note that a photo ID is required to access the NIEHS campus. The NTP is making plans to videocast the meeting through the Internet at *http://www.niehs.nih.gov/external/video.htm.*

Request for Comments

Public input at this meeting is invited. Each organization is allowed one time slot per agenda topic. At least 7 minutes will be allotted to each speaker, and if time permits, may be extended to 10 minutes. Registration for oral comments will also be available on-site, although time allowed for presentation by on-site registrants may be less than that for pre-registered speakers and will be determined by the number of persons who register at the meeting.

Persons registering to make oral comments are asked, if possible, to send a copy of their statement to the NWG Executive Secretary (*see* **FOR FURTHER INFORMATION CONTACT** above) by June 17, 2005, to enable review by the NTP Board and NIEHS/NTP staff prior to the meeting. Written statements can supplement and may expand the oral presentation. If registering on-site and reading from written text, please bring 40 copies of the statement for distribution to the NWG and NIEHS/NTP staff and to supplement the record. Written comments received in response to this notice will be posted on the NTP Web site. Persons submitting written comments should include their name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any) with the document.

Dated: May 23, 2005.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 05–11111 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Cancellation of Meeting

Notice is hereby given of the cancellation of the Center for Scientific Review Special Emphasis Panel, June 23, 2005, 12:00 p.m. to June 23, 2005, 1:00 p.m., The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037 which was published in the **Federal Register** on May 18, 2005, 70 FR 28549–23552.

The meeting is cancelled due to the reassignment of the applications.

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11077 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Enabling Bioanalytical and Biophysical Technologies Study Section, June 23, 2005, 8:30 a.m. to June 24, 2005, 6 p.m., Wyndham City Center Hotel, 1143 New Hampshire Ave., NW., Washington, DC, 20037 which was published in the **Federal Register** on May 18, 2005, 70 FR 28549–28552.

The starting time of the meeting on June 23, 2005 has been changed to 8 a.m. until adjournment. The meeting dates and location remain the same. The meeting is closed to the public.

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11078 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, June 12, 2005, 7:30 a.m. to June 14, 2005, 3 p.m., Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD, 20814 which was published in the **Federal Register** on May 6, 2005, 70 FR 24099–24102.

The starting time of the meeting on June 12, 2005 has been changed to 7:30 p.m. until adjournment. The meeting dates and location remain the same. The meeting is closed to the public.

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11083 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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: Center for Scientific Review Special Emphasis Panel, SBIR/STTR Study Section.
Date: June 16, 2005.
Time: 11 a.m. to 1:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Dan D. Gerendasy, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5132, MSC 7843, Bethesda, MD 20892, 301–594–6830, *gerendad@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neuroepidemiology, Aging and Musculoskeletal Epidemiology Member Conflict.
Date: June 22, 2005.
Time: 6 p.m. to 9 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.
Contact Person: Gertrude K. McFarland, FAAN, RN, DNSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892, 301–435–1784, *mcfarlag@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Research and Field Studies.
Date: June 24, 2005.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, 301–435–1150, *politisa@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 GGG–A (02)M: Transfer RNA Enzymes.
Date: June 24, 2005.
Time: 4 p.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Richard Panniers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Molecular Oncogenesis.
Date: June 27–28, 2005.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Joanna M. Watson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046–G, MSC 7804, Bethesda, MD 20892, 301–435–1048, *watsonjo@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Microbial Iron Metabolism.
Date: June 27, 2005.
Time: 9:30 a.m. to 11 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Rolf Menzel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, 301–435–0952, *menzelro@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict in Speech Disorders and Intervention.
Date: June 27, 2005.
Time: 3 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7848, Bethesda, MD 20892, 301–435–2309, *pluded@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neuro Genetics.
Date: June 28–29, 2005.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select, 480 King Street, Alexandria, VA 22314.
Contact Person: Robert C. Elliott, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–05–028: Shared Instrumentation Imaging.
Date: June 28, 2005.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.
Contact Person: Hector Lopez, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, 301–435–2392, *lopezh@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships; Biomedical Sensing and Instrumentation.
Date: June 28, 2005.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.
Contact Person: Pushpa Tandon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7854, Bethesda, MD 20892, 301–435–2397, *tandoonp@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Mechanism of Tumorigenesis.
Date: June 28, 2005.
Time: 1 p.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Zhiqiang Zou, MD, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, MSC 7804, Bethesda, MD 20892, 301–451–0132, *zouzhiq@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Imaging Technology.
Date: June 28, 2005.
Time: 7 p.m. to 8:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavillion, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Robert J. Nordstrom, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, 301–435–1175, *nordstrr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Globin Gene Transcription.
Date: June 30, 2005.
Time: 1 p.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7802, Bethesda, MD 20892, 301–435–1739, *gangulyc@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 25, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–11084 Filed 6–2–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908), on September 30, 1997 (62 FR 51118), and on April 13, 2004 (69 FR 19644).

A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1035, 1 Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Mandatory Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards that laboratories must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines dated April 13, 2004 (69 FR 19644), the following laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840 / 800–877–7016. (Formerly: Bayshore Clinical Laboratory)

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770 / 888–290–1150.

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400.

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783. (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917.

Diagnostic Services Inc., dba DSI, 12700 Westlinks Dr., Fort Myers, FL 33913, 239–561–8200 / 800–735–5416.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.

DrugProof, Division of Dynacare/ Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2661 / 800–898–0180. (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310.

Dynacare Kasper Medical Laboratories *, 10150–102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780–451–3702 / 800–661–9876.

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 662–236–2609.

Express Analytical Labs, 3405 7th Ave., Suite 106, Marion, IA 52302, 319–377–0500.

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6225.

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989 / 800–433–3823, (Formerly: Laboratory Specialists, Inc.)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927 / 800–873–8845, (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 7207 N. Gessner Rd., Houston, TX 77040, 713–856–8288 / 800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400 / 800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Dr., Research Triangle Park, NC 27709, 919–572–6900 / 800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group.)

Laboratory Corporation of America Holdings, 10788 Roselle St., San Diego, CA 92121, 800–882–7272, (Formerly: Poisonlab, Inc.)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042 / 800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734 / 800–331–3734.

MAXXAM Analytics Inc.*, 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905–817–5700. (Formerly: NOVAMANN (Ontario) Inc.)

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466 / 800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295 / 800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Dr., Minneapolis, MN 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250 / 800–350–3515.

Northwest Toxicology, a LabOne Company, 2282 South Presidents Drive, Suite C, West Valley City, UT 84120, 801–606–6301 / 800–322–3361. (Formerly: LabOne, Inc., d/b/a Northwest Toxicology; NWT Drug Testing, NorthWest Toxicology, Inc.; Northwest Drug Testing, a division of NWT Inc.)

One Source Toxicology, Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774. (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134.

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942. (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991 / 800–541–7897x7.

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372 / 800–821–3627.

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 / 800–729–6432. (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–824–6152. (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866 / 800–433–2750. (Formerly: Associated Pathologists Laboratories, Inc.)

Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600 / 877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995 / 847–885–2010, (Formerly: SmithKline Beecham Clinical Laboratories; International Toxicology Laboratories)

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520 / 800–877–2520. (Formerly: SmithKline Beecham Clinical Laboratories)

Scientific Testing Laboratories, Inc., 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130.

Sciteck Clinical Laboratories, Inc., 317 Rutledge Rd., Fletcher, NC 28732, 828–650–0409.

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300 / 800–999–5227.

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x276.

Southwest Laboratories, 4645 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507 / 800–279–0027.

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–364–7400. (Formerly: St. Lawrence Hospital & Healthcare System)

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260.

U.S. Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.*

Anna Marsh,

Executive Officer, SAMHSA.

[FR Doc. 05–10947 Filed 6–2–05; 8:45 am]

BILLING CODE 4160–20–P

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 13, 2004 (69 FR 19644). After receiving DOT certification, the laboratory will be included in the monthly list of HHS certified laboratories and participate in the NLCP certification maintenance program.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–21311]

Chemical Transportation Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on the Chemical Transportation Advisory Committee (CTAC). CTAC provides advice and makes recommendations to the Coast Guard on matters relating to the safe and secure transportation and handling of hazardous materials in bulk on U.S.-flag vessels in U.S. ports and waterways.

DATES: Application forms should reach the Coast Guard on or before October 28, 2005. However, the Coast Guard will include all applications received before any recommendations are made to the Secretary of Homeland Security.

ADDRESSES: You may request an application form by writing to Commandant (G-MSO–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling (202) 267–1217/0081; or by faxing (202) 267–4570. Submit application forms to the same address. This notice and the application form are available on the Internet at *http://dms.dot.gov*. The application form is also available at *http://www.uscg.mil/hq/g-m/advisory/ctac/ctac.htm*.

FOR FURTHER INFORMATION CONTACT: Commander Robert J. Hennessy, Executive Director of CTAC, or Ms. Sara S. Ju, Assistant to the Executive Director, telephone (202) 267–1217/0081, fax (202) 267–4570.

SUPPLEMENTARY INFORMATION: The Chemical Transportation Advisory Committee (CTAC) is an advisory

committee constituted under the Federal Advisory Committee Act, 5 U.S.C. App. 2. It provides advice and makes recommendations to the Commandant through the Assistant Commandant for Marine Safety, Security and Environmental Protection on matters relating to the safe and secure transportation and handling of hazardous materials in bulk on U.S.-flag vessels in U.S. ports and waterways. The advice and recommendations of CTAC also assist the U.S. Coast Guard in formulating the position of the United States on hazardous material transportation issues prior to meetings of the International Maritime Organization.

CTAC meets at least once a year, usually twice a year, at Coast Guard Headquarters in Washington, DC, or in another location. CTAC's subcommittees and working groups may meet to perform specific assignments as required.

The Coast Guard will consider applications for eight positions that expire in December 2005. To be eligible, applicants should have experience in chemical manufacturing, vessel design and construction, marine transportation of chemicals, safety and health, or marine environmental protection issues associated with chemical transportation. Each member serves for a term of 3 years. Some members may serve consecutive terms. All members serve at their own expense, and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

In support of the policy of the Department of Homeland Security on gender and ethnic diversity, the Coast Guard encourages applications from qualified women and members of minority groups.

Dated: May 25, 2005.

Howard L. Hime,

Acting Director of Standards, Marine Safety, Security and Environmental Protection.

[FR Doc. 05–11004 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–21347]

Great Lakes Pilotage Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Great Lakes Pilotage Advisory Committee (GLPAC). GLPAC provides advice and makes recommendations to the Secretary on a wide range of issues related to pilotage on the Great Lakes, including the rules and regulations that govern the registration, operating requirements, and training policies for all U.S. registered pilots. The Committee also advises on matters related to ratemaking to determine the appropriate charge for pilot services on the Great Lakes.

DATES: Application forms should reach us on or before July 15, 2005.

ADDRESSES: You may request an application form by writing to GLPAC Application, Commandant (G-MWP–1), Room 1406, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001; by calling 202–267–2384; or by faxing 202–267–4700. Send your original completed and signed application in written form to the above street address. This notice and the application are available on the Internet at *http://dms.dot.gov* and the application form is also available at *http://www.uscg.mil/hq/g-m/advisory/index.htm*.

FOR FURTHER INFORMATION CONTACT: Mr. John Bobb; Executive Secretary of GLPAC, telephone 202–267–2384, fax 202–267–4700, or mail to: *jbobb@comdt.uscg.mil*. .

SUPPLEMENTARY INFORMATION: The Great Lakes Pilotage Advisory Committee (GLPAC) is a Federal advisory committee under 5 U.S.C. App. 2. It advises the Secretary on a wide range of issues related to pilotage on the Great Lakes. GLPAC meets at least once a year at Coast Guard Headquarters, Washington, DC, or another location selected by the Coast Guard. It may also meet for extraordinary purposes. Its working groups may meet to consider specific problems as required.

Applications are being considered for three positions that expire or become vacant in May 2005. Applications will be considered from persons representing three industry groups; Great Lakes vessel operators that contract for Great Lakes pilotage services, Great Lakes ports, and Great Lakes shippers. One appointment will be made to represent the Great Lakes vessel operators, one to represent the Great Lakes ports, and one to represent Great Lakes shippers.

To be eligible, applicants should have particular expertise, knowledge, and experience regarding the regulations and policies on the pilotage of vessels on the Great Lakes, and at least 5 years practical experience in maritime operations. Each member serves for a term of 3 years and may be reappointed for one additional term. All members serve at their own expense but receive reimbursement for travel and per diem expenses from the Federal Government.

In support of the policy of the Department of Homeland Security on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Dated: May 27, 2005.

Howard L. Hime,

Acting Director of Standards, Marine Safety, Security and Environmental Protection.

[FR Doc. 05–11005 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and costs, and includes the actual data collection instruments FEMA will use.

Title: Federal Assistance to Individuals and Households Program (IHP).

OMB Number: 1660–0061.

Abstract: The Federal Assistance to Individual and Household Program (IHP) enhances applicants' ability to request approval of late applications, request continued assistance, and appeal program decisions. Similarly, it allows States to partner with FEMA for delivery of disaster assistance under the "Other Needs" provision of the IHP through Administrative Option Agreements and Administration Plans addressing the level of managerial and resource support necessary.

Affected Public: Individuals and households; State, Local or Tribal Governments.

Number of Respondents: 40,072.

Estimated Time per Respondent: 30 to 45 minutes for individual and households respondents; 3 hours for States, local and Tribal governments.

Estimated Total Annual Burden Hours: 29,716 hours.

Frequency of Response: Once.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs at OMB, Attention: Desk Officer for the Department of Homeland Security/FEMA, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503, or facsimile number (202) 395–7285. Comments must be submitted on or before July 5, 2005.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to the Section Chief, Records Management, FEMA at 500 C Street, SW., Room 316, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

Dated: May 27, 2005.

George S. Trotter,

Acting Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. 05–11122 Filed 6–2–05; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1589–DR]

New York; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of New York (FEMA–1589–DR), dated April 19, 2005, and related determinations.

DATES: *Effective Date:* May 26, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of New York is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 19, 2005:

Niagara County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 05–11120 Filed 6–2–05; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1589–DR]

New York; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of New York (FEMA–1589–DR), dated April 19, 2005, and related determinations.

DATES: *Effective Date:* May 23, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of New York is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 19, 2005:

Otsego County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 05–11121 Filed 6–2–05; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4980–N–22]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: *Effective Date:* June 3, 2005.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: May 26, 2005.

Mark R. Johnston,

Director, Office of Special Needs, Assistance Programs.

[FR Doc. 05–10916 Filed 6–2–05; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for endangered species and/or marine mammals.

SUMMARY: The following permit was issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and/or the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.

ENDANGERED SPECIES

Permit number	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
093437, 093438, 093439, 094810, 094812, and 094813.	Mitchel Kalmanson	70 FR 11020; March 7, 2005	May 3, 2005.
100220	San Francisco Zoological Society	70 FR 12495; March 14, 2005	April 18, 2005.

MARINE MAMMALS

Permit number	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
097575	Leo C. Potter	70 FR 5203; February, 1, 2005	May 3, 2005.
099289	Robert Daggett	70 FR 11021; March 7, 2005	May 3, 2005.

Dated: May 20, 2005.

Michael Carpenter,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 05–11065 Filed 6–2–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and marine mammals.

DATES: Written data, comments or requests must be received by July 5, 2005.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Anthony P. Gallo, PRT–103313.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Donald J. Blackwood, PRT–103423.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: James E. Bond, PRT–103425.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa,

for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Douglas J. Leech, PRT–103096.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: Clifford L. Tulpa, PRT–103409.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Applicant: Robert G. Moyer, PRT–103429.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Applicant: Donald L. Shaum, PRT–103098.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Dated: May 20, 2005.

Michael Carpenter,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 05–11066 Filed 6–2–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended.

DATES: To ensure consideration, written comments must be received on or before July 5, 2005.

ADDRESSES: Written comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Documents will be available for public inspection, by appointment only, during normal business hours at the U.S. Fish and Wildlife Service, 500 Gold Ave., SW., Room 4102, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, (505) 248–6920.

SUPPLEMENTARY INFORMATION:

Permit No. TE–048464

Applicant: Joanne Roberts, Phoenix, Arizona.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct presence/absence surveys for Sonoran tiger salamander (Ambystoma tigrinum stebbinsi) within Arizona.

Permit No. TE–103076

Applicant: Transcon Infrastructure, Inc., Mesa, Arizona.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for cactus ferruginous pygmy-owl (Glaucidium brasilianum cactorum) within Arizona.

Permit No. TE–020844

Applicant: Engineering and Environmental consultants, Inc., Tucson, Arizona.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct presence/absence surveys for lesser long-nosed bat (Leptonycteris curasoae (=sanborni) yerbabuenae), interior least tern (Sterna antillarum), and northern aplomado falcon (Falco femoralis septentrionalis) within Arizona, New Mexico, and Texas.

Permit No TE–102515

Applicant: Northeastern State University, Tahlequah, Oklahoma.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys, capture, and tag for the American burying beetle (Nicrophorus americanus) within Oklahoma.

Permit No. TE–102517

Applicant: Tetra Tech, Inc., Farmington, New Mexico.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatcher (Empidonax traillii extimus) within Arizona, Colorado, New Mexico, Texas, and Utah.

Permit No. TE–006655

Applicant: Logan Simpson Design, Inc., Tempe, Arizona.

Applicant requests an amendment to an existing permit to conduct presence/absence surveys for the following species within Arizona, Colorado, New Mexico, Nevada, and Utah: interior least tern (Sterna antillarum), northern aplomado falcon (Falco femoralis septentrionalis), Gila topminnow (Poeciliopsis occidentalis), and razorback sucker (Xyrauchen texanus). In addition to presence/absence surveys, applicant requests authorization to conduct nest searches and nest monitoring for the northern aplomado falcon (Falco femoralis septentrionalis).

Permit No. TE–103069

Applicant: Donna J. Howell, Mora, New Mexico.

Applicant requests a new permit to capture, hold, and release lesser long-nosed bats (Leptonycteris curasoae (=sanborni) yerbabuenae) within Arizona.

Permit No. TE–103314

Applicant: Jon Matthew Tanner, McKinney, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys and nest monitoring for interior least tern (Sterna antillarum) within Texas.

Permit No. TE–103480

Applicant: Carianne Funicelli, Tucson, Arizona.

Applicant requests a new permit for research and recovery purposes to

conduct presence/absence surveys for the following species within Arizona, New Mexico, and Texas: lesser long-nosed bat (Leptonycteris curasoae (=sanborni) yerbabuenae), cactus ferruginous pygmy-owl (Glaucidium brasilianum cactorum), southwestern willow flycatcher (Empidonax traillii extimus), Sonoran tiger salamander (Ambystoma tigrinum stebbinsi), desert pupfish (Cyprinodon macularius), and Gila topminnow (Poeciliopsis occidentalis).

Permit No. TE–103860

Applicant: Roberg Environmental Consulting Services, Cabot, Arkansas.

Applicant requests a new permit for research and recovery purposes to survey, trap, and relocate for the American burying beetle (Nicrophorus americanus) within Arkansas and Oklahoma.

Permit No. TE–103862

Applicant: Texas Department of Transportation, Houston, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the following species within Texas: Attwater's greater prairie chicken (Tymphanuchus cupido attwateri), brown pelican (Pelecanus occidentalis), Eskimo curlew (Numenius borealis), red-cockaded woodpecker (Picoides (=Dendrocopos) borealis), whooping crane (Grus americana), and Texas prairie dawn-flower (Hymenoxys texana).

Authority: 16 U.S.C. 1531, *et seq.*

Dated: May 10, 2005.

Steve Chambers,

Acting Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 05–11039 Filed 6–2–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

Patent, Trademark & Copyright Acts

AGENCY: U.S. Geological Survey.

ACTION: Notice of prospective intent to award exclusive license.

SUMMARY: The United States Geological Survey (USGS) is contemplating awarding an exclusive license to: Geovision Solutions, Inc., 1410 Gunston Road, Bel Air, Maryland 21015 on U.S. Patent Application Serial No. 09/877,786, entitled "Integrated Method for Disseminating Large Spatial Data Sets in a Distrubuted Form Via the Internet."

Inquiries: If other parties are interested in similar activities, or have comments related to the prospective award, please contact Neil Mark, USGS, 12201 Sunrise Valley Drive, MS 201, Reston, Virginia 20192, voice (703) 648–4344, fax (703) 648–7219, or e-mail *nmark@usgs.gov.*

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the requirements of 35 U.S.C. 208 *et seq.*

Dated: May 20, 2005.

Patricia P. Dunham,

Deputy Chief, Office of Administrative Policy and Services.

[FR Doc. 05–11067 Filed 6–2–05; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection, Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of a currently approved information collection (OMB Control Number 1010–0155).

SUMMARY: To comply with the Paperwork Reduction Act (PRA) of 1995, we are inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) is titled "30 CFR Part 204 Alternatives for Marginal Properties, Subpart C—Accounting and Auditing Relief." This ICR covers the regulatory language under 30 CFR part 204, as published in the final rulemaking on September 13, 2004 (69 FR 55076). This citation explains how lessees and their designees can obtain accounting and auditing relief for production from Federal oil and gas leases and units and communitization agreements that qualify as marginal properties.

DATES: Submit written comments on or before August 2, 2005.

ADDRESSES: Submit written comments to Sharron L. Gebhardt, Lead Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225. If you use an overnight courier service or wish to hand-carry your comments, our courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also e-mail your comments to us at *mrm.comments@mms.gov.* Include the title of the information collection and the OMB control number in the "Attention" line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your e-mail, contact Ms. Gebhardt at (303) 231–3211.

FOR FURTHER INFORMATION CONTACT: Sharron L. Gebhardt, telephone (303) 231–3211, FAX (303) 231–3781, or e-mail *sharron.gebhardt@mms.gov.*

SUPPLEMENTARY INFORMATION: *Title:* 30 CFR PART 204—ALTERNATIVES FOR MARGINAL PROPERTIES, Subpart C—Accounting and Auditing Relief.

OMB Control Number: 1010–0155.

Bureau Form Number: None.

Abstract: The Secretary of the U.S. Department of the Interior is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage mineral resources production on Federal and Indian lands, collect the royalties due, and distribute the funds in accordance with those laws. The MMS performs the royalty management functions for the Secretary.

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share (royalty) of the value received from production from the leased lands. The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data reported to private and public mineral interest owners and is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to ensure that the royalties are accurately valued and appropriately paid. A response is required to obtain the benefit of auditing and accounting relief.

Proprietary information submitted to MMS under this collection is protected, and no items of a sensitive nature are collected.

Applicable Citations

On August 13, 1996, Congress enacted Public Law 104–185—Aug. 13, 1996 (Federal Oil and Gas Royalty

Simplification and Fairness Act of 1996 [RSFA]), as corrected by Public Law 104–200—Sept. 22, 1996. RSFA amends portions of Public Law 97–451—Jan. 12, 1983 (Federal Oil and Gas Royalty Management Act of 1982 [FOGRMA]). The MMS amended its regulations in 2004 to provide guidance to lessees and designees seeking accounting and auditing relief for Federal marginal properties.

RSFA section 7 provides for MMS and states concerned to determine, on a case-by-case basis, the amount of marginal production that may be subject to either prepayment of royalty, or accounting and auditing relief. RSFA does not define marginal property for purposes of section 7, but does say that any granted alternative is to promote production, reduce administrative costs, and increase net receipts to the United States and the states. RSFA also provides that the state concerned with a marginal property must approve any use of an alternative under section 7.

There are two types of relief: Cumulative royalty reports and payments relief, and other relief. Under § 204.202, MMS requires notification from lessees or designees who request to take the cumulative royalty reporting and payment relief option. Under § 204.203, MMS requires a relief request from lessees or designees who want to obtain any other type of accounting and auditing relief. This information collection is voluntary; only those lessees or designees who choose to obtain relief must supply this information.

A state may decide in advance that it will or will not allow one or both of the relief options for each particular year. To help states decide whether to allow one or both of the relief options, MMS will send states a Report of Marginal Properties by October 1 preceding the calendar year. Each state must notify MMS of its intent to allow or not allow one or both of the relief options.

The MMS has determined, depending on the type of accounting and auditing relief being sought by the lessee or designee, that a lessee or designee must file either a notification or a request for relief with MMS to obtain the applicable form of relief provided for under RSFA section 7. This will allow the lessee or designee to specify the type of relief requested under RSFA section 7 on a case-by-case basis.

For the other relief option, MMS and the state concerned will use the information supplied by the lessee or designee in their relief request to: (1) Identify the person making the request; (2) identify the marginal property for which relief is being requested; (3) determine the relief being sought by the lessee or designee; (4) determine if the relief should be granted or denied; and (5) monitor the lessee's continuing eligibility of the relief being taken. After consulting with the state concerned, MMS will either approve, deny, or modify requests in writing. Under RSFA section 7, both MMS and a state concerned with a marginal property must approve any accounting and auditing relief granted for a marginal property. Therefore, MMS and the state concerned must determine that the relief is in the best interests of the Federal Government and the state concerned.

Frequency of Response: One time, and then again only if changes occur for Federal lessees/designees, and annually for states.

Estimated Number and Description of Respondents: 1,010 Federal lessees/designees and 15 states.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: 406 hours.

With participation in the relief program offered in 30 CFR part 204, MMS estimates an annual reporting burden hour savings of 694 hours for each subsequent year. This annual reporting burden hour savings are reflected in ICR 1010–0140 (expires 10/31/2006). We estimate approximately 134 requests from 1,010 Federal lessees/designees. Additionally, we estimate four responses from states, each requiring an annual in-depth analysis informing MMS of their decision to participate or not participate in accounting and auditing relief. We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary. The following chart shows the estimated burden hours by CFR section and paragraph:

SECTION A.12 BURDEN BREAKDOWN

Citation 30 CFR 204	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
PART 204—ALTERNATIVES FOR MARGINAL PROPERTIES Subpart C—Accounting and Auditing Relief				
204.202(b)(1)	§ 204.202 What is the cumulative royalty reports and payments relief option? (b) To use the cumulative royalty reports and payments relief option, you must do all of the following: (1) Notify MMS in writing by January 31 of the calendar year for which you begin taking your relief. * * *	2	100	200
204.202(b)(2)	§ 204.202 What is the cumulative royalty reports and payments relief option? (2) Submit your royalty report and payment * * * by the end of February of the year following the calendar year for which you reported annually * * *. If you have an estimated payment on file, you must submit your royalty report and payment by the end of March of the year following the calendar year for which you reported annually; (3) Use the sales month prior to the month that you submit your annual report and payment * * *, for the entire previous calendar year's production for which you are paying annually. * * *	Burden covered under OMB Control Number 1010–0140 (expires 10/31/2006).		

SECTION A.12 BURDEN BREAKDOWN—Continued

Citation 30 CFR 204	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
204.202(b)(4), (b)(5), (c), (d)(1), (d)(2), (e)(1), and (e)(2).	§ 204.202 What is the cumulative royalty reports and payments relief option? * * * (b) To use the cumulative royalty reports and payments relief option, you must * * *. (4) Report one line of cumulative royalty information on Form MMS–2014 for the calendar year * * *; and (5) Report allowances on Form MMS–2014 on the same annual basis as the royalties for your marginal property production. (c) If you do not pay your royalty by the date due in paragraph (b) of this section, you will owe late payment interest * * * from the date your payment was due under this section until the date MMS receives it. * * * (e) If you dispose of your ownership interest in a marginal property for which you have taken relief * * * you must: (1) Report and pay royalties for the portion of the calendar year for which you had an ownership interest; and (2) Make the report and payment by the end of the month after you dispose of the ownership interest in the marginal property. If you do not report and pay timely, you will owe interest * * * from the date the payment was due * * *.	Burden covered under OMB Control Number 1010–0140 (expires 10/31/2006).		
204.203(b)	§ 204.203 What is the other relief option? * * * (b) You must request approval from MMS * * * before taking relief under this option.	4	10	40
204.205(a) and (b)	§ 204.205 How do I obtain accounting and auditing relief? (a) To take cumulative reports and payments relief under § 204.202, you must notify MMS in writing by January 31 of the calendar year for which you begin taking your relief. * * * (b) To obtain other relief under § 204.203, you must file a written request for relief with MMS. * * *	Hour burden covered under § 204.203(b).		
204.206(a)(3)(i) and (b)(1)	§ 204.206 What will MMS do when it receives my request for other relief? When MMS receives your request for other relief under § 204.205(b), it will notify you in writing as follows: (a) If your request for relief is complete, MMS may either approve, deny, or modify your request in writing after consultation with any State * * *. (3) If MMS modifies your relief request, MMS will notify you of the modifications. (i) You have 60 days from your receipt of MMS's notice to either accept or reject any modification(s) in writing. * * * (b) If your request for relief is not complete, MMS will notify you in writing * * *. (1) You must submit the missing information within 60 days of your receipt of MMS's notice * * *.	Hour burden covered under § 204.203(b).		
204.208(c)(1) and (d)(1)	§ 204.208 May a State decide that it will or will not allow one or both of the relief options under this subpart? (c) If a State decides * * * that it will or will not allow one or both of the relief options * * * within 30 days * * * the State must: (1) Notify the Associate Director for Minerals Revenue Management, MMS, in writing, of its intent to allow or not allow one or both of the relief options * * *. (d) If a State decides in advance * * * that it will not allow one or both of the relief options * * * the State must:	40	4	160

SECTION A.12 BURDEN BREAKDOWN--Continued

Citation 30 CFR 204	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	(1) Notify the Associate Director for Minerals Revenue Management, MMS, in writing, of its intent to allow one or both of the relief options * * *.			
204.209(b)	§ 204.209 What if a property ceases to qualify for relief obtained under this subpart? (b) If a property is no longer eligible for relief * * * the relief for the property terminates as of December 31 of that calendar year. You must notify MMS in writing by December 31 that the relief for the property has terminated. * * *	.25	24	6
204.210(c) and (d)	§ 204.210 What if a property is approved as part of a nonqualifying agreement? (c) * * * the volumes on which you report and pay royalty * * * must be amended to reflect all volumes produced on or allocated to your lease under the nonqualifying agreement as modified by BLM * * *. Report and pay royalties for your production using the procedures in § 204.202(b). (d) If you owe additional royalties based on the retroactive agreement approval and do not pay your royalty by the date due in § 204.202(b), you will owe late payment interest determined under 30 CFR 218.54 from the date your payment was due under § 204.202(b)(2) until the date MMS receives it.	Burden covered under OMB Control Number 1010–0140 (expires 10/31/2006).		
204.214(b)(1) and (b)(2)	§ 204.214(b) Is minimum royalty due on a property for which I took relief? (b) If you pay minimum royalty on production from a marginal property during a calendar year for which you are taking cumulative royalty reports and payment relief, and: (1) The annual payment you owe under this subpart is greater than the minimum royalty you paid, you must pay the difference between the minimum royalty you paid and your annual payment due under this subpart; or (2) The annual payment you owe under this subpart is less than the minimum royalty you paid, you are not entitled to a credit because you must pay at least the minimum royalty amount on your lease each year.	Burden covered under OMB Control Number 1010–0140 (expires 10/31/2006).		
Total			138	406

Estimated Annual Reporting and Recordkeeping "Non-hour Cost" Burden: We have identified no "non-hour" cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501 *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments: Before submitting an ICR to OMB, PRA Section 3506(c)(2)(A) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *." Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting "non-hour cost" burden to respondents or recordkeepers resulting from the collection of information. We have not identified non-hour cost burdens for this information collection. If you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, and testing equipment; and

record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our ICR submission for OMB approval, including appropriate adjustments to the estimated burden. We will provide a copy of the ICR to you without charge upon request. The ICR also will be posted on our Web site at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm.*

Public Comment Policy: We will post all comments in response to this notice on our Web site at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm.* We also will make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Upon request, we will withhold an individual respondent's home address from the public record, as allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state your request prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: May 24, 2005.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 05–11098 Filed 6–2–05; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of an Environmental Assessment for Proposed Outer Continental Shelf Oil and Gas Lease Sale 198 in the Central Gulf of Mexico (2006)

AGENCY: Minerals Management Service, Interior.

ACTION: Preparation of an environmental assessment.

SUMMARY: The Minerals Management Service (MMS) is issuing this notice to advise the public, pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.*, that MMS intends to prepare an environmental assessment (EA) for proposed Outer Continental Shelf (OCS) oil and gas Lease Sale 198 in the Central Gulf of Mexico (GOM) (Lease Sale 198) scheduled for March 2006. The MMS is issuing this notice to facilitate public involvement. The preparation of this EA is an important step in the decision process for Lease Sale 198. The proposal and alternatives for Lease Sale 198 were identified by the MMS Director in January 2002 following the Call for Information and Nominations/Notice of Intent to Prepare an Environmental Impact Statement (EIS) and were analyzed in the Gulf of Mexico OCS Oil and Gas Lease Sales: 2003–2007; Central Planning Area Sales 185, 190, 194, 198, and 201; Western Planning Area Sales 187, 192, 196, and 200—Final Environmental Impact Statement; Volumes I and II (Multisale EIS, OCS EIS/EA MMS 2002–052). This EA will reexamine the potential environmental effects of the proposed action (the offering of all available unleased acreage in the Central Planning Area (CPA)) and its alternatives (the proposed action excluding the unleased blocks near biologically sensitive topographic features; the proposed action excluding the unleased blocks within 15 miles of the Baldwin County, Alabama, coast; and no action) based on any new information regarding potential impacts and issues that were not available at the time the Multisale EIS was prepared.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Chew, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, MS 5410, New Orleans, Louisiana 70123–2394. You may also contact Mr. Chew by telephone at (504) 736–2793.

SUPPLEMENTARY INFORMATION: In November 2002, MMS prepared a Multisale EIS that addressed nine proposed Federal actions that offer for lease areas on the GOM OCS that may contain economically recoverable oil and gas resources. Federal regulations allow for several related or similar proposals to be analyzed in one EIS (40 CFR 1502.4). Since each proposed lease sale and its projected activities are very similar each year for each planning area, a single EIS was prepared for the nine CPA and Western Planning Area (WPA) lease sales scheduled in the OCS Oil and Gas Leasing Program: 2002–2007 (5-Year Program, OCS EIS/EA MMS 2002–006). Under the 5-Year Program, five annual areawide lease sales are scheduled for the CPA (Lease Sales 185, 190, 194, 198, and 201) and five annual areawide lease sales are scheduled for the WPA (Lease Sales 184, 187, 192, 196, and 200). Lease Sale 184 was not addressed in the Multisale EIS; a separate EA was prepared for that proposal. The Multisale EIS addressed CPA Lease Sales 185, 190, 194, 198, and 201 scheduled for 2003, 2004, 2005, 2006, and 2007, respectively, and WPA Lease Sales 187, 192, 196, and 200 scheduled for 2003, 2004, 2005, and 2006, respectively. Although the Multisale EIS addresses nine proposed lease sales, at the completion of the EIS process, decisions were made only for proposed CPA Lease Sale 185 and proposed WPA Lease Sale 187. In the year prior to each subsequent proposed lease sale, an additional NEPA review (an EA) will be conducted to address any new information relevant to that proposed action. After completion of the EA, MMS will determine whether to prepare a Finding of No New Significant Impact (FONNSI) or a Supplemental EIS. The MMS will then prepare and send Consistency Determinations (CD's) to the affected States to determine whether the lease sale is consistent with their federally-approved State coastal zone management programs. Finally, MMS will solicit comments via the Proposed Notice of Sale (PNOS) from the governors of the affected States on the size, timing, and location of the lease sale. The tentative schedule for the prelease decision process for Lease Sale 198 is as follows: EA/FONNSI or Supplemental EIS decision, October 2005; CD's sent to affected States, October 2005; PNOS sent to governors of the affected States, October 2005; Final Notice of Sale published in the **Federal Register**, February 2006; and Lease Sale 198, March 2006. Public Comments: Interested parties are requested to send within 30 days of this Notice's publication comments regarding any new information or issues that should be addressed in the EA.

Comments may be submitted in one of the following three ways:

1. Electronically using MMS's new Public Connect on-line commenting system at *https://ocsconnect.mms.gov*. This is the preferred method for commenting. From the Public Connect "Welcome" screen, search for "CPA Lease Sale 198 EA" or select it from the "Projects Open for Comment" menu.

2. In written form enclosed in an envelope labeled "Comments on CPA Lease Sale 198 EA" and mailed (or hand carried) to the Regional Supervisor, Leasing and Environment (MS 5410), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

3. Electronically to the MMS e-mail address: *environment@mms.gov*.

To obtain single copies of the Multisale EIS, you may contact the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394 (1–800–200–GULF). You may also view the Multisale EIS or check the list of libraries that have copies of the Multisale EIS on the MMS Web site at *http://www.gomr.mms.gov*.

Dated: May 5, 2005.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 05–11064 Filed 6–2–05; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf Official Protraction Diagrams

AGENCY: Minerals Management Service, Interior.

ACTION: Availability of revised North American Datum of 1983 (NAD 83) Outer Continental Shelf official protraction diagrams.

SUMMARY: Notice is hereby given that effective with this publication, the following NAD 83-based Outer Continental Shelf Official Protraction Diagrams last revised on the date indicated are the latest documents available. These diagrams are on file and available for information only, in the Alaska OCS Regional Office, Anchorage, Alaska. In accordance with Title 43, Code of Federal Regulations, these diagrams are the basic record of the marine cadastre in the geographic area they represent.

Description	Date
NN03–04 (False Pass).	01–NOV–2004 (New).
NN03–02 (Cold Bay)	01–NOV–2004 (New).
NN04–01 (Stepovak Bay).	01–NOV–2004 (New).
NO04–07 (Chignik) ...	01–NOV–2004 (New).
NO04–08 (Sutwik Island).	01–NOV–2004 (New).
NO04–06 (Ugashik) ..	01–NOV–2004 (Revised).
NO04–04 (Naknek) ...	01–NOV–2004 (New).
NO04–03 (Hagemeister Island).	01–NOV–2004 (New).
NO03–04 (Cape Newenham).	01–NOV–2004 (New).
NO04–01 (Good News).	01–NOV–2004 (New).

FOR FURTHER INFORMATION CONTACT: Copies of Official Protraction Diagrams may be purchased for $2.00 each from the Minerals Management Service, Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503, Attention: Library, Telephone: 1–800–762–2627 or (907) 334–5206.

SUPPLEMENTARY INFORMATION: Official Protraction Diagrams may be obtained in two digital formats: .gra files for use in ARC/INFO and .pdf files for viewing and printing in Acrobat. Copies are also available for download at *http://www.mms.gov/ld/alaska.htm*.

Dated: May 12, 2005.

Thomas A. Readinger,

Associate Director for Offshore Minerals Management.

[FR Doc. 05–11070 Filed 6–2–05; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–516]

In the Matter of Certain Disc Drives, Components Thereof, and Products Containing Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") granting a joint motion to terminate the above-captioned investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3152. Copies of the ID and all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on August 5, 2004, based on a complaint filed on behalf of Seagate Technology, LLC ("Seagate"). 69 FR 47460 (Aug. 5, 2004). The complaint, as supplemented, alleged violations of section 337 in the importation into the United States, sale for importation, and sale within the United States after importation of certain disc drives, components thereof, and products containing same by reason of infringement of certain claims of seven U.S. patents, including U.S. Patent Nos. 6,744,606 ("the '606 patent"); 5,596,461 ("the '461 patent"); and 5,600,506 ("the '506 patent"). The notice of investigation named Cornice, Inc. ("Cornice") of Longmont, Colorado as the sole respondent.

On December 28, 2004, the ALJ issued Order No. 6, an ID granting in part a motion for summary determination of invalidity of the asserted claims of the '606 patent. On January 28, 2005, the Commission determined to review and reverse Order No. 6.

On March 7, 2005, the ALJ issued Order No. 8 granting Cornice's motion for summary determination of noninfringement of the '461 patent, and denying Seagate's cross-motion for summary determination of infringement of the '461 patent. No petitions for review of Order No. 8 were filed. On March 29, 2005, the Commission determined not to review Order No. 8.

On February 24, 2005, complainant Seagate moved to amend the notice of investigation. Seagate requested that the notice of investigation be amended to add claims 2–4 and 23–26 of the '506 patent, and to remove claims 5–7 and

28–31 of the '506 patent. On March 21, 2005, the ALJ issued Order No. 10, granting complainants' motion to amend the notice of the investigation. The Commission determined not to review Order No. 10.

On April 29, 2005, complainants and respondents filed a joint motion to terminate the investigation on the basis of a settlement agreement. On May 13, 2005, the ALJ issued the subject ID (Order No. 15) granting the joint motion to terminate.

No party filed a petition to review the subject ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and section 210.42 of Rules of Practice and Procedure, 19 CFR 210.42.

By order of the Commission.

Issued: May 27, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–11053 Filed 6–2–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on May 13, 2005, a proposed Consent decree (the "Decree") in *United States* v. *University of Nebraska*, case no. 8:30CV00038, was lodged with the United States District Court for the District of Nebraska.

In this settlement the United States resolves claims of the Environmental Protection Agency and the Army Corps of Engineers for cost recovery for certain costs incurred and to be incurred remediating environmental contamination at the Former Nebraska Ordnance Plant Superfund Site in Mead, Nebraska. The University of Nebraska ("University") has been identified as a responsible party under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") in connection with this Site. The Consent Decree provides that the United States will receive a cash payment of $71,939 and that the University will impose specific restrictions on use of the property in settlement of the above-described claims. The Consent Decree provides that the University remains potentially liable for future remediation and response costs determined to be necessary because of the University's activities at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *University of Nebraska*, Case No. 8:03CV00038, District Court for District of Nebraska, D.J. Ref. #90–11–2–07548/1.

The Consent Decree may be examined at the Office of the United States Attorney, First National Bank Building, 1620 Dodge Street, Suite 1400, Omaha, Nebraska, 68102, and at U.S. EPA Region 7, 901 N. 5th Street, Kansas City, Kansas, 66101 and at the U.S. Army Corps of Engineers, Office of District Counsel, 700 Federal Building, 601 E. 12th Street, Kansas City, MO 64106–2896. During the public comment period, the Consent Decree may also be examined on the following Justice Department Web site, *http://www.usdoj.gov/enrd/open.html*. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $6.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert E. Maher, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 05–11008 Filed 6–2–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—the Gypsum Association

Notice is hereby given that, on April 28, 2005, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The Gypsum Association ("GA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: The Gypsum Association, Washington, DC. The nature and scope of GA's standards development activities are: The development or modification of ASTM International standards specific to the performance attributes of gypsum board and related materials.

Additional information concerning the standards development activities of GA is available at *http://www.gypsum.org/*.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 05–11016 Filed 6–2–05; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on May 9, 2005, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et. seq.* ("the Act", IMS Global Learning Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, University of Ulster, Co., Newtownabbey, Antrim, United Kingdom; and Texas Instruments, Dallas, TX have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global Learning Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On April 7, 2000, IMS Global Learning Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the

Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on February 28, 2005. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 30, 2005 (70 FR 16306).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 05–11014 Filed 6–2–05; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Institute of Electrical and Electronics Engineers

Notice is hereby given that, on May 16, 2005, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Institute of Electrical and Electronics Engineers ("IEEE") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, seven new standards have been initiated and three existing standards are being revised. More detail regarding these changes can be found at *http://standards.ieee.org/bearer/sba/05–10–05.html.*

On September 17, 2004, IEEE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 3, 2004 (69 FR 64105).

The last notification was filed with the Department on March 29, 2005. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 14, 2005 (70 FR 19786).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 05–11011 Filed 6–2–05; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Board for Certification in Occupational Therapy, Inc.

Notice is hereby given that, on April 29, 2005, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), National Board for Certification in Occupational Therapy, Inc. ("NBCOT") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, a cut-score study was completed to determine the passing standard (score) for the OTR and COTA certification examinations that are constructed using the test specifications of the Practice Analysis Study.

On September 21, 2004, NBCOT filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 2, 2005 (70 FR 5486).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 05–11015 Filed 6–2–05; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Systemc Initiative

Notice is hereby given that, on May 9, 2005, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Open SystemC Initiative ("OSCI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Atrenta, Inc., San Jose, CA; ChipVision Design Systems, AG, San Ramon, CA; Intel, Inc., Santa Clara, CA; Royal Philips Electronics, Eindhoven, The Netherlands; and Synfora, Inc., Mountain View, CA have been added as parties to this venture. Also, Fujitsu Microelectronics, Inc., Tokyo, Japan; and Motorola, Schaumburg, IL have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OSCI intends to file additional written notification disclosing all changes in membership.

On October 9, 2001, OSCI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 3, 2002 (67 FR 350).

The last notification was filed with the Department on June 21, 2004. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 23, 2004 (69 FR 44062).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 05–11013 Filed 6–2–05; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—USB Flash Drive Alliance

Notice is hereby given that, on May 9, 2005, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), USB Flash Drive Alliance ("UFDA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, International Microsystems, Inc., Milpitas, CA; Add On Technology Co., Ltd., Taipei, Taiwan; Alcor Micro Corp., Taipei, Taiwan; Global Ware Solutions, Inc., Havenhill, MA; and Peripheral Enhancements Corp., Dallas, TX have been added as parties to this venture. Also, DataFab, Taipei, Taiwan; and Viking Interworks, Rancho Santa Margarita, CA have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned

activity of the group research project. Membership in this group research project remains open, and UFDA intends to file additional written notification disclosing all changes in membership.

On November 12, 2003, UFDA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 12, 2003 (68 FR 69423).

The last notification was filed with the Department on June 21, 2004. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 23, 2004 (59 FR 44063).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 05–11012 Filed 6–2–05; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Emergency Notice of Information Collection Under Review: Sixth Annual DNA Grantees Workshop Evaluation Form.

The Department of Justice (DOJ), Office of Justice Programs (OJP), National Institute of Justice (NIJ), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by June 26, 2005. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulation Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Comments are encouraged and will be accepted for 60 days until August 2, 2005.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Rhonda Jones, Program Executive, National Institute of Justice, 202–616–3233.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* New Collection.

(2) *The title of the form/collection:* Sixth Annual DNA Grantees Workshop Evaluation Form.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: None. Office of Justice Programs, National Institute of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Other: Not-for-profit Institutions, and Federal Government. The information collected in this assessment will be used to help plan future DOJ DNA workshops. Attendees of the workshop are asked to assess the panel topics, offered sessions, and overall benefits of the workshop. Additionally, the attendees are asked to provide any general comments they may have regarding the workshop.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 7200 respondents will complete the form in approximately 10 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total annual public burden associated with this form is 1200 hours.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: May 26, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–11038 Filed 6–2–05; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

May 25, 2005.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment Standards Administration.

Type of Review: Extension of currently approved collection.

Title: Requests for Examination and/or Treatment.

OMB Number: 1215–0066.

Form Number: LS–1.

Frequency: On occasion.

Type of Response: Reporting.

Affected Public: Individuals or households.

Number of Respondents: 16,200.

Annual Reponses: 101,250.

Average Response Time: 65 minutes.

Total Annual Burden Hours: 109,350.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (Operating/Maintaining Systems or Purchasing Services): $40,500.

Description: Under section 7 (33 U.S.C., chapter 18, section 907) of the Longshore Act the employer/insurance carrier is responsible for furnishing medical care for the injured employee for such period of time as the injury or recovery period may require. Form LS–1 serves two purposes: it authorizes the medical care and provides a vehicle for the treating physician to report the findings, treatment given and anticipated physical condition of the employee.

Agency: Employment Standards Administration.

Type of Review: Extension of currently approved collection.

Title: Notice of Recurrence.

OMB Number: 1215–0167.

Form Number: CA–2a.

Frequency: 1 time per recurrence.

Type of Response: Reporting.

Affected Public: Individuals or households.

Number of Respondents: 708.

Annual Reponses: 708.

Average Response Time: 30 minutes.

Total Annual Burden Hours: 354.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (Operating/Maintaining Systems or Purchasing Services): $0.

Description: In accordance with 5 CFR 10.121, this form is used by current, or occasionally former, Federal employees to claim wage loss or medical treatment resulting from a recurrence of a work-related injury while federally employed. The information is necessary to ensure the accurate payment of benefits.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 05–11034 Filed 6–2–05; 8:45 am]

BILLING CODE 4510–CF–P

DEPARTMENT OF LABOR

Employment And Training Administration

Proposed Information Collection Request Submitted for Public Comment; O*NET® Data Collection Program

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95), 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension collection of the O*NET® (Occupational Information Network) Data Collection Program. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice or can be downloaded from the Internet at: *http://www.onetcenter.org/ombclearance.html.*

DATES: Written comments must be submitted to the office listed in the addressee section below on or before August 2, 2005.

ADDRESSES: Send comments regarding the O*NET Data Collection Program to Pam Frugoli, Skill Assessment Team Lead, Office of Workforce Investment, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210. The telephone number is 202–693–3643. (this is not a toll-free number). Comments may also be submitted via e-mail to: *O-NET@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The O*NET Data Collection Program is a continuing effort to collect and maintain current information on detailed characteristics of occupations and skills for over 800 occupations. The resulting database is and will continue to be the most comprehensive standard source of occupational and skills information in the nation. O*NET information is used by a wide range of audiences, from individuals making career decisions, to public agencies and schools providing career exploration services and planning workforce investment programs, to businesses making staffing and training decisions. The O*NET system provides a common language, framework and database to meet the administrative needs of various federal programs, including workforce investment and training programs of the Departments of Labor, Education, and Health and Human Services.

Section 309 of the Workforce Investment Act requires the Secretary of Labor to oversee the "development, maintenance, and continuous improvement of a nationwide employment statistics system" which shall include, among other components, "skill trends by occupation and industry." The States are to develop similar statewide employment statistics systems.

The O*NET Data Collection Program is the primary vehicle for collecting skills and occupational information across all occupations nationwide. The continued population and completion of the entire O*NET database is a critical component of the nationwide labor market information system to support employer, workforce, and education information needs.

O*NET succeeds the Dictionary of Occupational Titles (DOT) and is a powerful tool for various critical federal and state workforce investment functions. O*NET integrates a powerful relational database and a common language for occupational and skill descriptions into a value-added tool for business, job seekers, and the workforce investment professionals who help bring them together. By providing information organized according to the O*NET Content Model, the O*NET database is an important tool for keeping up with today's rapidly changing world of work. The O*NET database provides:

- Detailed information for more than 800 occupations.
- Descriptive information on standardized descriptors of skills, abilities, interests, knowledge, work values, education, training, work context, and work activities.
- Occupational coding based on the 2000 Standard Occupational Classification (SOC).

The O*NET electronic database serves as the underpinning for hundreds of publicly and privately developed products and resources in the

marketplace and can be found at *http://online.onetcenter.org.* These products and resources are being used to serve millions of customers.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The O*NET Data Collection Program established the foundation for occupational and skills data collection using collection methods designed to obtain high quality and current data. The DOL is seeking Office of Management and Budget approval for a three-year continuation to complete the population of the O*NET database with data from workers and some subject matter experts sampled in this survey. This request for extension will provide for the completion of the data collection for the remaining occupations currently on schedule for collection during the extension period, new data for high growth/high priority occupations for which data were previously collected, and for data collection activities needed for approximately 35 new and emerging occupations.

Customers using O*NET are expanding quickly as more private and public developers integrate O*NET information into their products. Use of O*NET data and products continue to increase as shown through increases in product downloads and site visits. The consequence of not continuing the O*NET Data Collection Program limits the occupational information options of American citizens and businesses. The millions of users who utilize O*NET information to make important life, business, and policy decisions will have to make these decisions using information that is not current, is incomplete, and is of questionable validity and reliability. Users will not have the benefit of practical results from the publicly funded research that has led to the O*NET system. Updating the O*NET database is crucial to providing business, job seekers, students, educators, and counselors with the most up-to-date information about occupations and occupational requirements. Furthermore, with on-going data collection, the O*NET Data Collection Program is capable of capturing information on important emerging technologies needed to ensure that United States stays competitive in the global market place.

Currently, the O*NET Data Collection Program has published data for over 280 occupations and will complete the data collection effort for the remaining occupations and emerging occupations by 2008. The database is updated twice annually. The next update with approximately 100 new occupations will be in the summer of 2005. The O*NET occupations either match to, or represent more detailed breakouts of, occupations from the 2000 Standard Occupational Classification.

A multiple-method collection approach for populating the O*NET database has been developed to ensure the completion of all occupations. There are three different data collection methodologies or protocols: the Establishment data collection method, the Association method and the Occupation Expert (OE) method. The primary data collection method used to update the O*NET database is the Establishment data collection method; a survey of establishments and workers within those establishments. The Establishment data collection method uses a two-stage design that includes a statistical sample of establishments expected to employ workers in each specific occupation and a sample of workers in the occupations within each sampled establishment. The sampled workers are asked to complete the survey questionnaires. Four domain questionnaires are used to collect data from sampled workers: (1) Skills, (2) Generalized Work Activities, which are general types of job behaviors occurring on multiple jobs, (3) Work Context, the physical and social factors that influence the nature of work, and (4) Knowledge, which includes Education and Training and Work Styles. (Copies of these questionnaires are also available from the following Internet site: *http://www.onetcenter.org/ombclearance.html).* Workers are only asked to complete one of the survey questionnaires. Workers are also asked to provide basic demographic information and to complete a brief task inventory for their specific occupations. At the end of September 2004, the Establishment data collection method experienced a 70% participation response rate for establishments and a 64% participation response rate for employees.

Data for a fifth domain, Abilities, are provided by trained analysts.

The name of incumbent respondents is not requested on the survey form and all individual responses will be maintained in strict confidentiality. The data from job incumbents and others will be used to develop mean ratings on the various items.

In addition to the Establishment data collection method, two alternative data collection methods, the Occupation Expert (OE) method and the Association method, are utilized for selected occupations. Typically these methods are used for occupations with small employment size, for occupations in which employees work in remote locations, for occupations for which no employment data exists from which to sample, and emerging occupations. In the OE method, occupation experts are identified and asked to complete the four domain questionnaires, the demographic items, and the task inventory for the specific occupation being surveyed. In the Association method, incumbents are sampled from member rosters of professional associations that include a significant portion of the occupation's workers in their membership.

The resulting data from all three methods are subjected to extensive analysis and are made available to the public through scheduled updates to the O*NET database. Please see the Web site at *http://online.onetcenter.org* for additional information.

The projected average annual burden for the subsequent three years is less than the FY2003–2005 annual averages. In addition, the distribution of burden for establishments and employees is different. The establishment burden is expected to decrease and the employee burden is expected to increase in the subsequent three years. Past experience has shown that fewer participating establishments are required than previously projected and that more employees in participating establishments are needed. In addition, data will be collected for fewer occupations than in the previous year's OMB submission as many of the occupations yet to be populated are already in the data collection process.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: O*NET Data Collection Program.

OMB Number: 1205–0421.

Affected Public: Business/Employers (includes private and not-for-profit businesses and government); individuals (incumbent workers, subject matter experts).

Total Respondents: 92,373 (FY06).

Frequency of Response: Annual.

Total Responses: 92,373 (FY06).

Average Time Per Response: Employer response time is 70 minutes. Incumbent workers response time is 30 minutes. Subject matter expert response time is 2 hours.

Estimated Total Annual Burden Hours: 28,959 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Signed at Washington, DC, this 27th day of May, 2005.

Emily Stover DeRocco,

Assistant Secretary, Employment and Training Administration.

[FR Doc. E5–2851 Filed 6–2–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from the date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration be the Department. Further information and self-explanatory forms for the purposes of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decision being modified.

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WA20030011 (Jun. 13, 2003)
WY20030005 (Jun. 13, 2003)

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help Desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 26th day of May 2005.

John Frank,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 05–10937 Filed 6–2–05; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Engineering; 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: Committee on Equal Opportunities in Science and Engineering (1173).

Dates/Time: June 16, 2005, 8:30 a.m.–5:30 p.m. and June 17, 2005, 8:30 a.m.–2 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1235 S, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Dr. Margaret E.M. Tolbert, Senior Advisor and Executive Liaison, CEOSE, Office of integrative Activities, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8040.

Minutes: May be obtained from the Executive Liaison at the above address.

Purpose of Meeting: To provide advice and recommendations concerning broadening participation in science and engineering.

Agenda:

Thursday, June 16, 2005

Welcome and Opening Statement by the CEOSE Chair.

Introductions.

Review of the CEOSE Meeting Agenda and Minutes.

Discussions/Presentations: Broadening Participation in CISE; Cyberinfrastructure; The 1994–2003 Decennial & 2004 Biennial Report to Congress; The Promotion of Gender Equity in STEM Using Title IX; NSF Obligations to Historically Black Colleges and Universities.

Friday, June 17, 2005

Opening Statement by the CEOSE Chair.

Discussions/Presentations: Reports on NSF Advisory Committees; Future CEOSE Agendas and Activities.

Discussion with Dr. Arden L. Bement, Jr., Director of the National Science Foundation.

Completion of Unfinished Business.

Dated: May 31, 2005.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 05–11069 Filed 6–2–05; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 75—Safeguards on Nuclear Material, Implementation of US/IAEA Agreement.

3. *The form number if applicable:* N/A.

4. *How often the collection is required:* Installation information is submitted upon written notification from the Commission. Changes are submitted as they occur. Nuclear material accounting and control information is submitted in accordance with specific instructions.

5. *Who will be required or asked to report:* All persons licensed or certified by the Commission or Agreement States to possess source or special nuclear material at an installation specified on the U.S. eligible facilities list as determined by the Secretary of State or his designee and filed with the Commission, as well as holders of construction permits and persons who intend to receive source material.

6. *An estimate of the number of annual responses:* 8.

7. *The estimated number of annual respondents:* Seven, one of which perform the reporting and recordkeeping and the other six perform the recordkeeping only. The NRC-licensed facilities selected for inspection will be reporting or updating design information. This one facility and the six facilities selected pursuant to a separate protocol will maintain transfer and material balance records, but reporting to the IAEA will be through the U.S. State system (Nuclear Materials Management and Safeguards System).

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 2,800 (.2 hours for reporting and 2,800 hours for recordkeeping [400 hours per recordkeeper]).

9. *An indication of whether Section 3507(d), Public Law 104–13 applies:* N/A.

10. *Abstract:* 10 CFR Part 75 establishes requirements to implement the agreement between the United States and the International Atomic Energy Agency (IAEA). Under that agreement, NRC is required to collect information and make it available to the IAEA.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 5, 2005. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

John Asalone, Office of Information and Regulatory Affairs (3150–0055), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *John_A._Asalone@ombeop.gov* or submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 26th day of May, 2005.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. E5–2847 Filed 6–2–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Receipt of Request for Action Under 10 CFR 2.206

Docket No. 040–08850, License No. SUB–1440, ATK Tactical Systems Company, LLC
Docket No. 030–28641, License No. 42–23539–01AF, Department of the Air Force
Docket No. 040–06394, License No. SMB–141, Department of the Army
Docket No. 040–07086, License No. SUB–734, Department of the Army
Docket No. 040–08814, License No. SMB–1411, Department of the Army
Docket No. 040–08838, License No. SUB–1435, Department of the Army
Docket No. 040–07354, License No. SUB–834, Department of the Army
Docket No. 040–08779, License No. SUC–1391, Department of the Army
Docket No. 040–08767, License No. SUC–1380, Department of the Army
Docket No. 030–29462, License No. 45–23645–01NA, Department of the Navy

Notice is hereby given that by petition dated April 3, 2005, James Salsman has requested that the U.S. Nuclear Regulatory Commission take action with regard to licensees holding a depleted uranium munitions license. The petitioner requests that "* * * all licenses allowing the possession, transport, storage, or use of pyrophoric uranium munitions be modified to impose enforceable conditions on all such licensees in order to rectify their misconduct * * *."

The petitioner states "The basis for this request is the gross negligence on the part of the licensees, * * *."

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Material Safety and Safeguards (NMSS). As provided by 10 CFR 2.206, appropriate action will be taken on this petition within 120 days. The petitioner discussed the petition with the NMSS Petition Review Board on May 4, 2005. The results of that discussion were considered in the Board's determination regarding the petitioner's request for immediate action and in establishing the schedule for the review of the petition. By letter dated May 26, 2005, the Director denied the petitioner's request for immediate action regarding depleted uranium munitions licenses. A copy of the petition (Accession Number ML051240497) is available in the Agencywide Documents and Management System (ADAMS) for inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS Public Library component on NRC's Web site, *http://www.nrc.gov* (the Public Electronic Reading Room).

Dated at Rockville, Maryland, this 26th day of May, 2005.

For the Nuclear Regulatory Commission.

Jack R. Strosnider,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E5–2846 Filed 6–2–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

DEPARTMENT OF THE INTERIOR

Geological Survey

[Docket No. 50–274]

United States Geological Survey Triga Reactor Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility License No. R–113, issued to the Department of the Interior, United States Geological Survey (the licensee), which authorizes operation of the United States Geological Survey TRIGA Reactor (GSTR), in Lakewood, Colorado. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise Facility License No. R–113 to change the license expiration date from October 10, 2007, to February 24, 2009, to recapture the construction time between the issuance date of Construction Permit No. CPRR–102 (October 10, 1967) and issuance date of Facility Operating License No. R–113 (February 24, 1969) to allow a 40-year operating license term.

The GSTR is located in a building on the grounds of the Denver Federal Center, a complex of U.S. Government offices and laboratories owned by the U.S. Government about 7 miles (11.3 km) southwest of the central Denver, Colorado, business area. The reactor is a General Atomics TRIGA-Mark I design with a maximum steady state power level of 1 megawatt thermal power (MW(t)). The reactor can be operated in a pulse mode with reactivity insertions not to exceed 2.1% delta k/k. The reactor core is at the bottom of an open pool with about 20 ft (6 m) of water above the core for radiation shielding. The fuel moderator elements consist of a homogeneous mixture of uranium-zirconium hydride. The elements are rods about 28 inches (71 cm) long with a diameter of about 1.5 inch (4 cm). The fuel elements are clad in stainless steel. The reactor pool is surrounded by a biological shield. The reactor is inside a confinement building.

The construction permit for the facility (CPRR–102) was issued to the licensee on October 10, 1967. On February 24, 1969, Facility Operating License No. R–113 was issued to the licensee. The facility normally operates during the day shift from Monday to Friday.

The proposed action is in accordance with the licensee's application for amendment dated April 30, 2002, as supplemented by letters dated March 11 and 24, 2005.

The Need for the Proposed Action

The proposed action is needed to recapture the time spent constructing the plant. The amendment will allow operation of the GSTR reactor for a term of 40 years from the date of issuance of the facility license.

Environmental Impacts of the Proposed Action

The NRC has completed its safety evaluation of the proposed amendment to change the expiration date of the facility license to recapture time between construction and operation to allow a 40-year operating license term and concludes there is reasonable assurance that the GSTR will continue to operate safely for the additional period of time authorized by the amendment.

The licensee has not requested any changes to the facility design or operating conditions as part of this amendment request. Data from the last 5 years of operation was assessed to determine the radiological impact of the facility on the environment.

The licensee does environmental surveys by measuring the exposure at five outdoor environmental stations near the GSTR facility with thermoluminescent dosimeters (TLDs). The results from the TLD with the maximum exposure (with background subtracted) were as follows:

Year	Maximum (rad/yr) (except 2000, which is in rem/yr)
2004	0.0226
2003	0.0157
2002	0.0233
2001	0.0427
2000	0.0974

These doses are within the regulatory limits of 0.1 rem per year total effective dose equivalent for doses to members of the public given in 10 CFR 20.1301.

In addition, the licensee has calculated the dose to the individual member of the public likely to receive the highest dose from air emission of radioactive material to the environment to demonstrate compliance with 10 CFR 20.1101(d). This regulation provides for an as low as is reasonably achievable criteria for air emissions as a result of which an individual member of the public receives a total effective dose equivalent (TEDE) of less than 10 mrem per year.

The results of calculations for the years 2000–2004, are as follows:

Year	Dose (mrem/yr)
2004	0.1
2003	0.1
2002	0.2
2001	0.3
2000	0.2

These doses are within the 10 mrem per year TEDE constraint on air emissions given in 10 CFR 20.1101(d).

The airborne effluent releases are as follows:

Year	Curies released (argon–41)	Curies released (total)
2004	1.718	1.719
2003	2.289	2.290
2002	2.442	2.443
2001	4.868	4.869
2000	2.910	2.912

Airborne effluent releases from the facility consist primarily of argon-41. This is characteristic for research reactors. The releases from the facility were below the average concentration requirements of the facility technical specifications.

The licensee has not released liquid effluent to the sanitary sewer or the environment since 1990. The small amounts of liquid waste generated by reactor operations are evaporated or are solidified for disposal.

Shipments of solid radioactive waste off site for disposal at approved sites were as follows (note that these numbers also include some solid waste from other U.S. Geological Survey activities and therefore are bounding for the reactor facility):

Year	Volume (cubic feet)	Activity (mCi)
2004	0	0
2003	7.5	10
2002	7.5	5
2001	7.5	194
2000	7.5	106

The NRC inspection program confirmed that the waste shipments met the requirements of the regulations in 10 CFR Part 20 for waste disposal. The principal radioactive waste generated at the GSTR is demineralizer resin. The licensee did not ship radioactive waste off site in 2004.

The licensee collects groundwater samples from a monitoring well down gradient from the GSTR. These samples were analyzed for tritium, which is the only significant reactor-produced radionuclide in the primary coolant. Tritium is also soluble in water, which makes it a sensitive indicator of the reactor's impact, if any, on groundwater. Between 2000 and 2004, except for one sample, the results have been below the licensee's lower limit of measuring detection. The sample that showed a positive result was slightly above the licensee's lower limit of measuring detection and significantly below regulatory limits.

The radiological releases from the facility and the associated doses to the public are within regulatory limits or facility technical specifications and do not have a significant impact on human health or the environment. The licensee's environmental radiation monitoring includes soil and water sampling and direct radiation readings. The results of the monitoring program indicate that the facility does not have a significant impact on human health or the environment. Releases of radioactive material from the facility to the environment for the proposed construction permit recapture period are estimated to continue at levels similar to previous levels, which were within regulatory limits.

Occupational doses to GSTR staff and users meet the regulatory requirements in 10 CFR part 20, subpart C, and are as low as is reasonably achievable. No changes in reactor operation that would lead to an increase in occupational dose are expected as a result of the proposed action.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, no significant radiological environmental impacts are associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to impact historic properties.

No chemicals which are discharged to the environment are used for activities under the reactor license.

The facility uses approximately 600,000 gallons of water annually. The water is supplied by a utility, Denver Water, which is able to supply 745 million gallons of potable water a day. Most of the water is used in the cooling tower and the water is lost to the atmosphere as water vapor or discharged to the sanitary sewer as bleedoff water. Wastewater from the facility discharges to the Denver Wastewater Management Division system.

The site for the reactor facility is several rooms in a building at the Denver Federal Center. No Federal- or State-listed plants or animals are known to be found on the GSTR site.

The GSTR uses a minimal amount of water for reactor operation, has no major refurbishment or construction activities planned, and will have no significant change in the types or amounts of effluents leaving the facility as a result of construction permit recapture. Therefore, the proposed action is not expected to affect aquatic and terrestrial biota. The staff concludes there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that no significant environmental impacts are associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the no-action alternative). Denial of the proposed action will result in expiration of the current license in October 2007, and the commencement of decommissioning if an application for license renewal is not made. If the application is denied, the licensee is expected to apply for renewal of the license. Whether the reactor is operating under the proposed action or a renewed license or during the evaluation of a timely renewal application, the environmental impacts of the proposed action and the alternative are similar.

If the Commission denied the application for license renewal, facility operations would end and decommissioning would be required with no significant impact on the environment. The environmental impacts of the proposed action and this alternative action are similar. In addition, the benefits of research conducted by the facility would be lost.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Hazards Summary Report dated December 1966 prepared for initial licensing of the facility.

Agencies and Persons Consulted

In accordance with the agency's stated policy, on March 18 and 21, and April 7, 2005, the staff consulted with the Colorado State official, Mr. Steve Tarlton, Unit Leader, Radiation Protection Program, Hazardous Materials and Waste Management Division, Colorado-Department of Public Health and Environment, regarding the environmental impact of the proposed action. The State official discussed the fact that groundwater-monitoring wells existed at the Denver Federal Center. The State official was not aware if any groundwater samples were analyzed for radionuclides. However, if data existed, it would contribute to the discussion of the environmental impact of the GSTR. This issue was discussed with the licensee, who confirmed that samples from a groundwater-monitoring well down gradient from the GSTR were routinely collected and analyzed. This data has been added to the environmental assessment.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated April 30, 2002, as supplemented by letters dated March 11 and 24, 2005. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR) at One White Flint North, Public File Area O–1–F–21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at 1–800–397–4209 or 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 23rd day of May 2005.

For the Nuclear Regulatory Commission.

Patrick M. Madden,

Section Chief, Research and Test Reactors Section, New, Research and Test Reactors Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. E5–2849 Filed 6–2–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–029]

Environmental Assessment and Finding of No Significant Impact Related to License Termination Plan for the Yankee Atomic Electric Company; License DPR–003, Rowe, MA

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental Assessment and Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: John Hickman, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T7E18, Washington, DC 20555–00001. Telephone: (301) 415–3017; e-mail *jbh@nrc.gov*.

SUPPLEMENTARY INFORMATION:

1.0 Introduction

The U.S. Nuclear Regulatory Commission (NRC) (or the staff) is considering Yankee Atomic Electric Company's request for approval of the License Termination Plan (LTP) submitted for the Yankee Nuclear Power Station (YNPS) in Rowe, Massachusetts. The NRC has prepared this environmental assessment (EA) to determine the environmental impacts (radiological and non-radiological) of approving the LTP and of subsequently releasing the site for unrestricted use (as defined in 10 CFR 20.1402). This is consistent with the final rule, 10 CFR 50.82 that appeared in the **Federal Register** on July 29, 1996 (61 FR 39278, Decommissioning of Nuclear Power Reactors), which established the criteria for license termination and the requirement for a license termination plan.

As discussed in Section 1.3 below, the primary scope of this EA is the evaluation of the impacts of the radiation release criteria and the adequacy of the final status survey, as presented in the LTP.

1.1 Background

YNPS is a deactivated pressurized-water nuclear reactor situated on a small portion of a 2,200-acre site. The site is located in northwestern Massachusetts in Franklin County, near the southern Vermont border. The plant and most of the 2,200-acre site are owned by the Yankee Atomic Electric Company (YAEC). A small portion on the west side of the site (along the east bank of the Sherman Reservoir) is owned by USGen New England, Inc. The YNPS plant was constructed between 1958 and 1960 and operated commercially at 185 megawatts electrical production (after a 1963 upgrade) until 1992. In 1992, YAEC determined that closing the plant would be in the best economic interest of its customers. In December 1993; NRC amended the YNPS operating license to retain a "possession-only" status. YAEC began dismantling and decommissioning activities at that time. These activities continue and their relevance with respect to this EA is discussed in Section 1.3. The spent nuclear fuel remaining onsite was transferred in 2003 from the spent fuel pool to the independent spent fuel storage installation (ISFSI) located adjacent to the plant. The spent fuel pool was subsequently drained in compliance with regulatory requirements.

In November 2003, YAEC submitted its LTP with a goal to complete decommissioning by mid-2005 (YAEC, 2003). Draft Revision 1 to the plan was submitted September 2, 2004 (YAEC, 2004a), in response to a NRC request for additional information (NRC, 2004). Subsequently, on November 19, 2004, YAEC submitted Revision 1 to the LTP (YAEC, 2004f).

YAEC is proposing to decontaminate the YNPS site to meet the unrestricted release criteria of 10 CFR 20.1402. Additionally, YAEC has stated that it intends to comply with the Commonwealth of Massachusetts cleanup criteria of 105 CMR 120.291 established by the Massachusetts Department of Public Health (MDPH) and the Massachusetts Department of Environmental Protection (MDEP). Most site structures will be demolished to grade or entirely removed, and most buried piping or utilities removed. Basements will be perforated to allow groundwater to flow through during remediation. The following structures will remain after phased release of the site: the administration building, guard building, a small switchyard outside the guard building, the ISFSI, the ISFSI security building, and access roads. After the irradiated fuel has been removed from the site and prior to license termination the ISFSI and ISFSI security building will be removed.

1.2 Need for the Proposed Action

Licensees of nuclear facilities must apply to the NRC before terminating a license voluntarily and decommissioning a facility. YAEC submitted the LTP, as required by 10 CFR 50.82, before requesting license termination. The NRC must determine whether the proposed procedures, adequacy of radiation criteria for license termination, and the final status survey planned for completing decommissioning appear sufficient and, if implemented according to the plan, would demonstrate that the site is suitable for release.

1.3 Scope

To fulfill its obligations under the National Environmental Policy Act (NEPA), the NRC must evaluate the radiological and nonradiological environmental impacts associated with approval of the LTP and subsequent termination of the license. These evaluations involve an assessment of the impacts of the remaining buildings or structures and residual material present at the site at the time of license termination.

As described in the Statements of Consideration accompanying the Final Rule on Decommissioning of Nuclear Power Reactors (61 FR 39278), the NRC must consider the following in order to approve the LTP:

(1) The licensee's plan for assuring that adequate funds will be available for final site release,

(2) radiation release criteria for license termination, and

(3) the adequacy of the final survey required to verify that these release criteria have been met.

1.3.1 Issues Studied in Detail

Consistent with NEPA regulations and guidance to focus on environmental issues of concern, impacts to land use, water resources, and human health were selected for detailed study because of their potential to be affected by an approval of the LTP. These issues are discussed in this EA due to the potential for impacts from remaining structures and/or residual material left at the site.

1.3.2 Issues Eliminated From Detailed Study

Issues eliminated from detailed study in this EA include air quality, historic and cultural resources, ecological resources (including endangered and threatened species), socioeconomic conditions, transportation, noise, visual and scenic quality, off-site waste management, and accident scenarios. These issues were eliminated because they would not be affected by implementation of the LTP at the site (*i.e.*, ensuring the site meets radiation release criteria in the final status survey). The financial assurance review, which is a required part of the LTP approval, is not related to human health or the environment and will not be discussed in this EA.

Impacts from decommissioning activities at the YNPS site are not evaluated in this EA. NRC has already assessed power plant decommissioning impacts in programmatic NEPA documents. Specifically, the environmental impact statement for decommissioning activities (NRC, 1988, 2002) discusses the range of impacts expected from power plant decommissioning activities. Further, in reviewing the LTP, the staff also determined that the environmental impacts were enveloped by the generic analysis performed in support of "Radiological Criteria for License Termination." (62 FR 39058) Decommissioning impacts at the YNPS site were also addressed in the YAEC's Post-Shutdown Decommissioning Activities Report (PSDAR) (YAEC, 2000).

Additionally, the Commission has made a generic determination that, if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 30 years beyond the plant's licensed operating life (64 FR 68005 and 10 CFR 51.23). Therefore, this EA does not evaluate environmental impacts of spent fuel storage in the onsite independent spent fuel storage installation (ISFSI). However, the ISFSI is discussed briefly in Sections 3.2 and 4.1.

2.0 Proposed Action and Alternatives

2.1 The Proposed Action

The proposed action is the NRC's review and approval of YAEC's LTP. The NRC staff will review the plan to ensure that the license termination activities (*i.e.*, designation of radiation release criteria and design of the final status survey) will comply with NRC regulations. If NRC approves the plan, the approval will be issued in the form of an amendment to the YNPS license (Possession Only License No. DPR–3).

YAEC plans to complete decommissioning of the YNPS site for unrestricted use, as described in the LTP and consistent with NRC regulations at 10 CFR 20.1402. In addition, YAEC intends to comply with the Commonwealth of Massachusetts cleanup criteria in 105 CMR 120.291 specified by the MDPH and by the MDEP in the Massachusetts Contingency Plan (MCP) and Solid Waste Regulations, as applicable. To meet NRC's unrestricted release criteria, areas of the site will be divided into survey units. These units will be sampled or surveyed in accordance with the LTP to verify that site-specific criteria have been met. These criteria, known as "derived concentration guideline levels" (DCGLs), are discussed further in Sections 3.4 and 4.3.

Initially, YAEC plans to release all but 87 acres of the site for unrestricted use after having passed the final survey. The remaining 87 acres would remain on the license until the spent fuel is shipped offsite for permanent disposal (see Section 4.1) and the ISFSI is decommissioned. At that time, the remaining acreage would again be surveyed and, contingent on survey results, the license terminated.

2.2 Alternatives

As an alternative to the proposed action, the staff considered the "no-action alternative." The no-action alternative would maintain the status quo. This would result in no change to current environmental impacts, which are larger than those resulting from the proposed action.

3.0 Affected Environment

3.1 Site Description

The YNPS site is located at 49 Yankee Road, approximately three miles north-northwest of the northwestern Massachusetts town of Rowe, in Franklin County.

The site is adjacent to the Vermont border on land characterized by heavily wooded, steep hills. It is situated within the Deerfield River Valley and abuts the eastern shores of the Deerfield River and Sherman Reservoir. Hills bounding the Deerfield River valley rise 500 to 1000 feet above the site, reaching elevations of 2100 feet above mean sea level (ERM, 2004a). The combined population of the two nearest towns, Rowe and Monroe, is less than 500.

The YNPS property consists of about 2,200 acres in the towns of Rowe and Monroe. Most of this property (approximately 1,825-acres) is owned by YAEC; the remaining portion is owned by USGen New England, Inc., (USGen). The USGen property is a narrow strip of upland to the west of the plant, extending along the entire eastern bank of Sherman Reservoir. USGen also owns the reservoir itself, the Sherman Dam, property west of the Sherman Reservoir, and property downstream of Sherman Dam encompassing both banks of the Deerfield River. YNPS operations have been conducted on about 15 developed acres, primarily on land owned by YAEC, but extending onto property owned by USGen (ERM, 2004a).

The YNPS site is divided into three areas based on past site activities and land use:

1. Industrial Area: approximately 12-acre fenced portion of the site that contains industrial plant structures and operations.

2. Radiologically Controlled Area (RCA): 4-acre parcel within the industrial area that contains radiological materials associated with plant operation.

3. Non-Industrial Area: remaining land outside the fenced industrial area that contains the USGen Sherman Station hydroelectric plant, the Sherman Reservoir and Dam, transmission lines traversing the site, administration building and visitor center, roadways, fill areas and undeveloped woodland (YAEC, 2004b; ERM, 2004a).

During construction of the YNPS facility, some construction and demolition debris was placed into what is now the Southeast Construction Fill Area (SCFA). This area of approximately 1.5 acres contains soil and rock, in addition to wood, concrete, asphalt, and metal debris. In accordance with MDEP Solid Waste permits, YAEC plans to remove the materials from this area, returning native soils to other areas of the site for regrading.

Ecology and Cultural Resources

The U.S. Fish and Wildlife Service confirmed in correspondence with YAEC that no federally listed endangered or threatened species occur on the site. (ERM, 2004b) Massachusetts species of concern have been identified on the YNPS site. A northern spring salamander was identified in a headwater channel of Wheeler Brook. The bristly black currant was discovered in a drainage area along the Wheeler Brook Divertment, outside the site's eastern fenceline. Longnose suckers are documented to exist in the Sherman Reservoir. YAEC is working with the Massachusetts Division of Fisheries & Wildlife under the National Heritage and Endangered Species Program (NHESP) to develop a plan for the protection of these species during the remainder of decommissioning activities.

Several resources of cultural and historic significance exist at the site; however, none of these have been affected by decommissioning activities. A 2003 report documents these resources, most of which are located in the undeveloped uplands (PAL, 2003). The report also includes a management plan that meets Massachusetts Historical Commission guidelines.

3.1.1 Existing Radiological Contamination

The majority of the site located outside the industrial area was determined to be non-impacted (about

2170 acres), as documented in Section 2.5 of the LTP. The non-impacted area consists mostly of forested, rugged terrain that has not been disturbed. This determination is based on both the Historical Site Assessment (YAEC, 2004c) and additional characterization surveys.

Radiologically-impacted areas of the site include the industrial area and surrounding open land areas extending out approximately 1000 feet from the vapor container (now dismantled). The radiologically impacted areas comprise approximately 30 acres, the majority of which are minimally impacted (contain residual radioactivity at levels no greater than a fraction of the proposed DCGLs). For a more detailed description of initial radiological characterization of the impacted area, refer to the YNPS Historical Site Assessment and Section 2.4 of the LTP.

The Historical Site Assessment also identified low levels of contamination, primarily Co-60, in the sediments of Sherman Reservoir. This radioactive material was deposited as a result of permitted and monitored radioactive liquid releases. Characterization surveys showed the radioactive material concentration is a small fraction of the proposed DCGLs. Areas with potentially contaminated sediments are included in the final status surveys for further evaluation.

Characterization Process

Site characterization activities were performed in two phases, initial and continuing. The results of the initial phase were submitted to the NRC in January 2004. After a review of the results of the initial characterization, YAEC initiated the continuing phase, which will be ongoing throughout the remainder of the decommissioning activities. The results would be used to guide the remediation activities, and to confirm the appropriateness of the radiological source terms used for the dose model and basis for the corresponding DCGLs by media.

Site characterization surveys are conducted to determine the nature and extent of radiological contamination at the YNPS site. The purpose of the site characterization survey is to: (1) Permit planning for remediation activities; (2) demonstrate that it is unlikely that significant quantities of residual radioactivity have gone undetected at the site after remediation; (3) provide information to design the final site survey (*i.e.*, identify survey unit classifications for impacted areas); and (4) provide input to dose modeling (NRC, 2003). Site characterization activities include the collection of various types of samples, including soil, sediment, water, concrete, metal, and surface residues. Surveys and sampling conducted during site characterization are based on knowledge of the plant history and likely areas of contamination. In accordance with 10 CFR 50.82(a)(9)(ii)(A), radiological conditions of the site were provided in Section 2.0 of the LTP. The results of sample analyses and the use of the results in identifying the significant radionuclides expected to be present after remediation are described in Attachments 2B and 2C of Chapter 2 of the LTP.

YAEC conducted a series of sample analyses using site media believed to represent the distribution of radionuclide contaminants, and their decay-corrected isotopic distribution, over the operational history of the plant. In its technical basis document, YAEC describes the method that was used to determine radionuclides that could be present at the site (YAEC 2003). The radionuclides include, but are not limited to: ^{3}H, ^{14}C, ^{54}Mn, ^{55}Fe, ^{57}Co, ^{58}Co, ^{59}Ni, ^{60}Co, ^{63}Ni, ^{65}Zn, ^{90}Sr, ^{94}Nb, ^{99}Tc, ^{106}Ru, ^{108m}Ag, ^{125}Sb, ^{129}I, ^{134}Cs, ^{137}Cs, ^{144}Ce, ^{145}Pm, ^{152}Eu, ^{154}Eu, ^{155}Eu, ^{238}Pu, ^{239}Pu, ^{240}Pu, ^{241}Pu, ^{241}Am, ^{243}Cm, and ^{244}Cm. These radionuclides include fission and activation products, which are typical of those found in pressurized-water reactor plants. These radionuclides are also described in two NRC documents: NUREG/CR–0130, "Technology, Safety and Costs of Decommissioning a Reference Pressurized Water Reactor Power Station," (Smith *et al.*, 1978) and NUREG/CR–3474, "Long-Lived Activation Products in Reactor Materials," (Evans *et al.*, 1984).

Based on dose model assumptions (including the expected time at which the site will be remediated) YAEC has identified the following 22 radionuclides as potentially contributing to the dose after license termination: ^{3}H, ^{14}C, ^{55}Fe, ^{60}Co, ^{63}Ni, ^{90}Sr, ^{94}Nb, ^{99}Tc, ^{108m}Ag, ^{125}Sb, ^{134}Cs, ^{137}Cs, ^{152}Eu, ^{154}Eu, ^{155}Eu, ^{238}Pu, ^{239}Pu, ^{240}Pu, ^{241}Pu, ^{241}Am, ^{243}Cm, and ^{244}Cm. Accordingly, these radionuclides would form the basis in planning and conducting all final status surveys, and demonstrating compliance with the site release criteria.

3.1.2 Existing Hazardous and Chemical Contamination

Chemical Use

Over the YNPS plant's operating life, a number of hazardous materials or chemicals were used throughout the industrial area. Some of these materials are: water treatment and other maintenance chemicals, fuel, lubricating and transformer oils (including oils containing polychlorinated biphenyls (PCBs)), and chemicals used for the various reactor systems (including boron, hydrazine, 1,1,1-trichloroethane, and trisodium phosphate). Additionally, some of the building structures and surfaces contain asbestos, PCB-containing paint, and/or lead-based paint (ERM, 2004a).

While the plant was operating, it was classified as a small quantity generator of hazardous wastes under the Resource Conservation and Recovery Act (RCRA). However, YAEC is currently a large quantity generator (generating over 1,000 kilograms of hazardous wastes per month) due to the increased volume of hazardous and mixed wastes associated with decommissioning activities. The MDEP regulates YAEC's hazardous waste generation and storage activities.

Contamination and Remediation

Nonradiological chemical cleanup at the site must comply with MDEP regulations under the Massachusetts Contingency Plan (MCP) (310 CMR 40.00), which regulates the investigation and cleanup of oil and hazardous materials releases to soil or water (ERM, 2004a), and the MDEP Solid Waste Regulations at 310 CMR 19.000, which regulate the investigation and remediation of the SCFA and the review of beneficial reuse determination (BUD) permits. YAEC had intended to remediate onsite contamination to enable future use of the site without restrictions, however deed restrictions will be utilized in the remediation of the industrial use of the site.

The primary non-radiological contaminant of concern at the site is PCBs. A release of PCB-containing paint chips from the vapor container (reactor containment) into the Sherman Reservoir was discovered in the spring of 2000. The paint chips migrated to the reservoir through the stormwater drainage system. Immediate action was taken to remediate some of the storm drain sediments. Additional cleanup has been ongoing since 2001, including remediation of soils in landscaped areas onsite and of the sediments in the Sherman Reservoir and western storm drainage ditch. PCBs in soils and sediments are being remediated to meet the requirements of both the MDEP and the U.S. Environmental Protection Agency (EPA) Toxic Substances Control Act (TSCA) generally to a level of 1 milligrams/kilogram (mg/kg, or parts-per-million). YAEC has documented its PCB remediation program in three reports prepared according to MCP

requirements: Phase II Comprehensive Site Assessment, Phase III Remedial Action Plan, and Phase IV Remedy Implementation Plan.

Massachusetts and Vermont public health agencies have issued advisories due to the presence of mercury in fish from the Sherman Reservoir. Atmospheric deposition from industrial activities is a likely source of the mercury found in these fish. Additionally, PCBs were detected at trace levels in the tissues of fish in the vicinity of the East Storm Drain Outfall. The source of the PCBs is likely the PCB-containing paint chips that migrated into the reservoir. The licensee is controlling any remaining PCB-containing paint so no further environmental impact is expected. As discussed in Section 3.1.2, YAEC is in the process of remediating the PCB-contaminated areas of the reservoir near the East Storm Drain Outfall (ERM, 2004a).

YAEC began an additional site-wide characterization of soils, groundwater, and sediments in 2003 and identified several areas for further study. According to the June 2004 Site Characterization Status Report (ERM, 2004c) and the January 2005 Phase II Comprehensive Site Assessment Report, minor contamination in groundwater and sediment, as well as localized areas of contaminated soil, were identified as requiring further evaluation. Groundwater contaminants are discussed in Section 3.3.2. Sediment impacts include PCBs, which is consistent with previous investigations. Soil impacts include low levels of the following compounds: petroleum hydrocarbon impacts near parking areas; PCBs near the transformer yard; dioxin near the former incinerator; lead around the former shooting range; and beryllium near the ISFSI and former cooling water discharge structure. YAEC will continue to work with the MDEP to fulfill MCP requirements and demonstrate that the entire site has been adequately characterized and remediated where necessary, according to MDEP regulations. When the site is released from NRC jurisdiction, it will remain under state jurisdiction until all nonradiological contamination issues are resolved with the MDEP.

As discussed earlier, most site buildings are being demolished to ground level, and some foundations (notably, the Spent Fuel Pool/Ion Exchange Pit, or SFP/IXP) will be removed entirely. Basements will be remediated to meet the DCGLs before they are perforated to facilitate groundwater flow. Soils will be used to backfill the basements and other holes. Additionally, concrete demolition debris generated from dismantlement activities may be used as backfill material if it passes the final status survey or contains no detectable contamination. Backfill using concrete demolition debris will be conducted under a BUD permit from MDEP, which will include a deed restriction and compliance with MDEP and MDPH requirements for such reuse.

3.2 Land Use

YNPS industrial and administrative operations are conducted on approximately 15 acres of land, primarily owned by YAEC but also including property owned by USGen, as discussed in Section 3.1. The USGen property, consisting of a segment that extends along the entire eastern bank of the Sherman Reservoir, is subject to a 2001 Grant of Conservation Restriction issued by the Massachusetts Department of Environmental Management. USGen has agreed to restrict future uses of its property for preservation purposes, except as necessary for operation of its hydroelectric power plant (ERM, 2004a).

Approximately 87 acres of the site is dedicated to the long term storage (about 20 years) of spent fuel and other high-level radioactive waste in the ISFSI. The ISFSI consists of a concrete pad within a fence and a buffer area with a 300-meter radius.

Transmission lines and two public roads traverse the site. Readsboro Road runs in a north-south direction approximately 1500 feet west of the plant, across the river. Monroe Hill Road is approximately 2500 feet from the plant to the southwest, running in a north-south direction between the towns of Rowe and Monroe.

Some farms and a few commercial sites are located in the surrounding area. There are no exclusively commercial areas within five miles of the site. The only industrial property in the area is the adjacent USGen hydroelectric station and five associated powerhouses that are situated near the Sherman and other reservoirs along the Deerfield River. The nearest highway and railroad right-of-way are each located about five miles south of the site. Several public lands and conservation areas are located within five miles of the site (YAEC, 1999, 2004a). The river is used for recreation and sport fishing, as well as for producing hydroelectric power.

3.3 Water Resources

The discussion of water resources is divided into surface water and groundwater. The following sections provide a summary of the characteristics of each within and around the YNPS site.

3.3.1 Surface Water

Surface Water Features

Surface water bodies on the site or in its immediate vicinity include the Deerfield River, Sherman Reservoir, Wheeler Brook and an associated tributary, a divertment from Wheeler Brook, a discharge canal, and the stormwater drainage systems for the eastern and western halves of the Industrial Area. Wheeler Brook and its tributaries flow about 400 to 500 feet outside the Industrial Area around the south and east sides of the site before Wheeler Brook discharges into Sherman Reservoir (Framatome, 2003).

Sherman Reservoir was formed by the installation of Sherman Dam on the Deerfield River. The reservoir is approximately two miles long, a quarter mile wide, and up to 75 feet deep along its central channel (Framatome, 2003). The discharge canal, which discharges into the Sherman Reservoir, was constructed to receive return water from the plant's cooling water processes.

Stormwater at the site flows into two systems, the East Storm Drain System and the West Storm Drain System, draining the eastern and western halves of the Industrial Area, respectively. The East Storm Drain System discharges to the Sherman Reservoir, while the West Storm Drain System discharges to the Deerfield River. Stormwater from the undeveloped uplands is captured by the Wheeler Brook Divertment. The divertment flows into Wheeler Brook, which flows into the Sherman Reservoir.

Wetlands on the site are located in several areas and primarily border water bodies such as the Sherman Reservoir, Deerfield River, Wheeler Brook, and associated tributaries. Additional wetland areas were identified in the two stormwater detention basins at the site. Some isolated wetlands exist in the southern part of the site. Wetlands were formally delineated in an Abbreviated Notice of Resource Area Delineation (Woodlot, 2004), which was approved by the Town of Rowe Conservation Commission in March 2004.

Wastewater Discharges

During the plant operation, stormwater, service water, and noncontact cooling water were discharged as wastewaters through seven outfalls to the Sherman Reservoir and the West Storm Drain System (to the river). Currently, stormwater and treated wastewaters from the laboratory or from decommissioning activities are

discharged through three remaining outfalls. Discharges are approved under a National Pollution Discharge Elimination System (NPDES) permit issued jointly by the MDEP and EPA, which sets specific limits for pH, oil and grease, suspended solids, and flow, and also requires the maintenance of a Stormwater Pollution Prevention Plan (ERM, 2004b). These discharges are also monitored and treated for radiological materials according to NRC requirements.

A temporary wastewater processing system treats and stores wastewaters received from the radioactive laboratory sump discharge line. This water is treated and then batch-discharged. Discharges of these wastewaters through the treatment plant or through the stormwater drainage system are covered under the NPDES permit. The temporary treatment system will be dismantled and disposed of off-site as radioactive waste (YAEC, 2004a).

The auxiliary service water system is being used to supply water from the Sherman Reservoir to support decontamination and dismantling activities. The system will be dismantled once it is no longer needed for these activities (YAEC, 2004a).

Three septic systems with several associated leach fields have been used at the YNPS site. The leach fields are located generally on the western portion of the site. Three of these leach fields have been in use since 1978, when two formerly-used leach fields were abandoned in place.

3.3.2 Groundwater

Aquifers and Geology

The groundwater system at the YNPS site is a product of the geology, particularly the petrology and hydraulic conductivity of the rocks, the glacial history, the geomorphology, and the hydrology of this area. The YNPS site is located on the east side of the Berkshire Mountains predominantly on a terrace of the Deerfield River. The terrace is recessed into the east side of a two mile wide glacially-derived river valley where the valley walls rise to over 1,000 feet above the river elevation. The YNPS plant is adjacent to a dammed portion of the Deerfield River, Sherman Dam and Sherman Reservoir. The local gradient for this portion of the Deerfield River is 28.4 feet/mile over a river distance of about 33 miles from the Vermont border at the Sherman Pond to the West Deerfield, Massachusetts gauging station (Framatome, 2003).

The local groundwater system is extremely complex, with three groundwater-bearing units, from top to bottom: stratified drift, glaciolacustrine, and bedrock. The stratified drift unit contains permeable surficial sands and gravels,10 to 20 feet thick, that are water-laid, ice-contact deposits derived from a melting glacier. The glaciolacustrine unit comprises sediments up to 260 feet thick of glaciolacustrine origin, containing multiple, relatively thin water-bearing units of fine to medium-grained sand, interspersed within relatively impermeable, fine-grained sand and silts. The bedrock unit is a gray, medium-grained, moderately foliated metamorphic rock that contains significant amounts of megacrystals of plagioclase feldspar albite. This bedrock is the upper member of the Lower Cambrian Hoosac Formation, which is relatively competent with few fractures (YAEC, 2004e).

Contamination and Monitoring

As discussed in Section 3.1.2, YAEC began additional site-wide characterization of groundwater in 2003 and identified several areas for further study. According to the June 2004 Site Characterization Status Report (ERM, 2004c), nonradiological contamination in groundwater and sediment, as well as localized areas of contaminated soil, were identified that required further evaluation. Non-radiological groundwater contaminants identified were found to be in isolated areas and do not suggest the presence of a plume. These contaminants include low levels of 1,1-dichloroethane, PCBs, and petroleum hydrocarbons. YAEC will continue to work with the MDEP to fulfill MCP requirements and demonstrate that groundwater has been adequately characterized and remediated where necessary.

Radiological groundwater monitoring at the YNPS site (excluding monitoring for the Radiological Environmental Monitoring Program) has occurred since the plant shut down in 1992. Currently, 39 monitoring wells are in operation throughout the site. Monitoring wells were installed in stages, as follows: two in the late 1970s, 15 in 1993–94, 21 from 1997 through 2001, and 17 during the summer of 2003, with 14 of the older wells properly abandoned due to decommissioning (demolition) activities. Most of the wells that were installed prior to 2003 are located in the RCA, although a few are either downgradient or upgradient of the RCA. All of the wells installed before 2003 except one are shallow, ranging in depth from 7 to 31 feet below the land surface. The exception is a 49-foot bedrock monitoring well in the RCA. The monitoring wells installed during the summer of 2003 contain wells screened as follows: three in the stratified drift unit, seven in the glaciolacustrine unit, and seven in the bedrock unit.

Groundwater samples have been collected for radiological analysis since 1993. Until 2003, YAEC analyzed the groundwater samples for tritium, gross alpha, gross beta, and gamma spectroscopy. The analytical results for these samples (*i.e.*, groundwater samples from monitoring wells screened primarily in the stratified drift unit) indicated that only tritium was present above the minimum detection concentration. The largest tritium concentrations were observed in wells located immediately downgradient of the spent fuel pit and ion exchange pit (SFP/IXP).

In 2003, YAEC made several changes to improve site characterization and sampling and analytical procedures:

1. During the summer of 2003, YAEC installed 17 monitoring wells, as mentioned above, to characterize the glaciolacustrine and bedrock units more adequately. YAEC installed additional monitoring wells in 2004 and will install more as required by MDEP to improve its characterization of groundwater at the site.

2. YAEC began quarterly sampling events in 2003, and in 2004 improved sampling procedures by measuring the groundwater levels in all monitoring wells within a few hours before any water samples were collected. YAEC has also committed to collecting the water samples from the monitoring wells over a shorter time period.

3. YAEC improved and explained its analytical analysis of the groundwater samples by analyzing for the radionuclides of concern at the YNPS site. Table 2–6 of the LTP lists the radionuclides of concern (or see Section 3.1.1). In July and November 2003, YAEC conducted analyses for these radionuclides of concern and for Mn-54. Tritium was the only plant-generated radionuclide that was detected in samples from the July and November 2003 events.

The largest tritium concentration historically observed at the YNPS site was groundwater flowing from Sherman Spring early in plant operation, which is downgradient from the Sherman Dam and Sherman Pond near the Deerfield River. Groundwater from Sherman Spring had a tritium concentration of 7,195,000 picoCuries/liter (pCi/L) in December 1965. The tritium contamination is reported to have been caused by a leakage from the SFP/IXP, which was repaired in May 1965 and in 1979, when a stainless-steel liner was installed. Tritium levels in groundwater

samples from Sherman Spring have decreased steadily over time, and have varied from non-detectable (ND) to 890 picoCuries/liter in recent monitoring rounds.

Tritium concentrations from the July and November 2003, sampling events are variable by space and time throughout the hydrogeologic units at the site. The tritium plume extends from the source area at the SFP/IXP towards Sherman Spring and the Deerfield River, with the highest tritium concentrations present immediately downgradient of the SFP/IXP. The maximum tritium concentrations were approximately 2,000 pCi/L in the stratified drift unit, 45,000 pCi/L in the glaciolacustrine unit, and 6,000 pCi/L in the bedrock unit.

3.4 Human Health

Potential human health hazards associated with the YNPS site range from potential exposure to very low levels of radioactivity in soils and groundwater, to limited areas of relatively high levels of radioactivity within the remaining portions of the reactor support structures and systems.

The intent of the final decommissioning activity at the site is to reduce radiological contamination at the site to meet NRC's unrestricted release criteria, and to also meet the criteria of the MDPH and MDEP. After decommissioning activities are complete, license termination activities will verify adequacy of the radiological release criteria (*i.e.*, DCGLs) and the final status survey. Unrestricted use of the site is defined in 10 CFR 20.1402, as follows:

A site will be considered acceptable for unrestricted use if the residual radioactivity that is distinguishable from background radiation results in a TEDE [total effective dose equivalent] to an average member of the critical group that does not exceed 25 mrem [millirem] (0.25 mSv) [milliSievert] per year, including that from groundwater sources of drinking water, and that the residual radioactivity has been reduced to levels that are as low as reasonably achievable (ALARA) * * *.

As planned, the 0.25 mSv/yr (25 mrem/yr) TEDE all-pathway limit would be achieved at the site through the application of DCGLs used to measure the adequacy of remediation activities. The DCGLs in use at the YNPS site were calculated using dose models based on guidance provided in NUREG/CR–5512, Volumes 1, 2, and 3, NUREG/CR–6697, and the computer codes RESRAD Version 6.21 and RESRAD-BUILD Version 3.21 code for generating the DCGLs. These dose models translate residual radioactivity into potential radiation doses to the public, based on select land-use scenarios, exposure pathways, and identified critical groups. A critical group is defined as the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity given the assumptions of a given scenario. Such scenarios and their associated modeling are designed to overestimate, rather than underestimate, potential dose.

YAEC has also agreed to meet the following radiological site criteria of the Commonwealth of Massachusetts: 1 mrem/yr for concrete rubble used on-site as fill; 10 mrem/yr for the entire site; and the risk criteria for cumulative radiological and non-radiological risk as determined by a Risk Assessment according to the MCP.

4.0 Environmental Impacts

4.1 Land Use

YAEC plans to release eventually all of the property associated with the YNPS site to local, state, or federal government or non-profit entities for conservation purposes. YAEC has developed an American Land Title Association survey to document the site's legal boundaries. In addition, natural and cultural resources inventories and management plans have been developed. The management plans specify the obligations necessary to preserve the site for conservation (YAEC, 2004b).

Termination of the YAEC license is not reasonably expected to result in any adverse impacts to onsite and adjacent land use. Soils not meeting the radiological criteria for license termination will be removed and disposed of at a licensed facility as low-level radioactive waste. Initially, most of the YAEC-owned property would be released, except for approximately 87 acres containing the spent fuel storage facility and associated buffer zone. That acreage would be released when the fuel is removed to a permanent repository and the storage facility is decommissioned.

Land on and directly adjacent to the site is expected to remain heavily wooded, with lightly populated communities in the surrounding area. Recreational opportunities afforded by the Deerfield River will likely continue and could increase.

The deed restriction required by the MDEP Solid Waste BUD permit will require prior written approval by the MDEP for any use of the former industrial area of the site other than as passive recreation, and will prohibit excavations in that area.

4.2 Water Resources

Approval of the LTP and eventual termination of the license are not anticipated to result in any significant impacts to either surface water or groundwater. The approved radiation release criteria must be met as a condition of license termination and release of the site.

4.2.1 Surface Water

Land areas from which precipitation runs off to surface waters, will be subject to further investigation, remediation where necessary, and the final status survey. YAEC will need to verify that DCGLs have been met in accordance with Section 5 of the LTP, thus demonstrating compliance with the release criteria. Further, YAEC will need to demonstrate compliance with the MCP surface water requirements for both nonradiological and radiological contaminants. YAEC's future license termination also would not be expected to result in any adverse impact to surface water flow or quality, as batch discharges will cease along with other license termination activities.

Prior to license termination, the amount of impervious area will be reduced by about 8 acres (from about 9.5 acres) due to revegetation of areas currently occupied by buildings, roads, and parking lots (ERM, 2004d). YAEC intends to leave the current stormwater drainages unaltered to prevent the destruction of wetland areas that have formed in the drainages. Drainage pipes will be closed, so that discharges will likely continue as sheet flow from the drainages into water bodies.

Both the existing water supply system (upgradient supply well) and sewage system will remain in place. YAEC will inspect the remaining septic systems (discussed in Section 3.3.1) for compliance with state septic system regulations before the property title is transferred. Groundwater monitoring wells have been installed and monitored in the vicinity of the site septic systems.

Several closure activities are being conducted on or near wetlands resources. YAEC has prepared an Integrated Permit Package to address the regulatory requirements applicable to such activities (ERM, 2004d). The activities requiring wetlands-related permits include PCB remediation, decommissioning of circulating water intake and discharge structures, removal of the Southeast Construction Fill Area, implementation of Sherman Dam flood control measures, and regrading of the site. Additionally, a wetlands restoration plan has been developed (Woodlot, 2004) to implement the

permit requirements. Further information concerning wetlands activities can be found in the Integrated Permit Package and the Wetland Restoration and Replication Plan (Woodlot, 2004).

YAEC samples three surface water sites for its Radiological Environmental Monitoring Program (REMP) at the YNPS site. The Deerfield River is sampled downstream from the YNPS site at Bear Swamp Lower Reservoir with an automatic sampler every two hours. These samples are composited each month. YAEC also collects monthly grab samples from Sherman Pond and from an upstream Deerfield River site at the Harriman Reservoir. Samples from all three sites are analyzed for gamma emitting radionuclides, tritium, and gross beta. The tritium and gamma spectroscopy results for 2003 indicated that no surface water samples contained detectable levels of plant-generated radionuclides. Also, the gross beta averages for 2003 were slightly greater at the upstream Deerfield River site than at the downstream site (YAEC, 2004d). Based upon these recent data, YAEC states that the surface waters do not require remediation pertaining to plant-generated radionuclides.

4.2.2 Groundwater

YAEC states that remediation will not likely be required for groundwater at the YNPS site to meet NRC's license termination criteria because H–3 levels are expected to meet NRC's unrestricted release criteria when the site is released (when the ISFSI is decommissioned and the license terminated). If decommissioning activities at the YNPS site increase the concentrations of plant-generated radionuclides dissolved in the groundwater, the monitoring program at this site should detect this change. Groundwater samples from the existing 39 monitoring wells should indicate changes in the groundwater downgradient from the radiologically-controlled area. Because some monitoring wells have been abandoned during decommissioning, new monitoring wells will need to be installed to meet MDEP requirements to characterize potential changes in the level of plant-generated radionuclides dissolved in the groundwater.

Groundwater at the site also will be required to meet the dose-based radiological criteris of the MDPH and the risk-based criteria of the MDEP Risk Assessment process (for both radiological and non-radiological parameters).

4.3 Human Health Impacts

Compliance with 10 CFR 20.1402 for unrestricted release (and, therefore, human health protection requirements) is contingent upon successful remediation and/or removal of contaminated soil, groundwater, ancillary contaminated materials, and structures to acceptable levels (corresponding to a total dose of 0.25 mSv/yr (25 mrem/yr) or less per year) to an average member of the critical group. In addition, residual radioactivity must meet the ALARA requirements of the rule.

As noted in Sec. 3.4, YAEC also has agreed to meet the more restrictive radiological release criteria of the MDPH and the MDEP.

Derived Concentration Guideline Levels

YAEC has defined levels of residual radioactivity for various sources at the site that correspond to meeting the dose limit. These acceptable levels are defined as the DCGLs. Potential radiation doses for the bounding exposure scenarios are calculated by assuming an average fixed concentration level for each of the potential sources of residual radioactivity. The sources are soil, building surfaces, subsurface partial structures, and concrete debris. Two critical groups were identified to whom the DCGLs would be applicable: A full-time resident farmer group (associated with soil, building surfaces, subsurface partial structures, and concrete debris sources) and a building occupancy group (associated with the building surfaces source).

The DCGLs for each source were derived using the radiation doses per unit activity and a separate dose constraint for each source. Table 4–1 lists the DCGLs for each radionuclide from each source. Within each critical group, each DCGL was selected to correspond to a fraction of the 0.25 mSv/yr (25 mrem/yr) dose limit so that the total dose to the average member of that group from all sources would equal the limit.

For the resident farmer critical group, the doses corresponding to DCGLs (and totaling 25 mrem/yr) are:

- Subsurface partial structures: 0.005 mSv/yr (0.5 mrem/yr)
- Groundwater: 0.0077 mSv/yr (0.77 mrem/yr).
- Concrete debris and soil: 0.2373 mSv/yr (23.73 mrem/yr)

In areas that have co-mingled soil and concrete debris, YAEC would use the smaller of the two DCGLs for each radionuclide (see Table 4–1), and for areas with only soil, YAEC would use the soil DCGLs.

For the building occupancy critical group, YAEC would take a sum-of-fractions approach to ensure that if a member of the public were both a member of the building occupancy critical group and the resident farmer critical group, their total dose would be less than 0.25 mSv/yr (25 mrem/yr).

Any actual doses would likely be much less than the 0.25 mSv/yr (25 mrem/yr) limit. This is due to the conservatism in both the modeling and the assumption that the entire source would have residual radioactivity at the DCGL. (It is more likely that the sources will have residual radioactivity at considerably less than the DCGLs.) Provided compliance with the 10 CFR 20.1402 limit is demonstrated through the results of the final status survey, there would be no anticipated adverse impacts to human health from approval of license termination, as described in the environmental impact statement for license termination (NUREG–1496) (NRC, 1997a).

Exposure Scenarios

The manner in which the DCGLs are derived for the YNPS site is documented in Chapter 6 of the LTP, Revision 1. In deriving the DCGLs, an adult resident farmer is considered to represent the average member of the critical group. The hypothetical resident farmer is assumed to build a house on the contaminated soil (or soil/concrete debris mix), draw water from a well placed into the tritium plume, grow plant food and fodder on the contaminated area, raise livestock on the contaminated area, and catch fish from a pond on the contaminated area. The resident farmer scenario is considered the bounding scenario because it embodies the greatest number of exposure pathways, represents the longest exposure durations, and includes the greatest number of sources, of all scenarios envisioned. The DCGLs are shown in Table 4–1.

The NRC will evaluate the appropriateness of the postulated exposure scenarios and the methodology used for deriving the DCGLs as part of its review of the LTP. The NRC staff's Safety Evaluation Report will provide the details of this review.

Survey Design

YAEC would use a series of surveys, including the final status survey, to demonstrate compliance with the radiological release criteria consistent with the Multi-Agency Radiation Survey and Site Investigation Manual (NRC, 1997a). Planning for the final status survey involves an iterative process that

requires appropriate site classification (on the basis of the potential residual radioactivity levels relative to the DCGLs) and formal planning using the Data Quality Objective process. YAEC has committed to an integrated design that would address the selection of appropriate survey and laboratory instrumentation and procedures, including a statistically-based measurement and sampling plan for collecting and evaluating the data needed for the final status survey. YAEC has requested that it be permitted to modify the classification levels based on new information during the decommissioning process.

TABLE 4–1.—DERIVED CONCENTRATION GUIDELINE LEVELS*

Radionuclide	Soil (pCi/g)†	Building surface (dpm/100 cm²) ‡	Subsurface partial structures (pCi/g) §	Concrete debris† (pCi/g)
H-3	3.5E+02	3.4E+08	1.35E+02	9.5E+01 (cellar holes). 2.8E+02 (grading).
C-14	5.2E+00	1.0E+07	2.34E+03	7.2E+00.
Fe-55	2.8E+04	4.0E+07		1.4E+02.
Co-60	3.8E+00	1.8E+04	3.45E+03	4.3E+00.
Ni-63	7.7E+02	3.7E+07	6.16E+04	1.0E+02.
Sr-90	1.6E+00	1.5E+05	1.39E+01	7.5E01.
Nb-94	6.8E+00	2.6E+04		7.0E+00.
Tc-99	1.3E+01	1.4E+07		6.1E+01.
Ag-108m	6.9E+00	2.5E+04		7.0E+00.
Sb-125	3.0E+01	1.0E+05		3.1E+01.
Cs-134	4.7E+00	2.9E+04		4.7E+00.
Cs-137	8.2E+00	6.3E+04	1.45E+03	6.7E+00.
Eu-152	9.5E+00	3.7E+04		9.5E+00.
Eu-154	9.0E+00	3.4E+04		9.1E+00.
Eu-155	3.8E+02	6.5E+05		3.8E+02.
Pu-238	3.1E+01	5.7E+03		9.5E+00.
Pu-239	2.8E+01	5.1E+03		8.8E+00.
Pu-241	9.3E+02	2.5E+05		1.4E+02.
Am-241	2.8E+01	5.0E=03		4.1E+00.
Cm-243	3.0E+01	7.2E+03		4.7E+00.

* To convert to Bq from pCi, multiply by 0.037.
† Represents a dose of 23.73 mrem/yr.
‡ Represents a dose of 25 mrem/yr.
§ Represents a dose of 0.5 mrem/yr, radionuclides based upon those found in concrete samples.

5.0 Agencies and Persons Consulted and Sources Used

A copy of the Environmental Assessment was provided to the Commonwealth of Massachusetts on March 3, 2005. The Massachusetts Department of Environmental Protection provided comments by letter dated March 31, 2005, which were incorporated into this EA.

The NRC staff has determined that the proposed action would not affect listed threatened or endangered species or critical habitat designated under the Endangered Species Act. Therefore, no consultation is required under Section 7 of the Endangered Species Act. Likewise, the NRC staff has determined that the proposed action would not affect historic or archaeological resources. Therefore, no consultation is required under Section 106 of the National Historic Preservation Act.

6.0 Conclusion

The NRC has prepared this EA related to the issuance of a license amendment that would approve the LTP. On the basis of this EA, the NRC has concluded that there are no significant environmental impacts and the proposed license amendment does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The documents related to this proposed action are available for public inspection and copying at NRC's Public Document Room at NRC Headquarters, One White Flint North, 1555 Rockville Pike, Rockville, Maryland 20852. Most of these documents also are available for public review through our electronic reading room (ADAMS): *http://www.nrc.gov/reading-rm/adams.html.*

7.0 List of Preparers

C. McKenney, Health Physicist, Division of Waste Management, dose assessment.

J. Peckenpaugh, Hydrologist, Division of Waste Management, groundwater issues.

C. Schulte, Project Manager, Division of Waste Management and Environmental Protection, non-radiological environmental issues.

J. Thompson, Health Physicist, Division of Waste Management and Environmental Protection, Final Status Survey, radiation release criteria.

8.0 List of Acronyms

ALARA as low as reasonably achievable
BUD beneficial reuse determination
CFR Code of Federal Regulations
DCGL derived concentration guideline limit
dpm/100cm² disintegrations per minute per 100 square centimeters
EA environmental assessment
EPA Environmental Protection Agency
FR Federal Register
FSS final status survey
ISFSI independent spent fuel storage installation
kV kilovolt
LTP license termination plan
MCP Massachusetts Contingency Plan
MDEP Massachusetts Department of Environmental Protection
MDPH Massachusetts Department of Public Health, Radiation Control Program
mrem/y millirem per year
mSv/yr milliSievert per year
NEPA National Environmental Policy Act
NHESP National Heritage and Endangered Species Program
NPDES National Pollution Discharge Elimination System
NRC Nuclear Regulatory Commission

ORISE Oak Ridge Institute for Science and Education
PCBs Polychlorinated biphenyls
pCi/L picocurie per liter
PSDAR post shutdown decommissioning activities report
RCA Radiologically-controlled area
REMP Radiological Environmental Monitoring Program
RCRA Resource Conservation and Recovery Act
SCFA Southeast Construction Fill Area
TEDE total effective dose equivalent
TSCA Toxic Substances Control Act
YAEC Yankee Atomic Electric Company
YNPS Yankee Nuclear Power Station

9.0 References

10 CFR Part 20. *Code of Federal Regulations*, Title 10, Energy, Part 20, "Standards for protection against radiation."

10 CFR Part 50. *Code of Federal Regulations*, Title 10, Energy, Part 50, "Domestic licensing of production and utilization facilities."

10 CFR Part 51. *Code of Federal Regulations*, Title 10, Energy, Part 51, "Environmental protection regulations for domestic licensing and related regulatory functions."

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YAEC, 2004e. "Hydrogeologic Report of 2003 Supplemental Investigation" March 15, 2004. Yankee Atomic Electric Company, Rowe, Massachusetts.

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Dated at Rockville, Maryland, this 23rd day of May, 2005.

For the Nuclear Regulatory Commission.

Andrew Persinko,

Acting Deputy Director, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E5–2850 Filed 6–2–05; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Statement Regarding Contributions and Support.
(2) *Form(s) submitted:* G–134.
(3) *OMB Number:* 3220–0099.
(4) *Expiration date of current OMB clearance:* 09/30/2005.
(5) *Type of request:* Extension of a currently approved collection.
(6) *Respondents:* Individuals or households.
(7) *Estimated annual number of respondents:* 100.
(8) *Total annual responses:* 100.
(9) *Total annual reporting hours:* 259.
(10) *Collection description:* Dependency on the employee for one-half support at the time of the employee's death can be a condition affecting eligibility for a survivor annuity provided for under Section 2 of the Railroad Retirement Act. One-half support is also a condition which may

negate the public service pension offset in Tier 1 for a spouse or widow(er).

FOR FURTHER INFORMATION CONTACT: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov.*

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 05–11032 Filed 6–2–05; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Statement of Authority to Act for Employee.

(2) *Form(s) submitted:* SI–10.

(3) *OMB Number:* 3220–0034.

(4) *Expiration date of current OMB clearance:* 08/31/2005.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households, Business or other for-profit.

(7) *Estimated annual number of respondents:* 400.

(8) *Total annual responses:* 400.

(9) *Total annual reporting hours:* 40.

(10) *Collection description:* Under 20 CFR 335.2, the Railroad Retirement Board (RRB) accepts claims for sickness benefits by other than the sick or injured employees, provided the RRB has the information needed to satisfy itself that the delegation should be made.

FOR FURTHER INFORMATION CONTACT: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov.*

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or Ronald.Hodapp@rrb.gov and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 05–11033 Filed 6–2–05; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 482, SEC File No. 270–508, OMB Control No. 3235–0565.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Like most issuers of securities, when an investment company [1] ("fund") offers its shares to the public, its promotional efforts become subject to the advertising restrictions of the Securities Act of 1933, as amended (the "Securities Act"). In recognition of the particular problems faced by funds that continually offer securities and wish to advertise their securities, the Commission has previously adopted advertising safe harbor rules. The most important of these is rule 482 under the Securities Act, which, under certain circumstances, permits funds to advertise investment performance data, as well as other information. Rule 482 advertisements are deemed to be "prospectuses" under section 10(b) of the Securities Act.[2]

Rule 482 contains certain requirements regarding the disclosure that funds are required to provide in qualifying advertisements. These requirements are intended to encourage the provision to investors of information that is balanced and informative, particularly in the area of investment performance. For example, a fund is required to include disclosure advising investors to consider the fund's investment objectives, risks, charges and expenses, and other information described in the fund's prospectus or accompanying profile (if applicable), and highlighting the availability of the fund's prospectus. In addition, rule 482 advertisements that include performance data of open-end funds or insurance company separate accounts offering variable annuity contracts are required to include certain standardized performance information, information about any sales loads or other nonrecurring fees, and a legend warning that past performance does not guarantee future results. Such funds including performance information in rule 482 advertisements are also required to make available to investors month-end performance figures via website disclosure or by a toll-free telephone number, and to disclose the availability of the month-end performance data in the advertisement. The rule also sets forth requirements regarding the prominence of certain disclosures, requirements regarding advertisements that make tax representations, requirements regarding advertisements used prior to the effectiveness of the fund's registration statement, requirements regarding the timeliness of performance data, and certain required disclosures by money market funds.

Rule 482 advertisements must be filed with the Commission or, in the alternative, with NASD Regulation, Inc. ("NASDR").[3] This information collection differs from many other federal information collections that are primarily for the use and benefit of the collecting agency.

As discussed above, rule 482 contains requirements that are intended to encourage the provision to investors of information that is balanced and informative, particularly in the area of investment performance. The Commission is concerned that in the absence of such provisions fund investors may be misled by deceptive rule 482 performance advertisements and may rely on less-than-adequate information when determining in which funds they should invest their money. As a result, the Commission believes it is beneficial for funds to provide

[1] "Investment company" refers to both investment companies registered under the Investment Company Act of 1940, as amended, and business development companies.

[2] 15 U.S.C. 77j(b).

[3] See Rule 24b–3 under the Investment Company Act [17 CFR 270.24b–3], which provides that any sales material, including rule 482 advertisements, shall be deemed filed with the Commission for purposes of Section 24(b) of the Investment Company Act upon filing with the NASDR.

investors with balanced information in fund advertisements in order to allow investors to make better-informed decisions.

The Commission estimates that 56,936 responses are filed annually pursuant to rule 482 by 4,384 investment companies offering 37,500 portfolios. Respondents consist of all the investment companies that take advantage of the safe harbor offered by the rule for their advertisements. The burden associated with rule 482 is presently estimated to be 5.16 hours per response. The hourly burden is therefore approximately 293,790 hours (56,936 responses times 5.16 hours per response).

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Cost burden is the cost of services purchased to comply with rule 482, such as for the services of computer programmers, outside counsel, financial printers, and advertising agencies. The Commission attributes no cost burden to rule 482.

The provision of information under rule 482 is necessary to obtain the benefits of the safe harbor offered by the rule. The information provided is not kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to: *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: May 27, 2005.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2844 Filed 6–2–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 10f–3, SEC File No. 270–237, OMB Control No. 3235–0226.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension and approval of the collections of information discussed below.

Section 10(f) of the Investment Company Act of 1940 (the "Act") prohibits a registered investment company ("fund") from purchasing any security during an underwriting or selling syndicate if the fund has certain relationships with a principal underwriter for the security. Congress enacted this provision in 1940 to protect funds and their shareholders by preventing underwriters from "dumping" unmarketable securities on affiliated funds.

Rule 10f–3 permits a fund to engage in a securities transaction that otherwise would violate section 10(f) if, among other things, (i) each transaction effected under the rule is reported on Form N–SAR; (ii) the fund's directors have approved procedures for purchases made in reliance on the rule, regularly review fund purchases to determine whether they comply with these procedures, and approve necessary changes to the procedures; and (iii) a written record of each transaction effected under the rule is maintained for six years, the first two of which in an easily accessible place. The written record must state (i) from whom the securities were acquired, (ii) the identity of the underwriting syndicate's members, (iii) the terms of the transactions, and (iv) the information or materials on which the fund's board of directors has determined that the purchases were made in compliance with procedures established by the board.

The rule also conditionally allows managed portions of fund portfolios to purchase securities offered in otherwise off-limits primary offerings. To qualify for this exemption, rule 10f–3 requires that the subadviser that is advising the purchaser be contractually prohibited from providing investment advice to any other portion of the fund's portfolio and consulting with any other of the fund's advisers that is a principal underwriter or affiliated person of a principal underwriter concerning the fund's securities transactions.

These requirements provide a mechanism for fund boards to oversee compliance with the rule. The required recordkeeping facilitates the Commission staff's review of rule 10f–3 transactions during routine fund inspections and, when necessary, in connection with enforcement actions.

The staff estimates that approximately 200 funds engage in a total of approximately 1,000 rule 10f–3 transactions each year.[1] Rule 10f–3 requires that the purchasing fund create a written record of each transaction that includes, among other things, from whom the securities were purchased and the terms of the transaction. The staff estimates[2] that it takes an average fund approximately 30 minutes per transaction and approximately 500 hours[3] in the aggregate to comply with this portion of the rule.

The funds also must maintain and preserve these transactional records in accordance with the rule's recordkeeping requirement, and the staff estimates that it takes a fund approximately 20 minutes per transaction and that annually, in the aggregate, funds spend approximately 333 hours[4] to comply with this portion of the rule.

In addition, fund boards must, no less than quarterly, examine each of these transactions to ensure that they comply with the fund's policies and procedures. The information or materials upon which the board relied to come to this determination also must be maintained and the staff estimates that it takes a fund 1 hour per quarter and, in the aggregate, approximately 800 hours[5] annually to comply with this rule requirement.

The staff estimates that approximately half of the boards of funds that engage in rule 10f–3 transactions that deem it necessary to revise the fund's written policies and procedures for rule 10f–3

[1] These estimates are based on staff extrapolations from earlier data.

[2] Unless stated otherwise, the information collection burden estimates contained in this Supporting Statement are based on conversations between the staff and representatives of funds.

[3] This estimate is based on the following calculation: (30 minutes × 1,000 = 500 hours).

[4] This estimate is based on the following calculations: (20 minutes × 1,000 transactions = 20,000 minutes; 20,000 minutes / 60 = 333 hours).

[5] This estimate is based on the following calculation: (1 hour per quarter × 4 quarters × 200 funds = 800 hours).

and that complying with this requirement takes each of these funds on average, 25 hours of a compliance attorney's time and, in the aggregate, approximately 2,500 hours [6] annually.

The Commission staff estimates that 3,028 portfolios of approximately 2,126 investment companies use the services of one or more subadvisers. Based on discussions with industry representatives, the staff estimates that it will require approximately 6 hours to draft and execute revised subadvisory contracts (5 staff attorney hours, 1 supervisory attorney hour), in order for funds and subadvisers to be able to rely on the exemption in rule 10f–3. The staff assumes that all of these funds amended their advisory contracts when rule 10f–3 was amended in 2002 by conditioning certain exemptions upon such contractual alterations.[7]

Based on an analysis of investment company filings, the staff estimates that approximately 200 new funds register annually. Assuming that the number of these funds that will use the services of subadvisers is proportionate to the number of funds that currently use the services of subadvisers, approximately 46 new funds will enter into subadvisory agreements each year.[8] The Commission staff estimates, based on an analysis of investment company filings, that an additional 10 funds, currently in existence, will employ the services of subadvisers for the first time each year. Thus, the staff estimates that a total of 56 funds, with a total of 78 portfolios,[9] will enter into subadvisory agreements each year. Assuming that each of these funds enters into a contract that permits it to rely on the exemption in rule 10f–3, we estimate that the rule's contract modification requirement will result in 117 burden hours annually.[10]

The staff estimates, therefore, that rule 10f–3 imposes an information collection burden of 4,250 hours.[11] This estimate does not include the time spent filing transaction reports on Form N–SAR, which is encompassed in the information collection burden estimate for that form.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

General comments regarding the above information should be directed to the following persons: (i) Desk officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or e-mail to: *David_Rostker@omb.eop.gov*; and R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: May 27, 2005.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2845 Filed 6–2–05; 8:45 am]

BILLING CODE 8010–01–P

[6] This estimate is based on the following calculation: (100 funds × 25 hours = 2,500 hours).

[7] Rules 12d3–1, 10f–3, 17a–10, and 17e–1 require virtually identical modifications to fund advisory contracts. The Commission staff assumes that funds would rely equally on the exemptions in these rules, and therefore the burden hours associated with the required contract modifications should be apportioned equally among the four rules.

[8] Approximately 23 percent of funds are advised by subadvisers.

[9] Based on existing statistics, we assume that each fund has 1.4 portfolios advised by a subadviser.

[10] This estimate is based on the following calculations: (78 portfolios × 6 hours = 468 burden hours for rules 12d3–1, 10f–3, 17a–10, and 17e–1; 468 total burden hours for all of the rules / four rules = 117 annual burden hours per rule).

[11] This estimate is based on the following calculations: (500 hours + 333 hours + 800 hours + 2,500 hours + 117 hours = 4,250 total burden hours).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–26904]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

May 27, 2005.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of May, 2005. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch (tel. 202–551–5850). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 22, 2005, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549–0504.

California Limited Maturity Municipals Portfolio [File No. 811–7218]

Florida Limited Maturity Municipals Portfolio [File No. 811–7220]

Massachusetts Limited Maturity Municipals Portfolio [File No. 811–7222]

National Limited Maturity Municipals Portfolio [File No. 811–7224]

New Jersey Limited Maturity Municipals Portfolio [File No. 811–7226]

New York Limited Maturity Municipals Portfolio [File No. 811–7228]

Pennsylvania Limited Maturity Municipals Portfolio [File No. 811–7230]

Ohio Limited Maturity Municipals Portfolio [File No. 811–7520]

SUMMARY: Each applicant seeks an order declaring that it has ceased to be an investment company. On October 8, 2004, each applicant made a liquidating distribution to its shareholders, based on net asset value. Applicants incurred no expenses in connection with the liquidations.

FILING DATE: The applications were filed on May 12, 2005.

APPLICANTS' ADDRESS: The Eaton Vance Building, 255 State St., Boston, MA 02109.

National Municipals Portfolio [File No. 811–7172]

Florida Municipals Portfolio [File No. 811–7182]

Massachusetts Municipals Portfolio [File No. 811–7190]

New York Municipals Portfolio [File No. 811–7200]

Ohio Municipals Portfolio [File No. 811–7204]

California Municipals Portfolio [File No. 811–7216]

Mississippi Municipals Portfolio [File No. 811–7646]

West Virginia Municipals Portfolio [File No. 811–7648]

Rhode Island Municipals Portfolio [File No. 811–7650]

SUMMARY: Each applicant seeks an order declaring that it has ceased to be an investment company. On October 1, 2004, each applicant made a liquidating distribution to its shareholders, based on net asset value. Applicants incurred no expenses in connection with the liquidations.

FILING DATE: The applications were filed on May 12, 2005.

APPLICANTS' ADDRESS: The Eaton Vance Building, 255 State St., Boston, MA 02109.

Alabama Municipals Portfolio [File No. 811–7174]
Georgia Municipals Portfolio [File No. 811–7184]
Kentucky Municipals Portfolio [File No. 811–7186]
Maryland Municipals Portfolio [File No. 811–7188]
Missouri Municipals Portfolio [File No. 811–7196]
North Carolina Municipals Portfolio [File No. 811–7202]
Oregon Municipals Portfolio [File No. 811–7206]
Tennessee Municipals Portfolio [File No. 811–7210]
Virginia Municipals Portfolio [File No. 811–7214]
Arkansas Municipals Portfolio [File No. 811–8204]
South Carolina Municipals Portfolio [File No. 811–8206]
Louisiana Municipals Portfolio [File No. 811–8208]

SUMMARY: Each applicant seeks an order declaring that it has ceased to be an investment company. On September 24, 2004, each applicant made a liquidating distribution to its shareholders, based on net asset value. Applicants incurred no expenses in connection with the liquidations.

FILING DATE: The applications were filed on May 12, 2005.

APPLICANTS' ADDRESS: The Eaton Vance Building, 255 State St., Boston, MA 02109.

State Street Research Institutional Funds [File No. 811–9247]

SUMMARY: Applicant seeks an order declaring that it has ceased to be an investment company. By January 10, 2005, each of applicant's series had made a final liquidating distribution to its shareholders, based on net asset value. Expenses of $15,100 incurred in connection with the liquidation were paid by State Street Research & Management Company, applicant's investment adviser.

FILING DATES: The application was filed on April 14, 2005, and amended on May 20, 2005.

APPLICANT'S ADDRESS: One Financial Center, Boston, MA 02111.

State Street Research Master Investment Trust [File No. 811–84]
State Street Research Capital Trust [File No. 811–3838]
State Street Research Exchange Trust [File No. 811–4256]
State Street Research Money Market Trust [File No. 811–4295]
State Street Research Income Trust [File No. 811–4559]
State Street Research Equity Trust [File No. 811–4624]
State Street Research Financial Trust [File No. 811–4911]
State Street Research Securities Trust [File No. 811–8322]

SUMMARY: Each applicant seeks an order declaring that it has ceased to be an investment company. On January 28, 2005, each applicant transferred its assets to a corresponding series of BlackRock Funds, based on net asset value. Expenses of $46,400, $132,100, $42,900, $46,400, $92,700, $135,600, $89,200 and $89,200, respectively, incurred in connection with the reorganizations were paid by SSRM Holdings, Inc., the parent of applicants' investment adviser, and BlackRock, Inc., the parent of the acquiring funds' investment adviser.

FILING DATES: The applications were filed on April 14, 2005, and amended on May 20, 2005.

APPLICANTS' ADDRESS: One Financial Center, Boston, MA 02111.

First Investors U.S. Government Plus Fund [File No. 811–4181]

SUMMARY: Applicant seeks an order declaring that it has ceased to be an investment company. By December 31, 2004, each of applicant's three series had made a final liquidating distribution to its shareholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

FILING DATE: The application was filed on April 20, 2005.

APPLICANT'S ADDRESS: 95 Wall St., New York, NY 10005.

High Yield Municipals Portfolio [File No. 811–7289]
Hawaii Municipals Portfolio [File No. 811–8144]
Florida Insured Municipals Portfolio [File No. 811–8146]
Kansas Municipals Portfolio [File No. 811–8152]

SUMMARY: Each applicant seeks an order declaring that it has ceased to be an investment company. On September 10, 2004, each applicant made a liquidating distribution to its shareholders, based on net asset value. Applicants incurred no expenses in connection with the liquidations.

FILING DATE: The applications were filed on April 21, 2005.

APPLICANTS' ADDRESS: The Eaton Vance Building, 255 State St., Boston, MA 02109.

Arizona Municipals Portfolio [File No. 811–7176]
Colorado Municipals Portfolio [File No. 811–7178]
Connecticut Municipals Portfolio [File No. 811–7180]
Michigan Municipals Portfolio [File No. 811–7192]
Minnesota Municipals Portfolio [File No. 811–7194]
New Jersey Municipals Portfolio [File No. 811–7198]
Pennsylvania Municipals Portfolio [File No. 811–7208]

SUMMARY: Each applicant seeks an order declaring that it has ceased to be an investment company. On September 17, 2004, each applicant made a liquidating distribution to its shareholders, based on net asset value. Applicants incurred no expenses in connection with the liquidations.

FILING DATE: The applications were filed on April 21, 2005.

APPLICANTS' ADDRESS: The Eaton Vance Building, 255 State St., Boston, MA 02109.

Putnam Municipal Income Fund [File No. 811–5763]

SUMMARY: Applicant seeks an order declaring that it has ceased to be an investment company. On March 21, 2005, applicant transferred its assets to a series of Putnam Tax-Free Income Trust, based on net asset value. Expenses of approximately $177,010 incurred in connection with the reorganization were paid by applicant, the acquiring fund and Putnam Investment Management, LLC, applicant's investment adviser.

FILING DATE: The application was filed on May 11, 2005.

APPLICANT'S ADDRESS: One Post Office Sq., Boston, MA 02109.

The Tax Exempt Bond Portfolio [File No. 811–7848]
The New York Tax Exempt Bond Portfolio [File No. 811–8462]

SUMMARY: Each applicant seeks an order declaring that it has ceased to be an investment company. On September 1, 2001, each applicant transferred its assets to corresponding series of J.P. Morgan Mutual Fund Select Trust, based on net asset value. All expenses incurred in connection with the reorganizations were paid by J.P. Morgan Chase & Co., applicants' investment adviser.

FILING DATES: The applications were filed on April 5, 2005, and amended on May 11, 2005.

APPLICANTS' ADDRESS: J.P. Morgan Investment Management Inc., 522 Fifth Ave., New York, NY 10036.

The Short Term Bond Portfolio [File No. 811–7844]

The U.S. Fixed Income Portfolio [File No. 811–7858]
The Diversified Portfolio [File No. 811–7860]
The U.S. Equity Portfolio [File No. 811–7880]
The U.S. Small Company Portfolio [File No. 811–7882]
International Equity Portfolio [File No. 811–7884]
The Emerging Markets Equity Portfolio [File No. 811–8102]

SUMMARY: Each applicant seeks an order declaring that it has ceased to be an investment company. On September 1, 2001, each applicant transferred its assets to a corresponding series of J.P. Morgan Institutional Funds, based on net asset value. All expenses incurred in connection with the reorganizations were paid by J.P. Morgan Chase & Co., applicants' investment adviser.

FILING DATES: The applications were filed on April 5, 2005, and amended on May 11, 2005.

APPLICANTS' ADDRESS: J.P. Morgan Investment Management Inc., 522 Fifth Ave., New York, NY 10036.

The Federal Money Market Portfolio [File No. 811–7406]
The Tax Exempt Money Market Portfolio [File No. 811–7842]
The Prime Money Market Portfolio [File No. 811–7898]

SUMMARY: Each applicant seeks an order declaring that it has ceased to be an investment company. On September 1, 2001, each applicant transferred its assets to a corresponding series of J.P. Morgan Mutual Fund Trust, based on net asset value. All expenses incurred in connection with the reorganizations were paid by J.P. Morgan Chase & Co., applicants' investment adviser.

FILING DATES: The applications were filed on April 5, 2005, and amended on May 11, 2005.

APPLICANTS' ADDRESS: J.P. Morgan Investment Management Inc., 522 Fifth Ave., New York, NY 10036.

Morgan Stanley Multi-State Municipal Series Trust [File No. 811–6208]
Morgan Stanley Latin American Growth Fund [File No. 811–6608]
Morgan Stanley Hawaii Municipal Trust [File No. 811–7263]

SUMMARY: Each applicant seeks an order declaring that it has ceased to be an investment company. On August 20, 2004, October 22, 2004, and August 20, 2004, respectively, each applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $31,100, $39,300 and $14,200, respectively, incurred in connection with the liquidations were paid by Morgan Stanley Investment Advisors Inc., applicants' investment adviser.

FILING DATES: The applications were filed on March 14, 2005, and amended on May 6, 2005.

APPLICANTS' ADDRESS: 1221 Avenue of the Americas, New York, NY 10020.

Fremont Mutual Funds, Inc. [File No. 811–5632]

SUMMARY: Applicant seeks an order declaring that it has ceased to be an investment company. On January 14, 2005, applicant transferred its assets to corresponding series of Managers Trust I and The Managers Funds, based on net asset value. Expenses of approximately $1,850,000 incurred in connection with the reorganization were paid by Fremont Investment Advisors, Inc., applicant's investment adviser, and The Managers Funds LLC, the acquiring fund's investment adviser.

FILING DATES: The application was filed on April 12, 2005, and amended on May 4, 2005.

APPLICANT'S ADDRESS: 333 Market St., 26th Floor, San Francisco, CA 94105.

Lake Forest Funds [File No. 811–8906]

SUMMARY: Applicant seeks an order declaring that it has ceased to be an investment company. On November 16, 2004, applicant's Lake Forest Money Market Fund made a liquidating distribution to its shareholders, based on net asset value. On November 22, 2004, applicant's Lake Forest Core Equity Fund transferred its assets to Profit Fund Investment Trust, based on net asset value. Expenses of $52,164 incurred in connection with the liquidation and reorganization were paid by applicant's investment adviser, Profit Investment Management.

FILING DATES: The application was filed on March 7, 2005, and amended on April 27, 2005.

APPLICANT'S ADDRESS: 8720 Georgia Ave., Suite 808, Silver Spring, MD 20910.

The Great Hall Unit Investment Trusts Series [File No. 811–7894]

SUMMARY: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On April 6, 1999, applicant made a final liquidating distribution to its unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

FILING DATES: The application was filed on March 14, 2005, and amended on May 6, 2005.

APPLICANT'S ADDRESS: First Trust Portfolios, L.P., 1001 Warrenville Rd., Suite 300, Lisle, IL 60532.

Expedition Funds [File No. 811–5900]

SUMMARY: Applicant seeks an order declaring that it has ceased to be an investment company. On February 25, 2005, applicant transferred its assets to corresponding series of Goldman Sachs Trust, based on net asset value. Expenses of $269,039 incurred in connection with the reorganization were paid by Compass Asset Management, applicant's investment adviser, and Goldman Sachs Asset Management, L.P., investment adviser to the acquiring fund.

FILING DATES: The application was filed on April 8, 2005, and amended on May 13, 2005.

APPLICANT'S ADDRESS: 101 Federal St., Boston, MA 02110.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–2861 Filed 6–2–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of June 6, 2005:

A Closed Meeting will be held on Monday, June 6, 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), (4), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (4), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Glassman, as duty officer, voted to consider the items listed for the closed meeting in closed session and that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Monday, June 6, 2005, will be:

Formal orders of investigations;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and a

Regulatory matter concerning a financial institution.

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 31, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–11159 Filed 6–1–05; 11:46 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27975]

Filing Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

May 31, 2005.

Notice is hereby given that the following filings have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 21, 2005, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the applicant(s) and/or declarant(s), at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After June 21, 2005, the application-declaration, as filed or as amended, may be granted and/or permitted to become effective.

Cinergy Corp. (70–10281)

Cinergy Corp. ("Cinergy"), a registered holding company, 139 East Fourth Street, Cincinnati, Ohio 45202, has filed an Application-Declaration, as amended, ("Application") under sections 6(a), 7, 9(a), 10, 12, 32 and 33 of the Public Utility Holding Company Act of 1935, as amended and rules 45 and 53 under the Act.

Background

Cinergy directly or indirectly owns all the outstanding common stock of public utility companies operating in Ohio, Indiana and Kentucky, the most significant of which are PSI Energy, Inc. ("PSI") and The Cincinnati Gas & Electric Company ("CG&E"). PSI is a vertically integrated electric utility operating in Indiana, serving more than 700,000 customers in 69 of the state's 92 counties. CG&E is a combination gas and electric public utility holding company exempt from registration pursuant to rule 2(b) and provides gas and electric service in the southwestern portion of Ohio. CG&E's principal subsidiary is The Union Light, Heat and Power Company ("ULH&P") which provides gas and electric service in northern Kentucky. Cinergy's three utility companies are jointly referred to as the "Operating Companies."

Cinergy also owns numerous nonutility subsidiaries engaged in businesses authorized under the Act, by Commission order or otherwise, including "exempt wholesale generators" ("EWGs") as defined in Section 32 of the Act, "foreign utility companies" ("FUCOs") as defined in Section 34 of the Act, "exempt telecommunications companies" as defined in Section 34 of the Act and "energy-related companies" as defined in rule 58.

Requested Authorization

Summary of Transactions

Cinergy requests authorization to engage in the transactions summarized below,[1] and described in more detail in section __ of this Notice, during the period from the effective date of the order issued in this filing through the period ending the earlier of (a) consummation of the pending merger between Cinergy and Duke Energy Corporation,[2] and (b) the expiration of 12 months from the date of the Commission's order in this matter granting and permitting to become effective some or all of the transactions requested in the underlying Application, ("Authorization Period") and to replace and supersede the authority granted under the Prior Orders with the financing authority sought in the Application. Among other things, Cinergy requests authority to:

(1) Increase total capitalization by $5.0 billion through the issuance and sale of any combination of equity and debt securities as more fully described below; [3]

(2) Provide guarantees in an aggregate amount not to exceed $3.0 billion; [4]

(3) Form and utilize special-purpose financing subsidiaries to issue and sell equity and debt securities;

(4) Enter into transactions to manage interest rate and foreign currency exchange risk;

(5) Invest financing proceeds in EWG/FUCO projects in an amount not to exceed 100% of Cinergy's consolidated retained earnings plus $2.0 billion (the "EWG/FUCO Projects Limit"); Cinergy request that the Commission reserve jurisdiction over investments subject to the Restructuring Limit; and

(6) Invest financing proceeds in certain EWG associate companies, in the event of a transfer of part or all of certain CG&E generating facilities to one or more EWG associate companies, in an amount not to exceed the net book value of the generating facilities at the time of transfer.

A. Parameters for Financing Authorization

The following general terms would be applicable, as appropriate, to the financing transactions requested to be authorized in the Application:

(1) *Common Equity Ratio.* Cinergy states that, at all times during the Authorization Period, it will maintain a common stock equity ratio, as reflected in Cinergy's most recent quarterly or annual report on Form 10–Q or Form 10–K, equal to at least 30% of Cinergy's consolidated capitalization except that, even if common equity falls below that level, Cinergy requests authorization to issue common stock at any time during

[1] By prior orders Cinergy is authorized to engage in various financing transactions through June 23, 2005 and to issue and sell up to 50 million shares of its common stock under its stock-based employee benefit plans through December 8, 2010: Specifically, these orders are dated June 23, 2000, HCAR No. 27190 (the "Financing Order"); December 8, 2000, HCAR No. 27295 (the "Stock Plans Order") and May 18, 2001, HCAR No. 27400 (the "EWG/FUCO Order) Collectively, the three orders are referred to as the "Prior Orders".

[2] On May 8, 2005 Cinergy filed a Current Report on Form 8–K with the Commission announcing the proposed merger with Duke Energy Corporation.

[3] As of September 30, 2004, Cinergy's total capitalization (excluding retained earnings and accumulated other income) was approximately $3.7 billion.

[4] As of September 30, 2004, the aggregate amount of Cinergy's outstanding guarantees was $705 million.

the Authorization Period without further action by the Commission. Consolidated capitalization, for purposes of determining the ratio, is comprised of common stock equity (*i.e.*, common stock additional paid-in capital, retained earnings and/or treasury stock), minority interests, preferred stock preferred securities, equity linked securities, long-term debt and short-term debt. Cinergy states that, as of September 30, 2004, its common equity ratio was 41.1% of its consolidated capitalization.

(2) *Ratings.* Cinergy states that, (i) within two business days after the occurrence of any Ratings Event,[5] Cinergy will notify the Commission of its occurrence (by means of a letter via fax, e-mail or overnight mail to the staff of the Office of Public Utility Regulation), and (ii) within 30 days after the occurrence of any Ratings Event, Cinergy will submit to the Commission an explanation (in the form of an amendment to this Application) of the material facts and circumstances relating to that Ratings Event (including the basis on which, taking into account the interests of investors, consumers and the public as well as other applicable criteria under the Act, it remains appropriate for Cinergy to continue to avail itself of its authority to issue the securities for which authorization has been requested in this application so long as Cinergy continues to comply with the applicable terms and conditions specified in the Commission's order authorizing the transactions requested in this application).

(3) *Effective Cost of Money on Financings.* Cinergy states that the effective cost of capital on any series of debt security with a maturity of one year or less ("short term debt") at the time of issuance, any series of debt security with a maturity of greater than one year ("long-term debt") at the time of issuance, preferred securities or the debt component of equity-linked securities will not exceed the competitive market rates available at the time of issuance for securities having reasonably similar terms and conditions issued by similar companies of comparable credit quality ("Comparable Securities"). In no event, according to Cinergy, will the interest rate exceed, for short term debt, 300 basis points over the comparable term London Interbank Offered Rate; for long term debt, 500 basis points over the comparable term U.S. Treasury securities for preferred or equity-linked securities, 700 basis points over the comparable term Treasury securities.

(4) *Maturity.* Cinergy states that the maturity of any preferred stock or equity-linked securities (other than perpetual preferred stock) will not exceed 50 years and will be redeemed no later than 50 years after issuance, unless converted into common stock. Cinergy states that the maturity of long-term debt securities will not exceed 50 years.

(5) *Issuance Expenses.* According to Cinergy, the underwriting fees and commissions paid in connection with the issuance, sale or distribution of any securities authorized as a result of this Application will not exceed aggregate issuance expenses that are paid at the time in respect of Comparable Securities, provided that in no event will such issuance expenses exceed five percent (5%) of the principal or face amount of the securities issued or gross proceeds of the financing.

(6) *Use of Proceeds.* Cinergy states that it will use proceeds from the sale of securities, issued as a result of an authorization arising out of the Application, for any lawful purpose, including (a) financing of capital expenditures and working capital requirements of the Cinergy System, including by means of loans to participating companies in accordance with the terms of the Cinergy System money pool, (b) payment, redemption, acquisition and refinancing of outstanding securities issued by Cinergy, (c) direct or indirect investments in companies or assets the acquisition of which are either exempt under the Act or by Commission rule or have been authorized by the Commission and (d) general corporate purposes.

B. Description of Specific Types of Financing

(1) *Common Stock and Equity-Linked Securities.* Cinergy requests authority to issue and sell additional shares of its common stock and equity-linked securities, as defined below. from time to time over the Authorization Period, subject to the limits and conditions specified in the Application.

Cinergy proposes to issue and sell additional shares of its common stock (a) through solicitations of proposals from underwriters or dealers, (b) through negotiated transactions with underwriters or dealers, (c) directly to a limited number of purchasers or to a single purchaser, and/or (d) through agents or other third parties. The price applicable to additional shares sold in any such transaction will be based on several factors, including the current market price of the common stock and prevailing capital market conditions. These transactions may also include forward sales of Cinergy common stock.

Cinergy also proposes to issue and sell from time to time options and warrants to acquire its common stock together with other equity-linked securities (collectively, "Equity-Linked Securities"), including but not limited to contracts ("Stock Purchase Contracts") obligating holders to purchase from Cinergy, and/or Cinergy to sell to the holders, a number of shares of Cinergy common stock specified directly or by formula at an aggregate offering price either fixed at the time the Stock Purchase Contracts are issued or determined by reference to a specific formula set forth in the Stock Purchase Contracts. The Stock Purchase Contracts may be issued separately or as part of units ("Stock Purchase Units") consisting of a stock purchase contract and debt and/or Treasury securities, securing holders' obligations to purchase the common stock of Cinergy under Stock Purchase Contracts. The Stock Purchase Contracts may require holders to secure their obligations under the contracts in a specified manner.

Cinergy further proposes to issue common stock or Equity-Linked Securities as consideration, in whole or in part, for acquisitions of securities or assets of businesses of non-affiliates, the acquisition of which (a) is exempt under the Act or the rules under the Act or (b) has been authorized by prior Commission order issued to Cinergy, subject in either case to applicable limitations on total investments in any such business. The shares of Cinergy common stock issued (or, with respect to Equity-Linked Securities, that may be issued) in connection with any such transaction would be valued at market value based on (i) the closing price on the day before closing of the sale, (ii) average high and low prices for a period prior to the closing of the sale, or (iii) some other method negotiated by the parties.

Finally, Cinergy seeks Commission authorization to issue and sell common stock and Equity-Linked Securities in accordance with Cinergy's existing 401(k) plans and other stock-based plans for employees, officers and/or directors, as well as any additional stock-based plans Cinergy may adopt

[5] For these purposes, (A) a "Ratings Event" will be deemed to have occurred if during the Authorization Period (i) any outstanding rated security of Cinergy is downgraded below investment grade, or (ii) any security issued by Cinergy upon original issuance is rated below investment grade; and (B) a security will be deemed "investment grade" if it is rated investment grade by any of Moody's Investors Service, Standard & Poor's, Fitch Ratings or any other nationally recognized statistical rating agency (as defined by the Commission in rules adopted under the Securities Exchange Act of 1934, as amended).

during the Authorization Period. A summary of the material terms and conditions of Cinergy's existing stock-based plans is set forth in Exhibit H attached to the Application.

(2) Preferred Securities. Cinergy proposes to issue and sell preferred securities in one or more series, subject to the limitations and conditions specified in the Application.

According to Cinergy, the preferred securities of any series (a) will have a specified par or stated value or liquidation value per security, (b) will carry a right to periodic cash dividends and/or other distributions, subject among other things, to funds being legally available, (c) may be subject to optional and/or mandatory redemption, in whole or in part, at par or at various premiums above the par or stated or liquidation value, (d) may be convertible or exchangeable into common stock of Cinergy, (e) and may bear such further rights, including voting, preemptive or other rights, and other terms and conditions, as set forth in the applicable certificate of designation, purchase agreement or similar instrument governing the issuance and sale of such series of preferred securities.

Cinergy proposes to issue preferred securities in private or public transactions. With respect to private transactions, Cinergy proposes to issue and sell preferred securities of any series directly to one or more purchasers in privately negotiated transactions or to one or more investment banking or underwriting firms or other entities who would resell the preferred securities without registration under the Securities Act of 1933, as amended (the "Securities Act") in reliance upon one or more applicable exemptions from registration under the Securities Act. From time to time Cinergy also proposes to issue and sell preferred securities of one or more series to the public through (i) underwriters selected by negotiation or competitive bidding or (ii) selling agents acting either as agent or as principal for resale to the public either directly or through dealers.

According to Cinergy, the liquidation preference, dividend or distribution rates, redemption provisions, voting rights, conversion or exchange rights, and other terms and conditions of a particular series of preferred securities, as well as any associated placement, underwriting, structuring or selling agent fees, commissions and discounts, if any, will be established by negotiation or competitive bidding and reflected in the applicable certificate of designation, purchase agreement, underwriting agreement or other instrument setting forth such terms.

(3) *Debt Securities.* a. Short-Term Notes. Cinergy proposes, subject to the terms and conditions specified in the Application, from time to time within the Authorization Period, to make short-term borrowings from banks or other financial institutions. Cinergy states that such borrowings from banks or other financial institutions will be evidenced by (a) "transactional" promissory notes to be dated the date of such borrowings and to mature not more than one year after the date thereof or (b) "grid" promissory notes evidencing all outstanding borrowings from the respective lender, to be dated as of the date of the first borrowing, with each borrowing maturing not more than one year thereafter. Any such note may or may not be subject to prepayment, in whole or in part, with or without a premium in the event of prepayment.

b. Commercial Paper. Cinergy proposes to issue and sell commercial paper through one or more dealers or agents or directly to purchasers from time to time during the Authorization Period, subject to the limits and conditions specified in the Application.

Cinergy proposes to issue and sell the commercial paper at market rates with varying maturities not to exceed 364 days. According to Cinergy, the commercial paper will be in the form of book-entry unsecured promissory notes with varying denominations of not less than $1,000 each. Also, for commercial paper sales effected on a discount basis, no commission or fee will be payable in connection with those sales; however, the purchasing dealer will re-offer the commercial paper at a rate less than the rate to Cinergy. Further, the discount rate to dealers will not exceed the maximum market clearing discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and the same maturity and any purchasing dealer will re-offer the commercial paper in such a manner as not to constitute a public offering within the meaning of the Securities Act.

c. Long-Term Notes. Cinergy proposes to issue and sell long-term debt securities ("Notes") in one or more series from time to time within the Authorization Period, subject to the limits and conditions specified in the Application.

Cinergy proposes to issue and sell Notes of any series as either senior or subordinated obligations of Cinergy. According to Cinergy, if issued on a secured basis, Notes would be secured solely by common stock, or other assets or properties, of one or more of Cinergy's nonutility subsidiaries (exclusive of any nonutility subsidiary held by CG&E or PSI).[6] Notes of any series (i) will have maturities greater than one year, (ii) may be subject to optional and/or mandatory redemption, in whole or in part, at par or at various premiums above the principal amount of the notes, (iii) may be entitled to mandatory or optional sinking fund provisions, and (iv) may be convertible or exchangeable into common stock of Cinergy. Interest accruing on Notes of any series may be fixed or floating or "multi-modal" (*i.e.*, where the interest is periodically reset, alternating between fixed and floating interest rates for each reset period, with all accrued and unpaid interest together with interest on that interest becoming due and payable at the end of each such reset period). Under Cinergy's proposal, Notes may be issued under one or more indentures to be entered into between Cinergy and financial institution(s) acting as trustee(s); supplemental indentures may be executed in respect of separate offerings of one or more series of Notes.

Cinergy states that Notes may be issued in private or public transactions. With respect to the former, Notes of any series may be issued and sold directly to one or more purchasers in privately negotiated transactions or to one or more investment banking or underwriting firms or other entities who would resell the Notes without registration under the Securities Act in reliance upon one or more applicable exemptions from registration under the Securities Act. From time to time Cinergy may also issue and sell Notes of one or more series to the public either (i) through underwriters selected by negotiation or competitive bidding or (ii) through selling agents acting either as agent or as principal for resale to the public either directly or through dealers.

Finally, according to Cinergy, the maturity dates, interest rates, redemption and sinking fund provisions, and conversion features, if

[6] According to Cinergy, the nonutility subsidiaries in question consist of one or more direct, wholly-owned nonutility subsidiaries of Cinergy, which currently comprise the following: Cinery Investments, Inc., which holds Cinergy's nonutility wholesale gas marketing business and cogeneration business, among others; Cinergy Global Resources, Inc., which holds most of Cinergy's foreign utility investments; CinTec LLC, which holds certain ETC investments; Cinergy Technologies, Inc., which holds certain ETC investments and nonutility energy-related businesses; and Cinergy Wholesale Energy, Inc., which holds certain currently inactive nonutility businesses. None of these nonutility subsidiaries (or their subsidiaries) has any material relationships with Cinergy's utility companies, other than with respect to certain Commission-approved and/or state public utility commission-approved affiliate contracts.

any, with respect to the Notes of a particular series, as well as any associated placement, underwriting, structuring or selling agent fees, commissions and discounts, if any, will be established by negotiation or competitive bidding and reflected in the applicable indenture or supplement to the indenture in addition to any purchase agreement or underwriting agreement setting forth these terms.

(4) *Financing Entities.* In addition to issuing any of the foregoing debt or equity securities directly, Cinergy requests approval to form one or more subsidiaries that, subject to the limits and conditions of the Application, would (a) issue and sell any of the foregoing securities, (b) lend, distribute or otherwise transfer the proceeds of those securities to Cinergy or an entity designated by Cinergy and (c) engage in transactions incidental to issuance or sale of those securities.

Cinergy states that its proposed subsidiaries will comprise one or more financing subsidiaries (each, a "Financing Subsidiary") and one or more special-purpose entities (each, a "Special-Purpose Entity", and together with Financing Subsidiaries, "Financing Conduits"). In either case the subsidiaries' businesses will be limited to issuing and selling securities on behalf of Cinergy and transactions incidental to issuing or selling those securities; the subsidiaries will have no substantial physical assets or properties. Any securities issued by the Financing Conduits may be guaranteed by Cinergy, either directly or ultimately.

Cinergy proposes to acquire shares of common stock or other equity interests of a Financing Subsidiary for an amount not less than the minimum required by applicable law. The business of a Financing Subsidiary will be limited to effecting financing transactions with third parties for the benefit of Cinergy and its subsidiaries. As an alternative in a particular instance to Cinergy directly issuing debt or equity securities, or through a Special-Purpose Entity, Cinergy may determine to use a Financing Subsidiary as the normal issuer of the particular debt or equity security. In that circumstance, Cinergy may provide a guarantee or other credit support with respect to the securities issued by the Financing Subsidiary, the proceeds of which would be lent, distributed or otherwise transferred to Cinergy or an entity designated by Cinergy. In passing it is worth noting that Section 13(b) of the Act and rules 87 and 90 under the Act provide for such services as long as the charge for those services does not exceed a market price.

According to Cinergy, one of the primary strategic reasons behind the use of a Financing Subsidiary is to segregate financings for the different businesses conducted by Cinergy, distinguishing between securities issued by Cinergy to finance its investments in nonutility businesses and those issued to finance its investments in the core utility business. A separate Financing Subsidiary may be used by Cinergy with respect to different types of nonutility businesses. Cinergy proposes to use Special-Purpose Subsidiaries in connection with certain financing structures for issuing debt or equity securities, in order to achieve a lower cost of capital, or incrementally greater financial flexibility or other benefits, than would otherwise be the case.

(5) *Hedging Transactions and Certain Risk Management Instruments.* Cinergy requests authority to manage interest rate and foreign currency exchange risk through the entry into, purchase and sale of various risk management instruments commonly used in capital markets, such as interest rate and currency swaps, caps, collars, floors, options, warrants, forwards, forward issuance agreements and similar products designed to manage those risks (collectively, "Derivative Instruments").

Cinergy requests authorization to enter into Derivative Instruments (either directly or through Financing Conduits) for the purpose of managing interest rate and foreign currency exchange risk only with counterparties ("Authorized Counterparties") whose senior debt, at the date of entry into the Derivative Instrument, is rated investment grade by at least one nationally recognized credit rating agency. Cinergy states that the Derivative Instruments will be for fixed periods and the notional principal amount will not exceed the principal amount of the underlying security, except to the extent necessary to adjust for differing price movements between the underlying security and the Derivative Instrument or to allow for the fees related to the transaction. Cinergy states that any fees and commissions that it pays in connection with any Derivative Instrument will not exceed the then-current market level.

Cinergy states that it will not engage in "speculative" derivative transactions and will comply with the Statement of Financial Accounting Standards ("SFAS") 133 as amended ("Accounting for Derivative Instruments and Hedging Activities") with respect to all Derivative Instruments entered into, purchased or sold together with such other standards, if any, relating to accounting for derivative transactions as may, over the course of the Authorization Period, be adopted and implemented by the Financial Accounting Standards Board ("FASB"). Cinergy will designate certain of the Derivative Instruments that may be authorized as a result of the Application as either fair value or cash flow hedges in accordance with SFAS 133 and as determined at the date of entry into the respective Derivative Instruments.

In addition, as explained in Exhibit J attached to the Application, Cinergy states that it will enter into certain Derivative Instruments that, although accounted for under SFAS 133, will not receive hedge accounting treatment under SFAS 133.

(6) *Intra-System Financings and Guarantees.* Cinergy requests authority, subject to the limits and conditions specified in the Application, to guarantee, obtain letters of credit, enter into financing arrangements and otherwise provide credit support (each, a "Guarantee") from time to time during the Authorization Period, in respect to the debt or other securities or obligations of any or all of Cinergy's subsidiary or associate companies (including those formed or acquired at any time over the Authorization Period), and otherwise to further the business of Cinergy. The terms and conditions of any Guarantees, and the underlying liabilities covered by those Guarantees would, according to Cinergy, be established at arm's length based upon market conditions. Cinergy requests authorization to charge a fee to the subsidiary on whose behalf Cinergy issues a Guarantee. Cinergy states that this fee will not exceed a reasonable estimate of the costs, if any that would have been incurred by the subsidiary in obtaining the liquidity necessary to perform under the Guarantee for the period it remains outstanding.

Cinergy states that the total amount of Guarantees outstanding at any one time will be limited not only by the Guarantees Limit, but also, where issued in respect of EWGs or FUCOs or rule 58 Companies, by the investment limitations specified under rules 53 and 58 and applicable Commission orders, including the order requested under the Application. From time to time Cinergy expects to issue Guarantees in respect of obligations that are not, according to Cinergy, susceptible to exact quantification. For these cases Cinergy requests authority to determine its exposure under the Guarantees, for purposes of measuring compliance with the Guarantees Limit (and any applicable investment limits under rules 53 and 58), by appropriate means, including estimation of exposure based on loss experience or projected potential

payment amounts under the underlying obligation. Cinergy proposes to make these estimates, if appropriate, in accordance with generally accepted accounting principles. These estimates will be re-evaluated periodically.

Where, as discussed above, Cinergy may cause debt or equity securities to be issued through Financing Conduits authorized as a result of this Application, Cinergy requests authorization to provide a Guarantee in respect of the payment and other obligations of the Financing Conduit under the securities issued by it. Since any securities nominally issued by a Financing Conduit are in substance securities issued by Cinergy itself, Cinergy intends that any securities issued by a Financing Conduit count dollar-for-dollar against the Aggregate Financing Limit. Conversely, Cinergy states that any Guarantees of securities of Financing Conduits should be excluded entirely from the Guarantees Limit, since inclusion of those Guarantees would amount to "double counting," in effect reducing Cinergy's Aggregate Financing Limit to the extent it used Financing Conduits.

C. EWG/FUCO Investments Limit

Cinergy requests authority, subject to the limits and conditions specified in the Application, to issue and sell securities for the purpose of funding investments in EWGs and FUCOs in an amount not to exceed the EWG/FUCO Investments Limit. The EWG/FUCO Investments Limit is comprised of two separate investment limits, the EWG/FUCO Projects Limit and the Restructuring Limit, permitting respective aggregate investments as follows:

(1) *EWG/FUCO Projects Limit.* With respect to EWG/FUCO Projects other than those subject to the Restructuring Limit, an aggregate investment not to exceed (a) 100% of Cinergy's consolidated retained earnings, plus (b) $2.0 billion.

(2) *Restructuring Limit.* Solely with respect to the potential transfer of certain of CG&E's generating facilities to one or more Restructuring Subsidiaries, an aggregate investment in such Restructuring Subsidiaries not to exceed the net book value of any such transferred generating facilities at the date of transfer.

With respect to the Restructuring Limit, Cinergy states that the net book value of CG&E's generating facilities at September 30, 2004 (excluding certain generating facilities to be transferred to ULH&P)[7] was approximately $1,544 million, including construction work in progress of $44 million. Ohio is the only state in the three-state region in which Cinergy's utilities operates that has enacted electric restructuring legislation. This legislation went into effect in January 2001, deregulating electric generation and supply and giving Ohio retail customers the right to choose electric suppliers. Cinergy states that CG&E may determine to transfer one or more of its generating facilities to one or more Restructuring Subsidiaries during the Authorization Period. In light of this and Ohio's restructuring law Cinergy states that it has included the Restructuring Limit as part of its overall proposal regarding EWG/FUCO investments. Pending completion of the record, however, Cinergy requests that the Commission reserve jurisdiction over the Restructuring Limit, including any potential investments in Restructuring Subsidiaries.

Cinergy Corp., et al. (70–10303)

Cinergy Corp. ("Cinergy"), a Delaware corporation registered under the Act, The Cincinnati Gas & Electric Company ("CG&E"), an electric and gas utility company and holding company, and a wholly-owned subsidiary of Cinergy, and CG&E's wholly-owned subsidiaries The Union Light, Heat and Power Company ("ULH&P"), an electric and gas utility company, and Miami Power Corporation ("Miami"), an electric utility company, and KO Transmission Company ("KO"), a nonutility company, and Tri-State Improvement Company ("Tri-State"), a nonutility company, each at 139 East Fourth Street, Cincinnati, Ohio, together with PSI Energy, Inc., an electric utility company ("PSI") and wholly-owned subsidiary of Cinergy, at 1000 East Main Street, Plainfield, Indiana, and Cinergy Services, Inc., a Delaware corporation and wholly-owned service company subsidiary of Cinergy, also at 139 East Fourth Street, Cincinnati, ("Cinergy Services" and, collectively with the foregoing companies, "Applicants"), have filed an application-declaration ("Application") with the Commission under sections 6(a), 7, 9(a) and 10 of the Act and rule 54 under the Act. Applicants request authorization to engage in certain short-term financing transactions as described below, involving (i) loans and borrowings under the "money pool" arrangement described below, (ii) bank borrowings and (iii) commercial paper sales.

Cinergy directly holds all the outstanding common stock of CG&E and PSI. Cinergy was created as a holding company in connection with the 1994 merger of CG&E and PSI.[8] Through CG&E (including its principal subsidiary, ULH&P) and PSI, Cinergy provides retail electric and/or natural gas service to customers in southwestern Ohio, northern Kentucky and most of Indiana. In addition to its Midwestern-based utility business, Cinergy has numerous non-utility subsidiaries engaged in a variety of energy-related businesses.

CG&E is a combination electric and gas public utility holding company exempt from registration under the Act in accordance with rule 2(b) under the Act. CG&E is engaged in the production, transmission, distribution and sale of electric energy and the sale and transportation of natural gas in southwestern Ohio and, through ULH&P, northern Kentucky. The Public Utilities Commission of Ohio ("PUCO") regulates CG&E with respect to retail sales of electricity and natural gas and other matters, including issuance of securities.

A direct wholly-owned subsidiary of CG&E formed under Kentucky law, ULH&P is engaged in the transmission, distribution and sale of electric energy and the sale and transportation of natural gas in northern Kentucky. The Kentucky Public Service Commission ("KPSC") regulates ULH&P with respect to retail sales of electricity and natural gas and other matters, including issuance of securities. In addition to ULH&P, CG&E has several other subsidiaries. None of these subsidiaries, individually or in the aggregate, is material to CG&E's business.

Miami is an electric utility company whose business is limited to ownership of a 138 kilovolt transmission line extending from the Miami Fort Power Station in Ohio (in which CG&E owns interests in four electric generating units) to a point near Madison, Indiana. KO is a nonutility company that owns interests in natural gas pipeline facilities located in Kentucky. Tri-State is a nonutility company that acquires and holds real estate intended for future use in CG&E's utility business.

PSI is engaged in the production, transmission, distribution and sale of electric energy in north central, central, and southern Indiana. The Indiana Utility Regulatory Commission ("IURC") regulates PSI with respect to retail sales of electricity and other

[7] *See* HCAR No. 27940, Jan. 21, 2004 (notice with respect to declaration filed by Cinergy and CG&E in File No. 70–10254).

[8] *See Cinergy Corp.*, HCAR No. 26146, Oct. 21, 1994 ("1994 Merger Order").

matters, including issuance of securities.

Cinergy Services Inc. ("Cinergy Services"), Cinergy's service company subsidiary, provides centralized management, administrative and other support services to the utility and nonutility associate companies in Cinergy's holding company system.

By order dated August 2, 2001, HCAR No. 27429 ("2001 Order"), the Commission authorized the Applicants to engage in various short-term financing transactions from time to time through June 30, 2006, as follows:

1. With respect to the Cinergy system "money pool," ("Money Pool") which was established by and among Cinergy, Cinergy Services, PSI and CG&E (including its subsidiaries) to help provide for the short-term cash and working capital requirements of the latter three companies,[9] PSI, ULH&P and Miami were authorized to make loans to and incur borrowings from each other;

2. Cinergy, CG&E, Cinergy Services, Tri-State and KO were authorized to make loans to PSI, ULH&P and Miami;

3. PSI, ULH&P and Miami were authorized to incur short-term borrowings from banks and other financial institutions; and

4. PSI was also authorized to issue and sell commercial paper.

Under the 2001 Order, the maximum principal amount of short-term borrowings that PSI, ULH&P and Miami could incur and have outstanding at any one time (whether from (i) the Money Pool, (ii) banks and other financial institutions, or (iii) in PSI's case, through sales of commercial paper) was as follows: PSI, $600 million; ULH&P, $65 million; and Miami, $100,000.

Applicants state that the short-term borrowing limitation established in the 2001 Order is no longer appropriate for ULH&P, given that company's anticipated capital requirements following the consummation of its pending transaction with CG&E, in which it will acquire interests in three of CG&E's electric generating stations, with 1105 megawatts of total capacity. This transaction will significantly increase the overall size of ULH&P, with a commensurate impact on its ongoing capital requirements, including short-term borrowing needs. ULH&P now proposes to increase its short-term borrowing authority from $65 million to $150 million for the duration of the Authorization Period, as defined below.

In addition, Applicants propose to engage in the following transactions, also in each case through the earlier of (a) consummation of the pending merger between Cinergy Corp. ("Cinergy"), a Delaware corporation and registered holding company under the Act, and Duke Energy Corporation and (b) the expiration of 12 months from the date of the Commission's order granting the authorizations requested in the Application ("Authorization Period"):

1. In connection with the continued operation of the Money Pool, PSI, ULH&P and Miami ("Nonexempt Subsidiaries")[10] propose to make loans to and incur borrowings from each other;

2. In connection with the continued operation of the Money Pool, Cinergy[11] Services, CG&E, Tri-State and KO propose to make loans to the Nonexempt Subsidiaries thereunder;

3. The Nonexempt Subsidiaries propose to incur short-term borrowings from banks or other financial institutions (collectively, "Banks"); and

4. PSI and ULH&P propose to issue and sell commercial paper.

The maximum principal amount of short-term borrowings outstanding at any time by the Nonexempt Subsidiaries (whether pursuant to the Money Pool, Bank loans or sales of commercial paper) would not exceed the following amounts (each, a "Borrowing Cap"): PSI, $600 million; ULH&P, $150 million; and Miami, $100,000. (The Borrowing Caps for PSI and Miami are unchanged from those set forth in the 2001 Order.)

Proceeds of short-term borrowings by the Nonexempt Subsidiaries (whether under the Money Pool, bank loans or sales of commercial paper) would be used by those companies for general corporate purposes, including (1) interim financing of capital requirements; (2) working capital needs; (3) repayment, redemption, refinancing of debt or preferred stock; (4) cash requirements to meet unexpected contingencies and payment and timing differences; (5) loans through the Money Pool; and (6) other transactions relating to those Applicants' utility businesses.

Money Pool

Subject to their respective Borrowing Caps, from time to time over the Authorization Period, the Nonexempt Subsidiaries propose to make loans to each other; and Cinergy Services, CG&E, Tri-State and KO propose to make loans to the Nonexempt Subsidiaries, in accordance with the Money Pool.[12]

Applicants propose no changes to the Money Pool, the terms of which were originally authorized in the 1995 Money Pool Order and are set forth in the related Money Pool Agreement. (Cinergy, Cinergy Services, CG&E, Tri-State, KO, PSI, ULH&P and Miami are collectively referred to as the "Money Pool Participants.")

Short-Term Bank Borrowings & Commercial Paper

Subject to their respective Borrowing Caps, from time to time over the Authorization Period, (a) the Nonexempt Subsidiaries propose to borrow short-term funds from Banks pursuant to formal or informal credit facilities, and (b) PSI and ULH&P propose to issue and sell commercial paper, as described below.

Bank borrowings would be evidenced by promissory notes, each of which would be issued no later than the expiration date of the Authorization Period and would mature no later than one year from the date of issuance (except in the case of borrowings by ULH&P, which would mature no later than two years from the date of issuance); would bear interest at a rate no higher than the lower of (a) 400 basis points over the comparable London interbank offered rate or (b) a rate that is consistent with similar securities of comparable credit quality and maturities issued by other companies; may require fees to the lender not to exceed 200 basis points per annum on the total commitment; and, except for borrowings on uncommitted credit

[9] *Cinergy Corp., et al.*, HCAR No. 26362, (Aug. 25, 1995) authorizing establishment of Money Pool ("1995 Money Pool Order").

[10] Applicants state that the short-term borrowing authority requested for PSI, ULH&P and Miami (whether from affiliates, as under the Money Pool, or from non-affiliates, as with respect to borrowings from banks and other financial institutions and sales of commercial paper) is not subject to the securities issuance jurisdiction of the applicable state public utility commissions. Accordingly, the proposed short-term borrowings for these companies are not eligible for the exemption afforded by rule 52(a) under the Act. More specifically, neither the IURC nor the KPSC has authority over short-term borrowings (defined as (i) in the case of the IURC, borrowings with a maturity of one year or less, and (ii) in the case of the KPSC, borrowings with a maturity of two years or less). The PUCO, however, does have authority over short-term borrowings of any maturity; accordingly, short-term borrowings by CG&E are exempt from Commission authorization under rule 52(a).

[11] Cinergy has Commission authority through June 23, 2005 (*Cinergy Corp. et al.*, HCAR No. 27190, (June 23, 2000)) to use financing proceeds to "make loans to, and investments in, other system companies, including through the Cinergy system money pool [citation omitted]." Cinergy has filed an application (File No. 70–10281) to extend that authorization.

[12] Borrowings by Cinergy Services, CG&E, Tri-State and KO from each other or from any of the other Money Pool participants under the Money Pool (namely, Cinergy and the Nonexempt Subsidiaries) are exempt (together with the corresponding loans) under rule 52(a) (in the case of CG&E) and rule 52(b) (in the case of Cinergy Services, Tri-State and KO).

lines, may be prepayable in whole or in part, with or without a premium.

Subject to the applicable Borrowing Caps, from time to time over the Authorization Period, PSI and ULH&P also propose to issue and sell commercial paper through one or more dealers or agents (or directly to a limited number of purchasers if the resulting cost of money is equal to or less than that available from commercial paper placed through dealers or agents).

PSI and ULH&P propose to issue and sell the commercial paper at market rates (either on an interest bearing or discount basis) with varying maturities not to exceed 270 days. The commercial paper will be in the form of book-entry unsecured promissory notes with varying denominations of not less than $1,000 each. In commercial paper sales effected on a discount basis, the purchasing dealer may re-offer the commercial paper at a rate less than the rate to PSI or ULH&P. The discount rate to dealers will not exceed the maximum discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and the same maturity. The purchasing dealer will re-offer the commercial paper in a manner that will not constitute a public offering within the meaning of the Securities Act of 1933.

In addition, solely with respect to the issuance by PSI, ULH&P and Miami of Bank debt and by PSI and ULH&P of commercial paper (in each case other than for purposes of funding the Money Pool): (i) Within two business days after the occurrence of any Ratings Event,[13] Cinergy will notify the Commission of its occurrence (by means of a letter via fax, e-mail or overnight mail to the staff of the Office of Public Utility Regulation), and (ii) within 30 days after the occurrence of any Ratings Event, Cinergy will submit to the Commission an explanation (in the form of an amendment to the Application) of the material facts and circumstances relating to that Ratings Event (including the basis on which, taking into account the interests of investors, consumers and the public as well as other applicable criteria under the Act, it remains appropriate for PSI, ULH&P and Miami to continue to avail itself of its authority to issue the securities for which authorization has been requested in the Application so long as each continues to comply with the applicable terms and conditions specified in the Commission's order authorizing the transactions requested in the Application).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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[13] For these purposes, (A) a "Ratings Event" will be deemed to have occurred if during the Authorization Period (i) any outstanding rated security of PSI, ULH&P or Miami is downgraded below investment grade, or (ii) any security issued by PSI, ULH&P or Miami upon original issuance is rated below investment grade; and (B) a security will be deemed "investment grade" if it is rated investment grade by any of Moody's Investors Service, Standard & Poor's, Fitch Ratings or any other nationally recognized statistical rating agency (as defined by the Commission in rules adopted under the Securities Exchange Act of 1934, as amended).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51748; File No. SR–NASD–2005–024]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Relating to Dissemination of the Underlying Index Value for Portfolio Depository Receipts and Index Fund Shares

May 26, 2005.

On February 9, 2005, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise the listing standards for Portfolio Depository Receipts ("PDRs") and Index Fund Shares to provide that the current value of the underlying index must be widely disseminated by one or more major market data vendors at least every 15 seconds during the time the PDR or Index Fund Share trades on Nasdaq. On April 4, 2005, Nasdaq submitted Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on April 21, 2005.[4] The Commission received no comments regarding the proposed rule change. This order approves the proposed rule change, as amended.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[5] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[6] which requires, among other things, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

Currently, the NASD's rules for listing and trading PDRs and Index Fund Shares pursuant to Rule 19b–4(e) under the Act require that the current value of the underlying index be disseminated every 15 seconds over the Nasdaq Trade Dissemination System.[7] Nasdaq proposes to amend these listing standards to require that the current value of the underlying index be widely disseminated by one or more major market data vendors at least every 15 seconds during the time the PDR or Index Fund Share trades on Nasdaq.

By revising the index dissemination requirement, the proposal would expand the PDRs and Index Fund Shares eligible for listing under NASD Rules 4420(i) and (j) to include not only PDRs and Index Fund Shares whose underlying index value is disseminated over the Nasdaq Trade Dissemination System, but also PDRs and Index Fund Shares whose current underlying index value is widely disseminated at least every 15 seconds by one or more major market data vendors during the time the PDR or Index Fund Share trades on Nasdaq. The Commission believes that this index dissemination requirement, which is similar to the index dissemination requirement used in the listing standards for narrow-based index options,[8] will help to ensure the transparency of current index values for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the original filing in its entirety. Amendment No. 1 revised the proposal to indicate that, among other things, the current index value must be disseminated by one or more major market data vendors during the time PDR or Index Fund Share trades on Nasdaq.

[4] *See* Securities Exchange Act Release No. 51559 (April 15, 2005), 70 FR 20787.

[5] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78o–3(b)(6).

[7] *See* NASD Rule 4420(i) and (j).

[8] *See e.g.*, Chicago Board Options Exchange Rule 24.2(b); International Securities Exchange Rule 2002(b); Pacific Exchange Rule 5.13; and Philadelphia Stock Exchange Rule 1009A(b) (listing standards for narrow-based index options requiring that, among other things, the current underlying index value be reported at least once every 15 seconds during the time the index option trades on the exchange).

indexes underlying PDRs and Index Fund Shares.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–NASD–2005–024), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2829 Filed 6–2–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISISON

[Release No. 34–51732; File No. SR–OC–2005–01]

Self-Regulatory Organization; OneChicago, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to EFP Transaction Reporting Procedures

May 24, 2005.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–7 under the Act,[2] notice is hereby given that on May 9, 2005, OneChicago, LLC ("OneChicago" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. On May 6, 2005, OneChicago filed the proposed rule change with the Commodity Futures Trading Commission ("CFTC"), together with a written certification under section 5c(c) of the Commodity Exchange Act[3] in which OneChicago indicated that the effective date of the proposed rule change would be May 9, 2005.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

OneChicago proposes to amend its policy regarding the reporting of exchange of futures for physical ("EFP") transactions. The text of the proposed rule change is available at the principal office of the Exchange and at the Commission's Public Reference Room.

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] 7 U.S.C. 7a–2(c).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

OneChicago proposes to amend its current EFP Transactions: Guidelines and Reporting Procedures ("Procedures") to permit Exchange members to report their proprietary EFP transactions, to permit authorized parties to report EFP transactions on a form and in a manner approved by OneChicago, and to make other non-substantive changes. The proposed rule change would permit OneChicago members with a reporting ID to report proprietary EFP transactions to OneChicago. In order to facilitate this amendment, the proposed rule change would also permit OneChicago members to directly contact OneChicago to request a reporting ID. The granting of a reporting ID would be at the discretion of OneChicago. Currently, only persons authorized by a clearing member firm may report EFP transactions. OneChicago believes that it would be more efficient to permit Exchange members that enter into EFP transactions for their proprietary account(s) to report those transactions to the Exchange.

The proposed rule change would also permit authorized parties to submit an EFP Transaction Report in a form and manner approved by OneChicago. Under the current Procedures, the parties to an EFP transaction must deliver OneChicago's EFP Transaction Report. OneChicago believes that the proposed rule change would permit flexibility to accommodate new types and forms for reporting EFP transactions. Finally, the proposed rule change would also make other conforming and non-substantive changes.[4]

[4] Since the proposed rule change would permit reporting parties to submit an EFP Transaction Report in a manner approved by the Exchange, the Exchange proposes to delete the language requiring reporting parties to e-mail or fax the EFP Transaction Report. Furthermore, the Exchange proposes to make other non-substantive changes by adding the word "of" in the first sentence of the Procedures and adding to "OneChicago" to Procedure No. 2.

2. Statutory Basis

OneChicago believes that the proposed rule change is consistent with section 6(b) of the Act[5] in general, and section 6(b)(5) of the Act[6] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest by amending the reporting requirements. OneChicago believes that expanding persons who are eligible to report EFP transactions to those members who are conducting EFP transactions for their proprietary account(s) promotes just and equitable principles of trade and prevents fraudulent and manipulative acts. Furthermore, OneChicago believes that the proposed rule change also promotes just and equitable principles of trade by permitting flexibility for the changing trading environment by permitting reporting parties to submit an Exchange approved EFP Transaction Report in a manner authorized by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

OneChicago does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, because the proposed rule change only clarifies reporting requirements for EFP transactions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change became effective on May 9, 2005. Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

with the provisions of Section 19(b)(1) of the Act.[7]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–OC–2005–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–OC–2005–01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of such filing also will be available for inspection and copying at the principal office of OneChicago. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OC–2005–01 and should be submitted on or before June 24, 2005.

[7] 15 U.S.C. 78s(b)(1).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2833 Filed 6–2–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51740; File No. SR–PCX–2005–64]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change and Amendment Nos. 1, 2, 3, and 4 Thereto Relating to the Market Maker Risk Limitation Mechanism

May 25, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 2, 2005, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On May 19, 2005, the PCX filed Amendment No. 1 to the proposed rule change.[3] On May 23, 2005 the PCX filed Amendment No. 2 to the proposed rule change,[4] On May 24, 2005 the PCX filed Amendment No. 3 to the proposed rule change.[5] On May 24, 2005 the PCX filed Amendment No. 4 to the proposed rule change.[6] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons. In addition, the Commission is granting accelerated approval of the proposed rule change, as amended.

[8] 17 CFR 200.30–3(a)(75).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the PCX (a) added language to establish certain criteria regarding the use of the Market Maker Risk Limitation Mechanism and (b) added language to PCX Rule 6.37(g)(1), which governs quoting obligations of Lead Market Makers ("LMMs").

[4] In Amendment No. 2, the PCX corrected certain typographical errors in the rule text and amended the proposed rule text of Rule 6.37(g)(1) to delete an incorrect reference to proposed PCX Rule 6.40(e).

[5] In Amendment No. 3, the PCX corrected certain typographical errors in the rule text.

[6] In Amendment No. 4, the PCX corrected certain typographical errors in Amendment No. 2.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt PCX Rule 6.40 to provide PCX Market Makers protection from the unreasonable risk associated with an excessive number of near simultaneous executions in a single options class through the implementation of a Market Maker Risk Limitation Mechanism. The text of the proposed rule change, as amended, is below. Proposed new language is in *italics*; proposed deletions are in [brackets].

Rule 6

Market Maker Risk Limitation Mechanism

Rule 6.40 [Reserved.] *(a) Trade Counter. The trading engine will maintain a "trade counter" for each Market Maker on each class to which the Market Maker is appointed. This trade counter will be incremented by one every time the Market Maker executes a trade on any series in the appointed class. The trade counter will automatically reset itself every "n" seconds.*

(b) Market Maker Risk Limitation Mechanism. The trading engine will activate the Market Maker Risk Limitation Mechanism on an appointed class whenever the following conditions are met: The trade counter has reached "n" executions against the quotes of the Market Maker in the Market Maker's appointed class during a period of "n" seconds. When the above conditions are met, the trading engine will automatically cancel all quotes posted by the Market Maker on that class by generating a "bulk cancel" message.

(c) The bulk cancel message will be processed in time priority with any other quote or order message received by the trading engine. Any orders or quotes that matched with the Market Maker's quote and were received in the trading engine prior to the receipt of the bulk cancel message will be automatically executed. Orders or quotes received in the trading engine after receipt of the bulk cancel message will not be executed against the Market Maker.

(d) Once the Market Maker Risk Limitation Mechanism has been activated for an options class, any bulk quote messages sent by the Market Maker on that class would continue to be rejected until the Market Maker submits a message to the trading engine to enable new quotes.

(e) In the event that a Lead Market Maker's ("LMM") quotes are cancelled and there are no other Market Makers

quoting in the issue, the trading engine will automatically provide two-sided legal quotes on behalf of the LMM until such time the LMM submits a message to the trading engine to enable new quotes. All quotes generated by the Exchange on behalf of an LMM will be considered "firm quotes" and shall be the obligation of the LMM.

(f) Each Market Maker that is quoting in an issue shall determine the appropriate trade counter threshold of "n" executions and the time period of "n" seconds as described in paragraph (b) above to activate the Market Maker Risk Limitation Mechanism. The trade counter threshold must be at least five executions. The time period must be at least ½ second. At no time may the trade counter be set for a trade rate of less than five executions in a one second period.

(g) For purposes of this Rule 6.40, a "bulk quote" message is a single message from a Market Maker that simultaneously updates all of the Market Maker's quotes in multiple series in a class at the same time.

Commentary:

.01 A trade rate of five executions in a one second period will allow for Market Makers to provide different risk settings. Based on a minimum rate of five executions per second, permissible settings could be five executions in a one second period, ten executions in a two second period fifteen executions in three a second period and so forth, using the same minimum executions per second ratio.

* * * * *

Obligations of Market Makers

Rule 6.37 (a)–(f) No change.

(g) Quoting Obligations of Market Makers.

(1) Lead Market Makers. Lead Market Makers must provide continuous two-sided quotations throughout the trading day in each of their appointed issues *for 99% of the time the Exchange is open for trading in each issue.* Such quotations must meet the legal quote width requirements of Rule 6.37(b). LMMs must also specify a size for each of their quotations applicable to:

(A)–(B) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide all PCX Market Makers protection from the unreasonable risk of multiple nearly simultaneous executions. Like auto-quote systems used on other options exchanges, the primary method for Market Makers to update their markets on the PCX is to post and update quotes on multiple series of options at the same time through the use of "bulk quotes." Generally, these quotes are based on the Market Maker's proprietary pricing models that rely on various factors, including the price of the underlying security and that security's market volatility. As these variables change, a Market Maker's pricing model and automated quote system will continuously enter bulk quote updates for all series in the class.

A PCX Market Maker's risk is not limited to the risk in a single series of a particular class. Rather, a Market Maker faces exposure in all series of a class, requiring the Market Maker off set or otherwise hedge its overall position in a class. In addition to the Market Maker's own proprietary quoting system, the Market Maker Risk Limitation Mechanism would provide an additional tool to manage the risk associated with providing liquidity in a large number of series across an options class.

Because Market Makers provide quotes in all series in a class, they are exposed to the possibility of nearly simultaneous multiple executions that can create huge unintended principal positions for the Market Makers and expose them to unnecessary market risk. Firm risk management procedures dictate that Market Makers must take into account the possibility of such actions and the corresponding risk to the Market Makers and the firm. As a result, the PCX believes that Market Makers widen their quotes, quote less aggressively, and limit their quote size in order to avoid such unintended executions and the attendant risks and costs involved, all to the detriment of customers and other market participants. The proposed rule addresses these concerns.

Market Maker Risk Limitation Mechanism

The Market Maker Risk Limitation Mechanism feature on the PCX would protect all PCX Market Makers from excessive multiple and unintended automatic executions. The Market Maker Risk Limitation Mechanism would begin with a "trade counter" for each class where the Market Maker has a market making appointment. This trade counter would be incremented by one every time the Market Maker executes a trade on any series of the assigned class. The trade counter would reset itself every "n" seconds. The individual Market Maker supplying the quotes in a particular issue would define the threshold number for the trade counter to reach in order to trigger the implementation of the Market Maker Risk Limitation Mechanism. The individual Market Maker supplying the quotes in a particular issue would also define the time period for the trade counter to reset itself. The trade counter would have a minimum setting of five executions in a one second period. Using a trade rate of five executions in a one second period will allow for a Market Maker to provide different risk settings for different issue. This would limit the number of consecutive executions a given Market Maker could have automatically executed on an assigned class in a predefined period of time.

Once the trade counter has reached the defined threshold number, the trading engine would automatically cancel all quotes posted by that Market Maker on that class by generating a bulk cancel message. The bulk cancel message would have the same time priority as any other quote update or order message the trading engine receives, so that any orders or quotes that matched with the Market Maker's quote and were received by the trading engine prior to the receipt of the cancel message would be automatically executed pursuant to PCX rules. Orders or quotes received by the trading engine after receipt of the cancel message would not be executed against the Market Maker.

As soon as the Market Maker Risk Limitation Mechanism is triggered, the Market Maker would receive a message to confirm the cancellation of the Market Maker's quotes on the given class. The Market Maker could then respond with an enabling message to the trading engine to update or refresh quotes. If there is no reply, PCX would

assume there is a communication or system problem with the Market Maker.

In the event that a LMM is unable to provide an updated quote, and there are no other quotes in the PCX Plus system for that issue, the trading engine will create two sided, legal spread markets on behalf of the LMM. Quotes generated by the exchanges on behalf of the LMM would be considered firm quotes and would be the obligation of the LMM. When there are other quotes in the PCX system for that issue, the Exchange would not generate quotes on behalf of the LMM. Additionally, the Exchange proposes to amend PCX Rule 6.37(g)(1) to lower a LMM's continuous quotation obligation from 100% of the trading day to 99% of the trading day. This is designed to provide the LMM an appropriate amount of time to replenish quotes when the Exchange does not do this on the LMM's behalf. The Exchange anticipates that this new proposed functionality would be used in limited circumstances and only for brief periods of time.

The Market Maker Risk Limitation Mechanism would protect both Market Maker quotes currently posted and in the PCX Consolidated Book, as well as those incoming bulk quotes that a Market Maker may erroneously generate as part of an automatic update. For example, a new bulk quote message from a Market Maker that is immediately executable across multiple series would not generate a number of executions greater than the defined threshold number (*i.e.* would not allow the Market Maker to unintentionally sweep the book).

Without these protection mechanisms, multiple unintentional trades could automatically occur. These executions would not properly reflect the true nature of the market and would subject Market Makers to unreasonable market risk and multiple execution and clearing fees, with no real economic justification behind the trades. The Exchange believes the proposed rule change would reduce these inefficiencies and risks by preventing a PCX Market Maker from erroneously trading automatically multiple times. Under normal circumstances, PCX Market Maker quotes do match and are automatically executed; however, these are usually only on a few series in a class and involve immediate quote updates after an execution. The trade counter would not reach the threshold level, nor would the Risk Limitation Mechanism be activated under most circumstances.

The Exchange believes these protection mechanisms would eliminate trades that are involuntary, the result of technological error or inaccuracy, and that impede certain liquidity providers' ability to competitively quote. Also, the Exchange believes the protection mechanisms would increase the liquidity available in the PCX market and would enhance competition because Market Makers would be better able to quote large orders aggressively and with fewer concerns over technological breakdowns and system inaccuracies.

These Market Maker protections do not relieve a LMM or Market Maker's obligations pursuant to PCX Rule 6.37(g), which addresses a Market Maker's obligation to enter quotations for the option classes to which it is appointed, except as noted in proposed change to PCX Rule 6.37(g)(1). In addition, these Market Maker protections do not relieve a LMM or Market Maker's obligations pursuant to Rule 6.86 to provide firm quotations. After a Market Maker protection has been utilized, all other Market Makers are expected to resume entering quotations for the options classes to which they are appointed as soon as practicable.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2005–64 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2005–64. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–PCX–2005–64 and should be submitted on or before June 24, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder, applicable to a national securities exchange.[9] In

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] which requires among other things, that the rules of the Exchange are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the proposal does not alter the obligations of PCX Market Makers, except for the fact that it will reduce a LMM's continuous quoting obligation from 100% of the trading day to 99% of the trading day for each of its appointed classes. The Commission notes that this reduction should provide the LMM a brief amount of time to update its quotes when the Exchange does not generate quotes on behalf of the LMM because no other market makers are quoting. In addition, the Commission believes that the proposed rule change should provide PCX Market Makers assistance in effectively managing their quotations.

The PCX has requested that the Commission find good cause for approving the proposed rule change and Amendment Nos. 1, 2, 3, and 4 thereto prior to the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission notes that similar proposals to provide protection from risk for market makers have been approved for other options exchanges.[11] The Commission believes that granting accelerated approval of the proposal should provide PCX Market Makers with similar protections from the risk associated with an excessive number of near simultaneous executions in a single options class. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[12] for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–PCX–2005–64), and Amendment Nos. 1, 2, 3, and 4 thereto, are hereby approved on an accelerated basis.

[10] 15 U.S.C. 78f(b)(5).

[11] *See* Securities Exchange Act Release Nos. 51049 (January 28, 2005), 70 FR 3756 (January 26, 2005) (SR–BSE–2004–52); and 51050 (January 18, 2005), 70 FR 3758 (January 26, 2005) (SR–ISE–2004–31).

[12] 15 U.S.C. 78s(b)(2).

[13] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2830 Filed 6–2–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51728; File No. SR–PCX–2005–57]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating To Delay of Implementation Date of Revisions to the Series 4 Examination Program

May 24, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 22, 2005, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by PCX. PCX has designated the proposed rule change as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of PCX pursuant to Section 19(b)(3)(A)(i) of the Act[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Exchange filed Amendment No. 1 to the proposed rule change on May 16, 2005.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Act,[6] the Exchange is filing with the Commission a proposed rule change to delay until no later than November 30, 2005 the implementation date of the recent revisions to the Limited Principal—Registered Options (Series 4) examination program, including the study outline and selection specifications ("Series 4 Examination"). PCX is not proposing any textual changes to its rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PCX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 12, 2005, PCX filed with the SEC for immediate effectiveness revisions to the Series 4 Examination.[7] The Series 4 Examination is an industry-wide examination that qualifies an individual to function as a Registered Options Principal. The Series 4 Examination is shared by PCX and the following self-regulatory organizations: the American Stock Exchange LLC ("Amex"), the Chicago Board Options Exchange, Incorporated, the National Association of Securities Dealers, Inc. ("NASD"), the New York Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc. Amex and NASD filed with the SEC similar revisions to the Series 4 Examination.[8] PCX intended to implement the Series 4 Examination revisions no later than April 29, 2005 in order to be consistent with NASD.[9] However, due to administrative issues, PCX is proposing to delay until no later than November 30, 2005 the implementation date of the revisions.

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] In Amendment No. 1, PCX provided a new statutory basis for the proposed rule change and made technical corrections to the proposed rule change. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on May 16, 2005, the date on which the Exchange filed Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[6] 15 U.S.C. 78s(b)(1).

[7] *See* Securities Exchange Act Release No. 34–51727 (May 24, 2005) (SR–PCX–2005–51).

[8] *See* Securities Exchange Act Release Nos. 51689 (May 12, 2005), 70 FR 28965 (May 19, 2005 (SR-Amex-2005–039); and 51216 (February 16, 2005), 70 FR 8866 (February 23, 2005) (SR–NASD–2005–025).

[9] *See* Securities Exchange Act Release No. 51216 (February 16, 2005), 70 FR 8866, 8867 (February 23, 2005), (SR–NASD–2005–025).

PCX understands that Amex and NASD also will file with the SEC similar proposed rule changes to delay until no later than November 30, 2005 the implementation date of the revisions to the Series 4 Examination.

2. Statutory Basis

PCX believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(1)[11] in particular, in that it is designed to enforce compliance by Options Trading Permit ("OTP") Holders and OTP Firms and persons associated with the rules of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received by the Exchange on this proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[12] and Rule 19b–4(f)(1) thereunder,[13] in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of PCX.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2005–57 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2005–57. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR–PCX–2005–57 and should be submitted on or before June 24, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2831 Filed 6–2–05; 8:45 am]

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[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(1).

[12] 15 U.S.C. 78s(b)(3)(A)(i).

[13] 17 CFR 240.19b–4(f)(1).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51727; File No. SR–PCX–2005–51]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Revisions to the Series 4 Examination Program

May 24, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 12, 2005, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by PCX. PCX has designated the proposed rule change as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of PCX pursuant to section 19(b)(3)(A)(i) of the Act[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Exchange filed Amendment No. 1 to the proposed rule change on May 16, 2005.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of section 19(b)(1) of the Act,[6] the Exchange is filing with the Commission revisions to the study outline and selection specifications for the Limited Principal—Registered Options (Series 4) examination ("Series 4 Examination").

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] In Amendment No. 1, PCX provided a new statutory basis for the proposed rule change and made technical corrections to the proposed rule change. PCX also included a copy of a Commission letter regarding procedures for filing qualification exams. *See* letter from Belinda Blaine, Associate Director, Division of Market Regulation Commission, to Alden S. Adkins, Senior Vice President & General Counsel, NASD Regulation, Inc., dated July 24, 2000. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under section 19(b)(3)(C) of the Act, the Commission considers the period to commence on May 16, 2005, the date on which the Exchange filed Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[6] 15 U.S.C. 78(b)(1).

The proposed revisions update the material to reflect changes to the laws, rules, and regulations covered by the Series 4 Examination. PCX is not proposing any textual changes to its rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to section 6(c)(3) of the Act,[7] which allows PCX to examine and verify the standards of training, experience, and competence for persons associated with PCX Options Trading Permit ("OTP") Holders or OTP Firms, PCX has developed examinations, and requires satisfaction of examinations developed by other self-regulatory organizations ("SROs"), that are designed to establish that persons associated with PCX OTP Holders or OTP Firms have attained specified levels of competence and knowledge. PCX periodically reviews the content of examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

PCX Rule 9.18 states that no OTP Firm or OTP Holder shall be approved to transact business with the public in options contracts, unless those persons associated with the OTP Firm or OTP Holder who are designated as Options Principals or who are designated as Registered Representatives have been approved by and registered with the Exchange. The Series 4 Examination, an industry-wide examination, qualifies an individual to function as an Options Principal. The Series 4 Examination tests a candidate's knowledge of options trading generally, the PCX's rules applicable to trading of options contracts, and the rules of registered clearing agencies for options. The Series 4 Examination covers, among other things, equity options, foreign currency options, index options, and options on government and mortgage-backed securities.

The Series 4 Examination is shared by PCX and the following SROs: The American Stock Exchange LLC, the Chicago Board Options Exchange, Incorporated, the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

A committee of industry representatives, together with the staff of PCX and the SROs referenced above, recently undertook a periodic review of the Series 4 Examination. As a result of this review and as part of an ongoing effort to align the Series 4 Examination more closely to the supervisory duties of a Series 4 principal, PCX is proposing to modify the content of the Series 4 Examination to track the functional workflow of a Series 4 principal. More specifically, PCX is proposing to revise the main section headings and the number of questions on each section of the Series 4 study outline as follows: Options Investment Strategies, decreased from 35 to 34 questions; Supervision of Sales Activities and Trading Practices, increased from 71 to 75 questions; and Supervision of Employees, Business Conduct and Recordkeeping and Reporting Requirements, decreased from 19 to 16 questions. PCX is further proposing revisions to the study outline to reflect the new Commission short sale requirements. The revised Series 4 Examination continues to cover the areas of knowledge required to supervise options activities.

PCX is proposing similar changes to the corresponding sections of the Series 4 Examination selection specifications and question bank. The number of questions on the Series 4 Examination will remain at 125, and candidates will have three hours to complete the exam. Also, each candidate must correctly answer 70 percent of the questions to receive a passing grade.

2. Statutory Basis

PCX believes that the proposed rule change is consistent with section 6(b) of the Act,[8] in general, and furthers the objectives of section 6(b)(1)[9] in particular, in that it is designed to enforce compliance by OTP Holders and OTP Firms and persons associated with the rules of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(i) of the Act[10] and Rule 19b–(f)(1) thereunder,[11] in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of PCX.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2005–51 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2005–51. This file number should be included on the subject line if e-mail is used. To help the

[7] 15 U.S.C. 78f(c)(3).

[8] 15 U.S.C. 78f(

[9] 15 U.S.C. 78f(b)(1).

[10] 15 U.S.C. 78s(b)(3)(A)(i).

[11] 17 U.S.C. 240.19b–4(f)(1).

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR–PCX–2005–51 and should be submitted on or before June 24, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2832 Filed 6–2–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51731; File No. SR–Phlx–2005–02]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Volume Weighted Average Price Crosses

May 24, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b–4[2] thereunder, notice is hereby given that on January 25, 2005, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Phlx. On May 4, 2005, the Phlx submitted Amendment No. 1 to the proposed rule change,[3] and on May 18, 2005, the Phlx submitted Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Phlx Rule 126, "Crossing" Orders, by adding new subsection (i) dealing with volume weighted average price ("VWAP") crosses. The text of amended Phlx Rule 126 is set forth below. New language is *italicized.*

Rule 126.

"Crossing" Orders

When a member has an order to buy and an order to sell the same security, he must offer such security at a price which is higher than his bid by the minimum variation permitted in such security before making a transaction with himself.

Supplementary Material

(a)–(h) No Change.

(i) This section applies to the execution of certain transactions hereinafter referred to as VWAP crosses which are customer-to-customer crosses that are equal to any single market or consolidated market volume weighted average prices either for the entire trading day from 9:30 a.m. to 4 p.m., or, for any portion of the trading day. VWAP crosses are not subject to the Exchange's auction market rules and thus, may not be broken-up upon entry to the Exchange. VWAP crosses must be identified as VWAP on each order ticket, entered by symbol and price, identified as 'agency' and, when applicable, identified as "short exempt". The basis upon which the VWAP is to be calculated (including the time of day in which the trades to be included in the VWAP formula must occur, and whether such trades are limited to those occurring on a particular market or include all trades on the consolidated market) must be documented upon receipt of the order. VWAP crosses may be executed only during the Exchange's Post Primary Session and reported with the identifier "b", to the nearest decimal eligible for reporting by the Exchange.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange represents that the purpose of the proposed rule change is to permit certain customer-to-customer[5] crosses to be executed at a VWAP[6] during the Exchange's Post Primary Session.[7] The new crossing transactions would be permitted to be executed at prices which are equal to any single market or consolidated market volume weighted average prices calculated for the entire trading day from 9:30 a.m. to 4 p.m., or for any portion of the trading

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Phlx (1) eliminated the concept of linking a VWAP cross to a "primary market" and instead proposed to link a VWAP cross to correspond to any single market, and (2) requested relief from the provisions of SEC Rule 11Ac1–1 under the Act (the "Quote Rule") with respect to VWAP crosses.

[4] In Amendment No. 2, the Phlx (1) eliminated the proposed rule text addressing the treatment of VWAP crosses in the case of trading halts, (2) corrected a citing reference to Phlx auction market rules, and (3) clarified the description of the "b" modifier.

[5] Pursuant to Phlx Rule 126(d) a "customer" order would include any order which a broker represents in an agency capacity, including any order of a market maker or other broker-dealer not affiliated with the broker, and it would not include any order of a broker-dealer affiliated with the executing broker, or any associated person of such broker-dealer.

[6] The Commission has observed that the VWAP for a security is generally determined by: (1) Calculating raw values for regular session trades reported by the Consolidated Tape during the regular trading day by multiplying each such price by the total number of shares traded at that price; (2) compiling an aggregate sum by adding each calculated raw value from step one above; and (3) dividing the aggregate sum by the total number of reported shares for that day in the security. *See* Securities Exchange Act Release No. 48709 (Oct. 28, 2003), 68 FR 62972, 62982 at n. 88 (Nov. 6, 2003) (the Regulation SHO Proposing Release). Pursuant to the Exchange's proposed rule change, however, members would be able to elect to calculate a VWAP using only a single market's prices rather than all trades reported by the Consolidated Tape, and could elect to base that calculation on trades reported during a particular time slice during the day rather than including all trades reported during the regular trading day. Members would be required to document the particular trades they have agreed to be used in the calculation.

[7] According to Phlx Rule 101, the Post Primary Session ("PPS") operates from 4 to 4:15 p.m.

day, as may be agreed to by the two parties to the trade. These trades would therefore not be subject to Exchange Rules 118, 119, and 120,[8] which collectively establish auction market rules of priority, parity and precedence of orders on the equity floor.

For example, assume that a floor broker receives in the morning an order to sell 10,000 XYZ at the VWAP calculated based upon transactions reported in the consolidated market between noon and 2 p.m. later that day. The floor broker would immediately complete an order ticket with the details of the proposed trade, including the time the order was placed and an identification of the transaction as a "VWAP" trade. The floor broker would also prepare a document memorializing the basis upon which the VWAP is to be calculated (*i.e.*, the VWAP of transactions reported in the consolidated market between noon and 2:00). Thereafter, the floor broker would perhaps contact other institutional clients and inform them of an indication of interest to sell XYZ security during the Post Primary Session at the specified VWAP. Once the floor broker located a buyer for the transaction, he would generate an order ticket for the buyer by entering the time the order was placed and identifying the trade as a "VWAP" trade to be executed at the stipulated VWAP. During the Post Primary Session, the two orders would be crossed and the trade would be executed at the stipulated VWAP and reported to clearing and the tape at that price. Pursuant to the proposed rule change, the trade would be reported to the tape with the identifier "b" to the nearest decimal eligible for reporting by the Exchange. The "b" would distinguish VWAP trades from other transactions that may possibly be reported after the close.[9]

Under Commission Rule 10a–1 under the Act,[10] absent an exemption, a short sale of a security registered on a national securities exchange and reported in the consolidated reporting system may not be effected at a price either (1) below the last reported price of a transaction reported in such system ("minus tick") or (2) at the last reported price if such price is lower than the previously reported different price ("zero minus tick"). This is known as the "tick test." Because VWAP crosses are executed at a price that is based on the VWAP of trades during a particular time of day and executed in the Post Primary Session, it is possible that some VWAP crosses may not comply with the tick test because the VWAP cross price of a security may represent a minus tick or zero-minus tick with respect to the last sale reported by the Consolidated Tape. Thus, the Exchange intends also to apply to the Commission for exemptive relief from the tick test provisions of SEC Rule 10a–1 for crosses with a short sale component executed pursuant to new Phlx Rule 126(i).[11] The Exchange is also requesting relief from the provisions of Commission Rule 11Ac1–1 under the Act[12] (the "Quote Rule") with respect to VWAP crosses.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[13] in general, and furthers the objectives of Section 6(b)(5) of the Act[14] in particular, in that it affords market participants a new means of executing transactions at a VWAP, thereby enhancing investors' choices.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received by the Exchange.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall:

A. By order approve such proposed rule change, as amended; or

B. Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2005–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–Phlx–2005–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

[8] *See* Amendment No. 2, *supra* note 4 (deleting a reference to Phlx Rule 123).

[9] See Securities Exchange Act Release Nos. 41210 (Mar. 24, 1999), 64 FR 15857 (Apr. 1, 1999) (approving Phlx's pilot program for the Volume Weighted Average Price Trading System and stating that trades thereunder will be reported to the Consolidated Tape System with the sale condition "B" to indicate volume weighted average pricing); and 41606 (July 8, 1999), 64 FR 38226 (July 15, 1999) (stating that rules governing reporting of transactions in Nasdaq securities contain a provision whereby a firm may aggregate transactions at the same price that would be impractical to report individually, provided that no individual order of 10,000 shares or more may be aggregated, and that these reports have a ".B" modifier appended by the reporting firm and are disseminated to the Nasdaq tape and vendors). In the past, the Exchange reported trades in the Volume Weighted Average Price Trading System to the Consolidated Tape System with the sale condition "B" to indicate volume weighted average pricing (the "B" distinguished VWAP trades from other transactions that may have possibly been reported after the close such as after-hours, crossing session, or late sales transactions). The Exchange no longer uses the Volume Weighted Average Price Trading System, so there is no chance that VWAP Crosses identified with a "b" sale condition will be confused with Volume Weighted Average Price Trading System trades. *See* Amendment No. 2, *supra* note 4.

[10] 17 CFR 240.10a–1.

[11] *See* Draft letter from Carla Behnfeldt, Director, Legal Department New Product Development Group, Phlx, to Larry E. Bergmann, Senior Associate Director, Division of Market Regulation, Commission, dated February 3, 2005.

[12] 17 CFR 240.11Ac1–1.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2005–02 and should be submitted on or before June 24, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2843 Filed 6–2–05; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Oakland County International Airport; Pontiac, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the sale of the airport property. The proposal consists of 14 parcels of land totaling approximately 3.981 acres. Current use and present condition is vacant grassland. The land is zoned residential. The land was acquired under FAA Project Nos. 3–26–0079–0694, C–26–0079–0795, B–26–0079–1397, 3–26–SBGP–1098, and 3–26–SBGP–1799, and 3–26–SBGP–1999. There are no impacts to the airport by allowing the airport to dispose of the property. This land is to be sold for proposed use to accommodate the relocation of Williams Lake Road, which will provide a fully compliant runway safety area for Runway 9R. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the *Federal Register* on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the *Federal Register* 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be receive on or before July 5, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence C. King, Project Manager, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO 607, 11677 South Wayne Road, Romulus, Michigan 48174. Telephone Number (734) 229–2933/ FAX Number (734) 229–2950. Documents reflecting this FAA action may be reviewed at this same location or at Oakland County International Airport, Pontiac, Michigan.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Pontiac, Oakland County, Michigan, and described as follows:

Parcel 130 (Lot 7 (Partial))

A Right Of Way Acquisition being a part of Lot 7 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant N 87°34′40″ W 41.66 feet from the Northeast corner of said Lot 7; thence along a curve to the right 51.76 feet, said curve having a radius of 805.00 feet, a central angle of 03°41′02″, and a chord bearing S 37°38′04″ W 51.75 feet; thence N 02°42′58″ W 42.45 feet; thence S 87°34′40″ E 33.64 feet to the Point Of Beginning.

Said acquisition contains 725 square feet, or 0.02 of an acre, more or less.

Parcel 131 (Lot 10)

A Right of Way Acquisition being a part of Lot 10 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Watership Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant S 87°34′40″ E 69.92 feet along the North line of said lot; thence continuing S 87°34′40″ E 5.38 feet along said lot line to the Northeast corner of said lot; thence S 02°42′42″ E 178.41 feet along the East line of said lot to the Southeast corner of said lot; thence S 87°17′20″ W 75.00 feet along the South lien of said lot and the North right of way line of Tull Court (60 feet wide) to the Southwest corner of said lot; thence N 02°42′49″ W 123.62 feet along the West line of said lot; thence along a curve to the left 88.98 feet, said curve having a radius of 655.00 feet, a central angle of 07°47′00″, and a chord bearing N 48°50′48″ E 88.91 feet of the North line of said lot and the point of Beginning. Said acquisition containing 11,401 square feet, or 0.26 of an acre, more or less.

A Grading Permit being a part of Lot 10 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 18, Oakland County Records, described as follows: Beginning at the Northwest corner of said lot; thence S 87°34′40″ E 69.92 feet along the North line of said lot; thence along a curve to the right 88.98 feet, said curve having a radius of 655.00 feet, a central angle of 07°47′00″, and a chord bearing S 48°50′48″ W 88.91 feet to the West lien of said lot; thence N 02°42′49″ W 61.53 feet to the Northwest corner of said lot and the Point of Beginning.

Said permit contains 2,232 square feet, or 0.05 of an acre, more or less.

Parce 132 (Lot 11)

A Right of Way Acquisition being a part of Lot 11 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant S 02°42′49″ E 61.53 feet along the East line of said lot from the Northeast corner of said lot; thence continuing S 02°42′49″ E 123.62 feet along said lot line of the Southeast corner of said lot and the North right of way line of Tull Court (60 feet wide); thence S 87°17′20″ W 75.00 feet along the South line of said lot and said right of way line to the Southwest corner of said lot; thence N 02°42′47″ W 165.98 feet along the West

[15] 17 CFR 200.30–3(a)(12).

line of said lot; thence along a curve to the right 80.40 feet, said curve having a radius of 180.00 feet, a central angle of 25°35′28″, and a chord bearing S 61°41′47″ E 79.73 feet; thence S 86°40′54″ E 7.03 feet to the East line of said lot and the Point of Beginning.

Said acquisition containing 10,978 square feet, or 0.25 of an acre, more or less.

A Grading Permit being a part of Lot 11 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E. Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plant No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at the Northwest corner of said lot; thence S 02°42′49″ E 61.53 feet along the East line of said lot; thence N 86°40′54″ W 7.03 feet; thence along a curve to the left, said curve having a radius of 180.00 feet, a central angle of N 61°14′47″ 79.73 feet to the West line of said lot; thence N 02°42′47″ W 25.92 feet along lot line to the Northwest corner of said lot; thence S 87°34′40″ E 75.30 feet to the Point of Beginning.

Said permit contains 3,161 square feet, or 0.07 of an acre, more or less.

Part 133 (Lot 12)

A Right of Way Acquisition being a part of Lot 12 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant S 02°42′47″ E 25.91 feet along the east line of said lot from the Northeast corner of said lot; thence continuing S 02°47′47″ E 65.27 feet along said lot line; thence along a curve to the left 64.58 feet, said having a radius of 120.00 feet, a central angel of 30°49′59″, and a chord bearing N 79°25′57″ W 63.80 feet; thence S 85°09′00″ W 12.91 feet to the West lien of said lot; thence N 02°42′44″ W 60.04 feet along said West lot line; thence N 85°09′00″ E 10.67 feet; thence along a curve to the right 76.10 feet, said curve having a radius of 180.00 feet, a central angle 24°13′19″, and a chord bearing S 85°54′29″ E 75.53 feet to the East line of said lot and the Point of Beginning; Also Beginning at a point distant S 02°42′47″ E 112,86 feet long the East line of said lot from the Northeast corner of said lot; thence continuing S 02°42′47″ E 79.03 feet along said lot line to the Southeast corner of said lot and the North right of way line of Tull Court (60 feet wide); thence S 87°17′20″ W 75.0 feet along said South lot line and said right of way line to the Southwest corner of said lot; thence N 02°42′44″ W 46.67 feet long the West line of said lot; thence along a curve of the left 81.73 feet, said curve having a radius of 655.00 feet, a central angle of 07°08′58″, and a chord bearing N 63°57′03″ E 81.68 feet to the East line of said lot and the Point of Beginning.

Said acquisition contains 9,241 square feet, or 0.21 of an acre, more or less.

A Grading Permit being a part of Lot 12 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at the Northeast corner of said lot; thence S02°42′47″ E 25.91 feet along the East line of said lot; thence along a curve to the left 76.10 feet, said curve having a radius of 180.00 feet, a central angle of 24°13′19″, and a chord bearing N85°54′29″ W 75.53 feet; thence S85°09′00″ W 10.67 feet to the West line of said lot; thence N02°42′44″ W 23.70 feet along said lot line; thence S87°34′40″ E 75.30 feet to the Northeast corner of said lot; thence S87°34′40″ E 75.30 feet to the Northeast corner of said lot and the Point of Beginning; Also Beginning at a point S02°42′47″ E 91.18 feet along the East line of said lot from the Northeast corner of said lot; thence continuing S02°42′47″ E 21.68 feet long said lot line; thence along a curve to the left 81.73 feet, said curve having a radius of 655.00 feet, a central angle of 07°08′58″ and a chord bearing S63°57′03″ W 81.68 feet to the West line of said lot; thence N02°42′44″ W 68.21 feet along said lot line; thence N85°09′00″ E 12.91 feet; thence long a curve to the right 64.58 feet, said curve having a radius of 120.00 feet, a central angle of 30°49′59″, and a chord bearing S79°25′57″ E 63.80 feet to the East line of said lot and Point of Beginning.

Said permit contains 5,403 square feet, or 0.12 of an acre more or less.

Parcel 134 (Lot 13)

A Right of Way Acquisition being a part of Lot 13 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant S02°42′44″ E 23.70 feet along the East line of said lot from the Northeast corner of said lot; thence continuing S02°42′44″ E 60.04 feet along the East line of said lot; thence S85°09′00″ W 75.05 feet to the West line of said lot; thence N02°42′42″ W 60.04 feet along said lot line; thence N85°09′00″ E 75.05 feet to the East line of said lot and the Point of Beginning; also Beginning at a point distant S02°42′44″ E 151.95 feet along the East line of said lot from the Northeast corner of said lot; thence continuing S02°42′44″ E 46.67 feet along the East line of said lot the Southeast corner of said lot and the North right of way line of Tull Court (60 feet wide); thence S87°17′20″ W 75.00 feet along the South line of said lot and said right of way line to the Southwest corner of said lot; thence N02°42′42″ E 18.63 feet along West line of said lot; thence along a curve to the right 65.45 feet, said curve having a radius of 805.00 feet, a central angle of 04°39′30″, and a chord bearing N66°28′41″ E 65.43 feet; thence along a curve to the left 14.65 feet, said curve having a radius of 655.00 feet, a central angle of 01°16′53″, and a chord bearing N68°09′59″ E 14.65 feet to the East line of said lot and the Point of Beginning.

Said acquisition contains 6,995 square feet, or 0.16 of an acre, more or less.

A Grading Permit being a part of Lot 13 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at the Northeast corner of said lot; thence S02°42′44″ E 23.70 feet along East line of said lot; thence S85°09′00″ W 75.05 feet to the West line of said lot; thence N02°42′42″ W 33.24 feet along said lot line the Northwest corner of said lot; thence S87°34′40″ E 75.30 feet to the Northeast corner of said lot and the Point of Beginning; Also Beginning at a point distant S02°42′44″ E 83.74 feet along the East line of said lot from the Northeast corner of said lot; thence continuing S02°42′44″ E 68.21 feet along said lot line; thence along a curve to the right 14.65 feet, said curve having a radius of 655.00 feet, a central angle of 01°16′53″, and a chord bearing S68D09′59″ W 14.65 feet; thence along a curve to the left 65.45 feet, said curve having a radius of 805.00 feet, a central angle of 04°39′30″, and a chord bearing

S66°28'41" W 65.43 feet to the West line of said lot; thence N02°42'42" W 93.45 feet; thence N85°09'00" 75.05 feet to the East line of said lot and the Point of Beginning.

Said permit contains 8,155 square feet, or 0.19 an acre, more or less.

Parcel 135 (Lot 14)

A Right of Way Acquisition being a part of Lot 14 of "Supervisor's Plat No. 59" being a part of the Southeast ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant S02°42'42" E 33.24 feet along the East line of said lot from the Northeeast corner of said Lot; thence continuing S02°42'42" E 60.04 feet along said lot line; thence S85°09'00" W 75.05 feet to the West line of said lot, thence S02°42'40" W 60.04 feet along said lot line; thence N85°09'00" E 75.05 feet to the East line of said lot and the Point of Beginning; Also beginning at a point S02°42'42" E 186.73 feet along the East line of said lot from the Northeast corner of said lot; thence continuing S02°42'42" E 18.63 feet along said lot line to the Southeast corner of said lot and the North right of way of Tull Court (60 feet wide); thence S87°17'20" W 40.46 feet along said South line and said right of way; thence along a curve to the right 44.55 feet, said curve having a radius of 805.00 feet, a central angle of 03°10'14", and a chord bearing N62°33'49" E 44.54 feet to the East line of said lot and the Point of Beginning.

Said acquisition contains 4,889 square feet, or 0.11 of an acre, more or less.

A Grading Permit being a part of lot 14 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at the Northeast corner of said lot; thence S02°42'42" E 33.24 feet along east line of said lot; thence S85°09'00" W 75.05 feet to the West line of said lot; thence N02°42'40" W 42.78 feet along said lot line to the Northwest corner of said lot; thence S87°34'40" E 75.30 fet along North line of said lot to the Northeast corner of said lot and the Point of Beginning. Also beginning at a point distant S02°42'42" E 186.73 feet along the East line of said lot from the Northeast corner of said lot; thence along a curve to the left 44.56 feet, said curve having a radius of 805.00 feet, a central angle of 13°10'14", and a chord bearing S62°33'49" W 44.54 feet to the South line of said lot and the North right of way line of Tull Court (60 feet wide); thence S87°17'20" W 34.54 feet along said lot line and said right of way line to the Southwest corner of said lot; thence N02°42'40" W 109.38 feet along the West line of said lot; thence N85°09'00" E 75.05 feet to the East line of said lot and the Point of Beginning.

Said permit contains 10,766 square feet, or 0.25 of an acre, more or less.

Parcel 136 (Lot 15—West)

A Right Of Way Acquisition being a part of the West ½ Lot 15 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 136" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant S 0°45'00" E 60.55 feet along the West line of said lot and subdivision line from the Northwest corner of said lot and subdivision corner; thence N 85°09'00" E 68.86 feet to the East property line; thence S O3°45'14" E 60.01 feet along said property line; thence S 85°09'00" W 67.82 feet to the West line of said lot and subdivision line; thence N 04°45'00" W 60.00 feet along said line to the Point Of Beginning; Also Beginning at a point distant S 04°45'00" E feet along the West line of said lot and N 87°17'20" E 62.68 feet along the South line of said lot from the Northwest corner of said lot; thence along a curve to the right 2.74 feet, said curve having a radius of 805.00 feet, a central angle of 00°11'42", and a chord bearing N 52°39'32" E 2.74 feet to the east property line; thence S 03°45'14" E 1.56 feet along said property line to the Southeast corner of said property; thence S 87°17'20" W 2.28 feet along the South line of said lot to the Point of Beginning.

Said acquisition contains 4,110 square feet, or 0.09 of an acre, more or less.

A Grading Permit being a part of the West ½ Lot 15 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at the Northwest corner of said lot and subdivision; thence S 87°34'40" E 70.31 feet along said lot line to the Northeast corner of said property; thence S 03°45'14" E 51.66 feet along the East property line; thence S 85°09'00" W 68.86 feet to the West lot line; thence N 04°45'00" W 60.55 feet along said lot line to the Northwest corner of said lot and the Point of Beginning; Also Beginning at a point distant S 04°45'00" E 120.55 feet along the West lot line from the Northwest corner of said lot; thence N 85°09'00" E 67.82 feet to the East property line; thence S 03°45'14" E 165.21 feet along said property line; thence along a curve to the left 2.74 feet, said curve having a radius of 805.00 feet, a central angle of 00°11'42", and a chord bearing S 52°39'32" W 2.74 feet to the South lien of said lot; thence S 87°17'20" W 62.68 feet along said lot line to the Southwest corner of said lot thence N 04°45'00" W 164.31 feet along the West line of said lot to the Point Of Beginning.

Said permit contains 14,868 square feet, or 0.34 of an acre, more or less.

Parcel 223 (Lot 15—East)

A Right Of Way Acquisition being a part of the East ½ Lot 15 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant S02°42'40" E 42.78 feet along the East line of said lot from the Northeast corner of said Lot; thence continuing S02°42'40" E 60.04 feet along said lot line; thence S85°09'00" W 68.04 feet to the West property line; thence N03°45'14" W 60.01 feet along the West property line; thence N85°09'00" E 69.14 feet to the East line of said lot and the Point of Beginning; Also beginning at a point distant S02°42'40" E 230.23 feet along the East line of said lot from the Northeast corner of said lot; thence continuing S02°42'40" E 41.87 feet along said lot line to the Southeast corner of said lot; thence S87°17'20" W 64.96 feet along the South line of said lot to the Southwest corner of said property; thence N03°45'14" W 1.56 feet along West property line; thence along a curve to the right 76.51 feet, said curve having a radius of 805.00 feet, a central angle of 05°26'44", and a chord bearing

N55°28′44″ E 76.48 feet to the East line of said lot and the Point of Beginning.

Said acquisition contains 5,573 square feet, or 0.13 of an acre, more or less.

A Grading Permit being a part of the East ½ Lot 15 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at the Northeast corner of said lot; thence S02°42′40″ E 42.78 feet along the East line of said lot from the Northeast corner of said lot; thence S85°09′00″ W 69.14 feet to the West property line; thence N03°45′14″ W 51.66 feet along said property line; thence S87°34′40″ E 75.31 feet along the North line of said lot to the Northeast corner of said lot; Also Beginning at a point distant S02°42′40″ E 102.82 feet along the East line of said lot from the Northeast corner of said lot; thence continuing S02°42′40″ E 127.41 feet along said lot line; thence along a curve to the left 76.51 feet , said curve having a radius of 805.00 feet, a central angle 05°26′44″, and a chord bearing S55°28′44″ W 76.48 feet to the West line of said property; thence N03°45′14″ W 165.21 feet along said property line; thence N85°09′00″ E 68.04 feet to the east line of said lot and the Point of Beginning.

Said permit contains 12,967 square feet, or 0.30 of an acre, more or less.

Parcel 224 (Lot 8—Partial)

A Right Of Way Acquisition being a part of Lot 8 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant N 02°42′55″ W 49.83 feet along the West line of and the Southwest corner of said lot; thence continuing N 02°42′55″ W 121.84 feet along said lot line to the Northwest corner of said lot; thence S87°34″E 75.30 feet along the North line of said lot to the Northeast corner of said lot; thence S02°42′58″E 42.45 feet along the East line of said lot; thence along a curve to the right 104.49, said curve having a radius of 805.00 feet, a central angle of 07°26′14″ and a chord bearing S43°11′41″W 104.42 feet to the West line of said lot and the Point Of Beginning.

Said acquisition contains 6,279 square feet, or 0.14 of an acre, more or less.

Parcel 225 (Lot 9—Partial)

A Right Of Acquisition being a part of Lot 9 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant S 87°17′20″ W 65.04 feet along the Northerly right of way line of Tull Court (60 feet wide); thence continuing S 87°17′20″ W 9.96 feet along said right of way line to the Southwest corner of said lot; thence N 02°42′52″ W 178.41 feet along the West line of said lot to the Northwest corner of said lot; thence S 87°34′40″ E 75.30 feet to the Northeast corner of said lot; thence S 02°42′55″ E 121.84 feet; thence along a curve to the right 81.98 feet, said curve having a radius of 805.00 feet, a central angle of 05°50′05″, and a chord bearing S 49°50′50″ W 81.94 to the North right of way line of said Tull Court and the point Of Beginning.

Said acquisition contains 11,564 square feet, or 0.27 of an acre, more or less.

Parcel 230 (Lot 20—Partial)

A Right Of Way Acquisition being a part of Lot 20 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant S 87°17′20″ W 58.50 feet along the north line of said lot and the South right of way line of Tull Court (60 feet wide) from the Northeast corner of said lot; thence along a curve to the right 18.28 feet, said curve having a radius of 805.00 feet, a central angle of 01°18′04″, and a chord bearing S 61°52′07″ W 18.28 feet to the West line of said lot; thence N 02°40′57″ W 7.84 feet along said lot line to the Northwest corner of said lot; thence N 87°17′20″ E 16.50 feet along the North line of said lot and said right of way line of Tull Court to the Point Of Beginning.

Said acquisition contains 65 square feet, or 0.001 of an acre, more or less.

Parcel 231 (Lot 19—Partial)

A Right Of Way Acquisition being a part of Lot 19 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant N 02°41′00″ W 266.17 feet along the West line of said lot from the Southwest corner of said lot; thence continuing N 02°41′00″ W 37.99 feet along said lot line to the Northwest corner of said lot and the South right of way line of Tull Court (60 feet wide); thence N 87°17′20″ E 75.00 feet along the North line of said lot and said right of way line to the Northeast corner of said lot; thence S 02°40′57″ E 7.84 feet along the East line of said lot; thence along a curve to the left 80.87 feet, said curve having a radius of 805.00 feet, a central angle of 05°45′22″, and a chord bearing S 65°23′50″ W 80.84 feet to the West line of said lot and the Point of Beginning.

Said acquisition contains 1,773 square feet, or 0.04 of an acre, more or less.

A Drainage Easement being a part of Lot 19 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant N 02°41′00″ W 70.19 feet along the West line of said lot from the Southwest corner of said lot; thence continuing N 02°41′00″ W 50.14 feet along said lot line; thence N 83°05′15″ E 75.20 feet to the East line of said lot; thence S 02°40′57″ W 50.14 feet along said lot line; thence S 83°05′15″ W 75.20 feet to the West line of said lot and the Point of Beginning.

Said permit contains 3,760 square feet, or 0.09 of an acre, more or less.

Parcel 232 (Lot 18—Partial)

A Right Of Way Acquisition being a part of Lot 18 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10,

Oakland County Records, described as follows: Beginning at a point distant N02°41'03" W 242.27 feet along the West line of said lot from the Southwest corner of said lot; thence continuing N02°41'03" W 67.40 feet along said lot line to the Northwest corner of said lot and the South right of way line of Tull Court (60 feet wide); thence N87°17'20" E 75.00 feet along the North line of said lot and said right of way line to the Northeast corner of said lot; thence S02°41'00" E 37.99 feet along the East line of said lot; thence along a curve to the left 73.15 feet, said curve having a radius of 655.00 feet, a central angle of 06°23'55", and a chord bearing S65°36'28" W 73.11 feet to the West line of said lot and the point of Beginning.

Said acquisition contains 3,888 square feet, or 0.09 of an acre, more or less.

A Drainage Easement being a part of Lot 18 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant N02°41'03" W 50.14 feet along the West line of said lot from the Southwest corner of said lot; thence continuing N02°41'03" W 192.13 feet along said lot time; thence along a curve to the right 73.15 feet, said curve having a radius of 655.00 feet, a central angle of 06°23'55", and a chord bearing N65°36'28" E 73.11 feet to the East line of said lot; thence S02°41'00" E 145.84 feet along said lot line; thence S83°05'15" W 75.20 feet to the West line of said lot and the Point Of Beginning.

Said permit contains 15,370 square feet, or 0.35 of an acre, more of less.

Parcel 233 (Lot 17—Partial)

A Right Of Way Acquisition being a part of Lot 17 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, and a replat of Lot 18 of "Supervisor's Plat No. 36" of part of the Southwest ¼ of Section 18, T3N, R9E, Waterford Township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant N02°41'06" W 206.84 feet along the West line of said lot from the Southwest corner of said lot; thence continuing N0°41'06" W 108.34 feet along said lot line to the Northwest corner of said lot and the South right of way line of Tull Court (60 feet wide); thence N87°17'20" E 75.00 feet along the North line of said lot and said right of way line to the Northeast corner of said lot; thence S02°41'03" E 67.40 feet along the East line of said lot; thence along a curve to the left 85.52 feet, said curve having a radius of 655.00 feet, a central angle of 07°28'51", and a chord bearing S58°40'04" W 85.46 feet to the West line of said lot and the Point Of Beginning.

Said acquisition contains 6,511 square feet, or 0.15 of an acre, more or less.

A Drainage Easement being a part of Lot 17 of "Supervisor's Plat No. 59" being a part of the Southwest ¼ of Section 18, T3N, R9E, Waterford township, Oakland County, Michigan, as recorded in Liber 72 of Plats, Page 10, Oakland County Records, described as follows: Beginning at a point distant N O2°241'06" W 50.14 feet along the West line of said lot from the Southwest corner of said lot; thence continuing N O2°241'06" 156.70 feet along said lot line; thence along a curve to the right 85.52 feet, said curve having a radius of 655.00 feet, a central angle of 07°28'51", and a chord bearing N 58°40'04" E 85.46 feet to the East line of said lot; thence S 02°41'03" E 192.13 feet along said lot line; thence S 83°05'15" W 75.20 feet to the West line of said lot and the Point Of Beginning.

Said permit contains 13,160 square feet, or 0.30 of an acre, more or less.

Total acres to be released are 3.981, more or less.

Dated: Issued in Romulus, Michigan, on May 17, 2005.

Irene R. Porter,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 05–11116 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Revision: Technical Standard Order (TSO)–C122a, Equipment That Prevent Blocked Channels Used in Two-way Radio Communications Due To Simultaneous Transmissions

AGENCY: Federal Aviation Administration (DOT).

ACTION: Notice of availability and request for public comment.

SUMMARY: This notice announces the availability of and requests comments on a proposed Technical Standard Order (TSO)–C122a, Equipment That Prevent Blocked Channels Used in Two-way Radio Communications Due to Simultaneous Transmissions. The TSO tells manufacturers seeking a TSO authorization or letter of design approval what minimum performance standards (MPS) their transmitter radio equipment to prevent blocked channels must first meet for approval and identification with the applicable TSO markings.

DATES: Submit comments on or before July 5, 2005.

ADDRESSES: Send all comments on the proposed revised technical standard order to: Federal Aviation Administration (FAA), Aircraft Certification Service, Aircraft Engineering Division, Avionic Systems Branch, Room 815, AIR–130, 800 Independence Avenue, SW., Washington, DC 20591. Attn: Mr. Thomas Mustach. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Mustach, AIR–130, Room 815, Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, 800 Independence Avenue, SW., Washington, DC 20591. Telephone (425) 227–1935, FAX: (425) 227–1181. Or, via e-mail at: *thomas.mustach@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments to the address listed above. Your comments should identify "Comments to Proposed TSO–C122a." You may examine all comments received on the proposed revised TSO before and after the comment closing date, at the FAA Headquarters Building, Room 815, 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 before issuing the final revised TSO.

Background

This proposed TSO–C122a includes the latest TSO boilerplate wording and format, to include a Functionality definition used to specify the Failure Hazard Classification and invokes environmental conditions and test procedures specified in RTCA/DO–160E, Environmental Conditions and Test Procedures for Airborne Equipment, dated December 9, 2004. The proposed TSO provides a minimum operational performance standard for equipment intended to prevent blocked

frequencies used in air traffic control (ATC) two-way radio communication due to simultaneous transmissions by aircraft transmitters. Equipment covered by this proposed TSO is primarily intended for Aeronautical Operational Control (AOC) and Air Traffic Services (ATS) safety communications.

How To Obtain Copies

You may get a copy of the proposed TSO from the Internet at: *http://av-info.faa.gov/tso/Tsopro/Proposed.htm.* See Action entitled **FOR FURTHER INFORMATION CONTACT** for the complete address if requesting a copy by mail. You may inspect the RTCA document at the FAA office location listed under **ADDRESSES.** Note however, RTCA documents are copyrighted and may not be reproduced without the written consent of RTCA, Inc. You may purchase copies of RTCA, Inc. documents from: RTCA, Inc., 1828 L Street, NW., Suite 815, Washington, DC 20036, or directly from their Web site: *http://www.rtca.org/.*

Issued in Washington, DC, on May 26, 2005.

Susan J.M. Cabler,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 05–11115 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed revision: Technical Standard Order (TSO)–C128a, Equipment That Prevent Blocked Channels Used in Two-Way Radio Communications Due To Unintentional Transmissions

AGENCY: Federal Aviation Administration (DOT).

ACTION: Notice of availability and request for public comment.

SUMMARY: This notice announces the availability of and requests comments on a proposed Technical Standard Order (TSO)–C128a, Equipment That Prevent Blocked Channels Used in Two-way Radio Communications Due To Unintentional Transmissions. The TSO manufacturers seeking a TSO authorization or letter of design approval what minimum performance standards (MPS) their transmitter radio equipment to prevent blocked channels must first meet for approval and identification with the applicable TSO markings.

DATES: Submit comments on or before July 5, 2005.

ADDRESSES: Send all comments on the proposed revised technical standard order to: Federal Aviation Administration (FAA), Aircraft Certification Service, Aircraft Engineering Division, Avicnic Systems Branch, Room 815, AIR–130, 800 Independence Avenue, SW., Washington, DC 20591. Attn: Mr. Thomas Mustach. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Mustach, AIR–130, Room 815, Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, 800 Independence Avenue, SW., Washington, DC 20591. Telephone (425) 227–1935, FAX: (425) 227–1181. Or, via e-mail at: *thomas.mustach@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments to the address listed above. Your comments should identify "Comments to Proposed TSO–C128a." You may examine all comments received on the proposed revised TSO before and after the comment closing date, at the FAA Headquarters Building, Room 815, 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 before issuing the final revised TSO.

Background

This proposed TSO–C128a includes the latest TSO boilerplate wording and format, to include a Functionality definition used to specify the Failure Hazard Classification and invokes environmental conditions and test procedures specified in RTCA/DO–160E, Environmental Conditions and Test Procedures for Airborne Equipment, dated December 9, 2004. The proposed TSO provides a minimum operational performance standard for equipment intended to prevent blocked frequencies used in air traffic control (ATC) two-way radio communication due to unintentional transmissions by aircraft transmitters. Equipment covered by this proposed TSO is primarily intended for Aeronautical Operational Control (AOC) and Air Traffic Services (ATS) safety communications.

How To Obtain Copies

You may get a copy of the proposed TSO from the Internet at: *http://av-info.faa.gov/tso/Tsopro/Proposed.htm.* See section entitled **FOR FURTHER INFORMATION CONTACT** for the complete address if requesting a copy by mail. You may inspect the RTCA document at the FAA office location listed under **ADDRESSES.** Note however, RTCA documents are copyrighted and may not be reproduced without the written consent of RTCA, Inc. You may purchase copies of RTCA, Inc. documents from: RTCA, Inc., 1828 L Street, NW., Suite 815, Washington, DC 20036, or directly from their Web site: *http://www.rtca.org/.*

Issued in Washington, DC, on May 26, 2005.

Susan J.M. Cabler,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 05–11114 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Sussex County, DE

AGENCIES: Federal Highway Administration (FHWA) and the Delaware Department of Transportation (DelDOT).

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway improvement project in south central Sussex County, Delaware.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Kleinburd, Realty and Environmental Program Manager, Federal Highway Administration, Delaware Division, J. Allen Frear Federal Building, 300 South New Street, Room 2101, Dover, DE 19904; Telephone: (302) 734–2966; or Mr. Monroe C. Hite, III, P.E., Project Manager, Delaware Department of Transportation, 800 Bay Road, P.O. Box 778, Dover DE 19903; Telephone: (302) 760–2120. DelDOT Public Relations office (800) 652–5600 (in DE only) or (302) 760–2080.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA), in cooperation with the Delaware Department of Transportation (DelDOT), will prepare an Environmental Impact Statement (EIS) to consider changes to the existing US

113 corridor including access restrictions, additional travel lanes, and the construction of a potential new alignment in south central Sussex County, Delaware. The proposed limited access facility would link back to the existing US 113 corridor north of the Town of Georgetown and in the vicinity of the Delaware/Maryland state line in the Town of Selbyville.

DelDOT is currently undertaking a planning study (the US 113 North/ Study) to consider improvements for the US 113 corridor from the vicinity of Delaware Route 1 north of the City of Milford south to the Delaware/Maryland state line. The US 113 North/South Study is the next step in the overall planning process for this corridor. This effort is a follow-up to a previously completed feasibility study (Sussex County North-South Transportation Feasibility Study) in July 2001. The data and findings from the feasibility study indicated that upgrading the existing US 113 corridor is feasible and that improvements on new alignment or alignments, bypassing existing US 113, may be a consideration in the Georgetown-South Area, which extends from the Town of Georgetown to the Delaware/Maryland state line.

The US 113 North/South Study recommends that the Georgetown-South Area (area in and around the Towns of Georgetown, Millsboro, Dagsboro, Frankford, and Selbyville located in south central Sussex County, Delaware) be studied separately from the remaining US 113 corridor, north to the Town of Ellendale, northern Sussex County. Because of the potential for new alignment alternative(s), access restrictions, and the resulting potential for significant impacts on the human environment, the FHWA has determined that an EIS is the appropriate documentation for any corridor changes that may be selected within the Georgetown-South Area of study.

A program of public involvement and coordination with Federal, State, and local agencies has been initiated. Both agency and public involvement will continue throughout project development. Comments are being solicited from appropriate Federal, State, and local agencies, and private organizations and citizens who have previously expressed or are known to have interest in this proposal. A public scoping meeting via public workshop will be held. Additional informational meetings will be scheduled during the course of the study. In addition, a formal public hearing will be held after the draft EIS has been prepared. Public notice will be given of the time and place of the scoping meetings, and the formal public hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing on the draft EIS.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or DelDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued by: May 24, 2005.

Raymond J. McCormick,

Division Administrator, Federal Highway Administration, Dover, Delaware.

[FR Doc. 05–11068 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 10, 2005, and comments were due by May 9, 2005. No comments were received.

DATES: Comments must be submitted on or before July 5, 2005.

FOR FURTHER INFORMATION CONTACT: Kenneth Kline, Maritime Administration, 400 Seventh Street Southwest, Washington, DC 20590. Telephone: 202–366–5744; FAX: 202–366–7901, or e-mail: *kenneth.kline@marad.dot.gov*. Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Title XI Obligation Guarantees.

OMB Control Number: 2133–0018.

Type of Request: Extension of currently approved collection.

Affected Public: Individuals/ businesses interested in obtaining loan guarantees for construction or reconstruction of vessels as well as businesses interested in shipyard modernization and improvements.

Forms: MA–163, MA–163A.

Abstract: In accordance with the Merchant Marine Act, 1936, MARAD is authorized to execute a full faith and credit guarantee by the United States of debt obligations issued to finance or refinance the construction or reconstruction of vessels. In addition, the program allows for financing shipyard modernization and improvement projects.

Annual Estimated Burden Hours: 1050 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Authority: 49 CFR 1.66.

Issued in Washington, DC on May 27, 2005.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–11112 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2005–21334]

Notice of Receipt of Petition for Decision That Nonconforming 2005 Smart Car Passion, Pulse, and Pure (Coupe and Cabriolet) Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of receipt of petition for decision that nonconforming 2005 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2005 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The closing date for comments on the petition is July 5, 2005.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(B), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards, and has no substantially similar U.S.-certified counterpart, shall be refused admission into the United States unless NHTSA has decided that the motor vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G&K Automotive Conversion, Inc. of Santa Ana, California ("G&K") (Registered Importer 90–007) has petitioned NHTSA to decide whether nonconforming 2005 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars are eligible for importation into the United States. In its petition, G&K noted that NHTSA has granted import eligibility to 2002–2004 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars, that they claim are identical to the 2005 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars that are the subject of this petition. In their petition for the 2002–2004 vehicles the petitioner claimed that the vehicles were capable of being altered to comply with all applicable FMVSS (see NHTSA docket no. NHTSA–2003–1401). Because those vehicles were not manufactured for importation into and sale in the United States, and were not certified by their original manufacturer (Daimler Benz), as conforming to all applicable FMVSS, they cannot be categorized as "substantially similar" to the 2002–2004 versions for purposes of establishing import eligibility under 49 U.S.C. 30141(a)(1)(A). However, the petitioner seeks to rely on the data, views and arguments submitted as part of the 2002–2004 petition; proof of conformity information that the petitioner submitted for the first vehicle it conformed under the 2002–2004 vehicle eligibility decision; and upon the contention that the 2005 model vehicles differ from the 2002–2004 models only in that they were manufactured as 2005 model vehicles.

G&K contends that nonconforming 2005 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars are eligible for importation under 49 U.S.C. 30141(a)(1)(B) because they have safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Specifically, the petitioner claims that 2005 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars have safety features that comply with Standard Nos. 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 116 *Brake Fluid*, 118 *Power Window Systems*, 124 *Accelerator Control Systems*, 135 *Passenger Car Brake Systems*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, and 219 *Windshield Zone Intrusion*.

Petitioner further contends that the vehicles are capable of being altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) inscription of the word "Brake" and a seat belt warning symbol on the dash; and (b) modification of the speedometer to read in miles per hour.

Standard No. 102 *Transmission Shift Lever Sequence*: inscription of shift sequence markings on the instrument cluster.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) Replacement or modification of the headlamps; (b) installation of side markers; and (c) installation of turn signal lamps to meet the standard. The petition does not describe the headlamp modifications. G&K is claiming confidentiality with respect to some of these modifications.

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* inscription of the required warning statement on the face of the passenger side rearview mirror.

Standard No. 114 *Theft Protection*: modification of the key locking system, and installation of a supplemental key warning buzzer system to meet the requirements of this standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications.

Standard No. 201 *Occupant Protection in Interior Impact*: replacement of interior components with components fabricated by, and available only through, G&K. The

petition does not describe these components or their manner of installation. G&K is claiming confidentiality with respect to these modifications.

Standard No. 208 *Occupant Crash Protection*: installation of supplemental wiring and replacement of the driver's seat belt buckle assembly to comply with the seat belt warning requirements of this standard.

Standard No. 209 *Seat Belt Assemblies*: replacement of the driver's seat belt buckle assembly with one that conforms to the requirements of Standards No. 208 and 209.

Standard No. 214 *Side Impact Protection*: modification of the vehicles through the installation of components available only from G&K. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications.

Standard No. 225 *Child Restraint Anchorage Systems*: installation of a tether anchorage behind the passenger seat on coupe models.

Standard No. 301 *Fuel System Integrity*: modification of the vehicles' fuel system through the installation of three components and associated attachment hardware available only from G&K. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications.

Standard No. 302 *Flammability of Interior Materials*: treatment of interior materials and components covered by the standard with material available only from G&K. G&K is claiming confidentiality with respect to these modifications.

The petitioner states that a vehicle identification number plate must be affixed to the vehicles to meet the requirements of 49 CFR Part 565. The petitioner further states that a certification label must be affixed to the driver's doorjamb to meet the requirements of 49 CFR Part 567.

Additionally, petitioner states components available only from G&K will be installed on the vehicle to comply with the Bumper Standard found in 49 CFR Part 581. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Harry Thompson,

Chief, Vehicle Crash Avoidance Division, Office of Vehicle Safety Compliance.

[FR Doc. 05–11009 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Exemption Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: List of Applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Delmer Billings, Office of Hazardous Materials Exemptions and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4535.

Key to "Reason for Delay"

1. Awaiting additional information from applicant.

2. Extensive public comment under review.

3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.

4. Staff review delayed by other priority issues or volume of exemption applications.

Meaning of Application Number Suffixes

N—New application.

M—Modification request.

PM—Party to application with modification request.

Issued in Washington, DC, on May 27, 2005.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Safety Exemptions & Approvals.

Application No.	Applicant	Reason for delay	Estimated date of completion
	New Exemption Applications		
13183–N	Becton Dickinson, Sandy, UT	4	06–30–2005
13188–N	General Dynamics, Lincoln, NE	4	06–30–2005
13281–N	The Dow Chemical Company, Midland, MI	4	06–30–2005
13295–N	Taylor-Wharton, Harrisburg, PA	4	06–30–2005
13309–N	OPW Engineered Systems, Lebanon, OH	4	06–30–2005
13266–N	Luxfer Gas Cylinders, Riverside, CA	4	06–30–2005
13422–N	Puritan Bennett, Plainfield, IN	3	06–30–2005
13314–N	Sunoco Inc., Philadelphia, PA	4	06–30–2005
13341–N	National Propane Gas Association, Washington, DC	1	06–30–2005
14037–N	Air Products & Chemicals, Inc., Allentown, PA	4	06–30–2005
14038–N	Dow Chemical Company, Midland, MI	1	06–30–2005
14010–N	Varsal, LLC, Warminster, PA	4	06–30–2005
13999–N	Kompozit-Praha s.r.o., Dysina u Plzne, Czech Republic, CZ	4	06–30–2005
14008–N	Air Products & Chemicals, Inc., Allentown, PA	4	06–30–2005
13958–N	Department of Defense, Fort Eustis, VA	1	06–30–2005

Application No.	Applicant	Reason for delay	Estimated date of completion
13957–N	T.L.C.C.I, Inc., Franklin, TN	4	06–30–2005
13858–N	US Ecology Idaho, Inc. (USEI), Grand View, ID	1	06–30–2005
13582–N	Linde Gas LLC (Linde), Independence, OH	4	06–30–2005
13563–N	Applied Companies, Valencia, CA	4	06–30–2005
13547–N	CP Industries, McKeesport, PA	4	06–30–2005
13346–N	Stand-By-Systems, Inc., Dallas TX	1	06–30–2005
13347–N	ShipMate. Inc., Torrance, CA	4	06–30–2005
13302–N	FIBA Technologies, Inc., Westboro, MA	4	06–30–2005
72277–M	Structural Composites Industries, Pomona, CA	4	07–31–2005
11214–M	Rohm and Haas Co., Philadelphia, PA	1	06–30–2005
7774–M	Pipe Recovery Systems, Inc., Houston, TX	4	06–30–2005
13488–M	FABER INDUSTIRES SPA, (U.S. Agent: Kaplan Industries, Maple Shade, NJ)	4	06–30–2005
12988–M	Air Products & Chemicals, Inc., Allentown, PA	4	06–30–2005
12284–M	The American Traffic Safety Services Assn. (ATSSA), Fredericksburg, VA	1	06–30–2005
10319–M	Amtrol, In., West Warwick, RI	4	06–30–2005
6263–M	Amtrol, Inc., West Warwick, RI	4	06–30–2005
11579–M	Dyno Nobel, Inc., Salt Lake City, UT	4	06–30–2005
10915–M	Luxfer Gas Cylindes (Composite Cylinder Divisin), Riverside, CA	1	06–30–2005
7280–M	Department of Defense, Ft. Eustis, VA	4	06–30–2005
10878–M	Tankcon FRP Inc., Boisbriand, Qc	1,3	06–30–2005
10019–M	Structural Composites Industries, Pomona, CA	4	06–30–2005
8162	Structural Composites Industries, Pomona, CA	4	06–30–2005
8718–M	Structural Composites Industries, Pomona, CA	4	06–30–2005
9649–X	U.S. Department of Defense, Fort Eustis, VA	1	06–30–2005

[FR Doc. 05–11010 Filed 6–2–05; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34704]

Soo Line Railroad Company d/b/a Canadian Pacific Railway—Temporary Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company (UP) has agreed to grant temporary overhead trackage rights to Soo Line Railroad Company d/b/a Canadian Pacific Railway (CPR) over UP's rail line between UP milepost 83.0 and UP milepost 81.5 on the National Avenue Industrial Lead near Milwaukee, WI, a distance of approximately 1.5 miles.

The transaction was scheduled to be consummated on May 24, 2005, and the temporary trackage rights are scheduled to expire on or about October 13, 2005. The purpose of the temporary trackage rights is to allow CPR to access the Jones Island Yard while its main lines are out of service due to programmed track, roadbed, and structural maintenance.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34704, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Thanh G. Bui, Leonard, Street and Deinard, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

Board decisions and notices are available on our Web site at "*www.stb.dot.gov*."

Decided: May 24, 2005.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–11063 Filed 6–2–05; 8:45 am]
BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 9620

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 9620, Race and National Origin Identification.

DATES: Written comments should be received on or before August 2, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Race and National Origin Identification.

OMB Number: 1545–1398. Form Number: 9620.

Abstract: Form 9620 is an optically scannable form that is used to collect race and national origin data on all IRS employees and new hires. The form is a valuable tool in allowing the IRS to meet its diversity/EEO goals and as a component of its referral and tracking system and recruitment program.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and the Federal Government.

Estimated Number of Respondents: 50,000.

Estimated Time per Response: 3 min.

Estimated Total Annual Burden Hours: 2,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 19, 2005.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–2834 Filed 6–2–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8718

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8718, User Fee for Exempt Organization Determination Letter Request.

DATES: Written comments should be received on or before August 2, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: User Fee for Exempt Organization Determination Letter Request.

OMB Number: 1545–1798.

Form Number: 8718.

Abstract: The Omnibus Reconciliation Act of 1990 requires payment of a "user fee" with each application for a determination letter. Because of this requirement, Form 8718 was created to provide filers the means to make payment and indicate the type of request.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and not-for-profit institution.

Estimated Number of Respondents: 200,000.

Estimated Time per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 16,667.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 18, 2005.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–2835 Filed 6–2–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8027 and 8027–T

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and

other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, and Form 8027–T, Transmittal of Employer's Annual Information Return of Tip Income and Allocated Tips.

DATES: Written comments should be received on or before August 2, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Employer's Annual Information Return of Tip Income and Allocated Tips (Form 8027), and Transmittal of Employer's Annual Information Return of Tip Income and Allocated Tips (Form 8027–T).

OMB Number: 1545–0714.

Form Number: Forms 8027 and 8027–T.

Abstract: To help IRS in its examinations of returns filed by tipped employees, large food or beverage establishments are required to report annually information concerning food or beverage operations receipts, tips reported by employees, and in certain cases, the employer must allocate tips to certain employees. Forms 8027 and 8027–T are used for this purpose.

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions and state, local or tribal governments.

Estimated Number of Respondents: 52,050.

Estimated Time per Respondent: 9 hours, 23 minutes.

Estimated Total Annual Burden Hours: 488,161.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 17, 2005.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–2836 Filed 6–2–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8404

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8404, Interest Charge on DISC-Related Deferred Tax Liability.

DATES: Written comments should be received on or before August 2, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Interest Charge on DISC-Related Deferred Tax Liability.

OMB Number: 1545–0939.

Form Number: 8404.

Abstract: Shareholders of Interest Charge Domestic International Sales Corporations (IC–DISCs) use Form 8404 to figure and report an interest charge on their DISC-related deferred tax liability. The interest charge is required by Internal Revenue Code section 995(f). IRS uses Form 8404 to determine whether the shareholder has correctly figured and paid the interest charge on a timely basis.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations and individuals.

Estimated Number of Responses: 2,000.

Estimated Time per Response: 8 hrs., 48 min.

Estimated Total Annual Burden Hours: 17,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the

agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 13, 2005.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–2837 Filed 6–2–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1040X

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1040X, Amended U.S. Individual Income Tax Return.

DATES: Written comments should be received on or before August 2, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Amended U.S. Individual Income Tax Return.

OMB Number: 1545–0091.

Form Number: 1040X.

Abstract: Form 1040X is used by individuals to amend an original tax return to claim a refund of income taxes, pay additional income taxes, or designate $3 to the Presidential Election Campaign Fund. The information provided on the form is needed to help verify that taxpayers have correctly figured their income tax.

Current Actions: One line item, asking if the original return has been changed or audited by IRS has been deleted.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 2,929,311.

Estimated Time per Respondent: 3 hours, 32 minutes.

Estimated Total Annual Burden Hours: 10,340,468.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 18, 2005.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–2838 Filed 6–2–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2005–41

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2005–41, Guidance Regarding Qualified Intellectual Property Contributions.

DATES: Written comments should be received on or before August 2, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Guidance Regarding Qualified Intellectual Property Contributions.

OMB Number: 1545–1937.

Notice Number: Notice 2005–41.

Abstract: Notice 2005–41 explains new rules governing charitable contributions of intellectual property made after June 3, 2004. The notice explains the method by which a donor of qualified intellectual property may notify the donee that the donor intends to treat the contribution as a qualified donation under section 170(m). Donors of qualified intellectual property will use the required notification as evidence that they have satisfied the section 170(m) notification requirement.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: This is a new collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 30.

Estimated Average Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 30.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 23, 2005.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–2839 Filed 6–2–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4797

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4797, Sales of Business Property.

DATES: Written comments should be received on or before August 2, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Sales of Business Property.

OMB Number: 1545–0148.

Form Number: 4797.

Abstract: Form 4797 is used by taxpayers to report sales, exchanges, or involuntary conversions of assets used in a trade or business. It is also used to compute ordinary income from recapture and the recapture of prior year losses under section 1231 of the Internal Revenue Code.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and farms.

Estimated Number of Respondents: 1,396,388.

Estimated Time per Respondent: 50 hr., 38 min.

Estimated Total Annual Burden Hours: 70,711,075.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 23, 2005.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–2840 Filed 6–2–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 12339–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 12339–A, Tax Check Waiver.

DATES: Written comments should be received on or before August 2, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Tax Check Waiver.

OMB Number: 1545–1791.

Form Number: 12339–A.

Abstract: Form 12339–A is necessary for the purpose of ensuring that all panel members are tax compliant. Information provided will be used to disqualify individuals to serve as panel members.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and businesses or other for-profit organizations.

Estimated Number of Respondents: 250.

Estimated Time per Response: 10 min.

Estimated Total Annual Burden Hours: 42.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 19, 2005.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–2841 Filed 6–2–05; 8:45 am]

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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.

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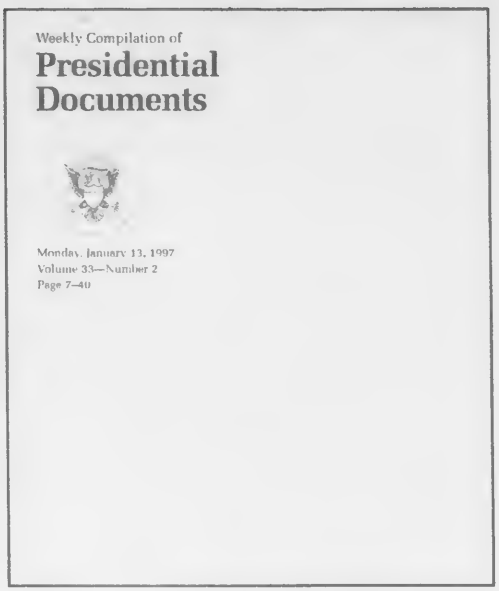

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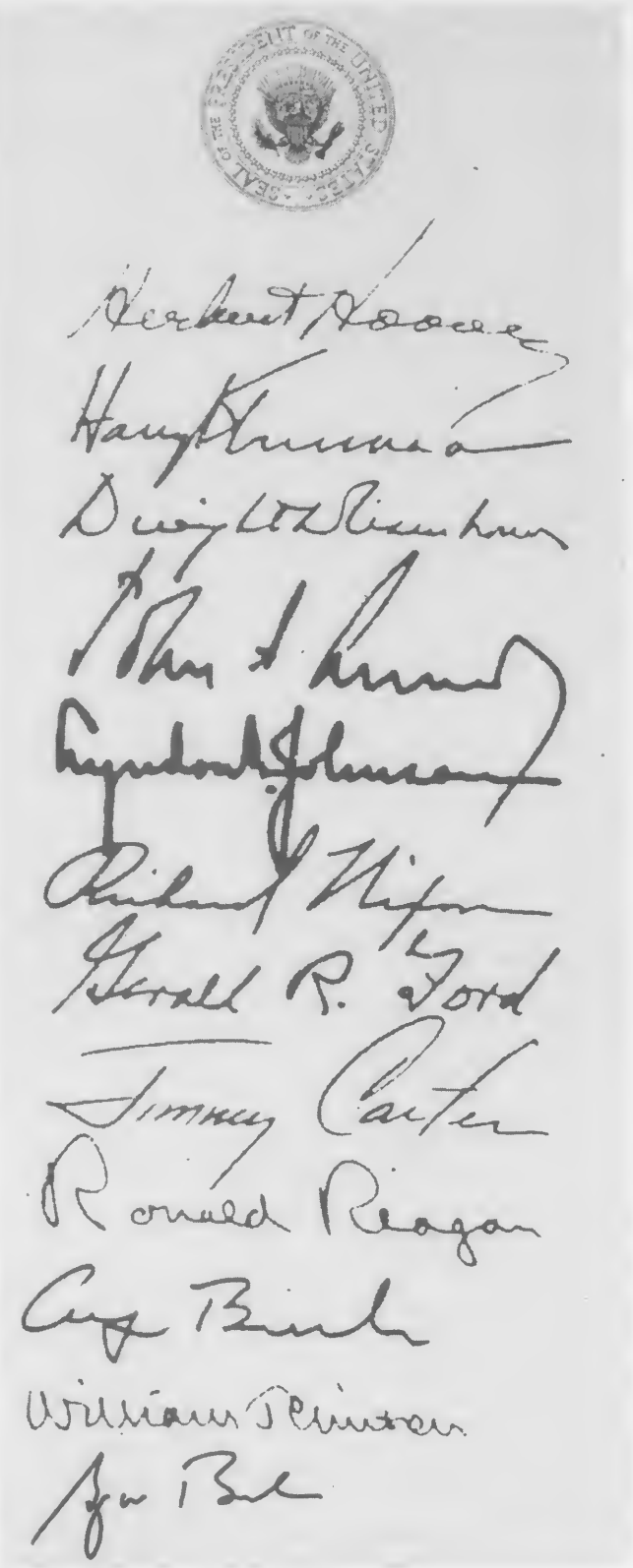

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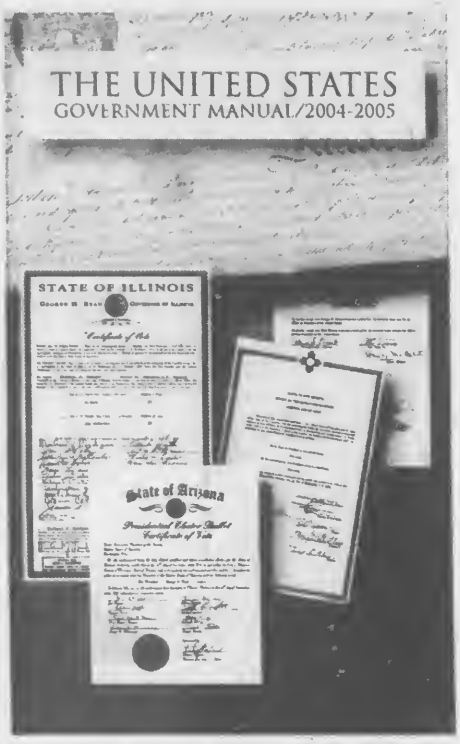

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