6–9–04 Wednesday
Vol. 69 No. 111 June 9, 2004

Pages 32247–32434

Federal Register

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–183–AD; Amendment 39–13660; AD 2004–12–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–202, –203, –223, and –243 Airplanes, and A330–300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330–202, –203, –223, and –243 airplanes, and A330–300 series airplanes, that requires modification of the center box junction and upper sections of the center fuselage to reinforce the frame base junction, and related corrective action. This action is necessary to prevent fatigue cracking, which could result in reduced structural integrity of the fuselage. This action is intended to address the identified unsafe condition.

DATES: Effective July 14, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 14, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A330–202, –203, –223, and –243 airplanes, and A330–300 series airplanes, was published in the **Federal Register** on March 11, 2004 (69 FR 11552). That action proposed to require modification of the center box junction and upper sections of the center fuselage to reinforce the frame base junction, and related corrective action.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Requests To Change Compliance Time

One commenter asks that the compliance times specified in paragraphs (a)(1) and (a)(2) of the proposed AD be changed to specify, ''since the first flight of the airplane,'' as mandated in the airworthiness directive issued by the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France. The commenter states that the first flight of the airplane should be the starting point to record and count flight hours and flight cycles, as recorded in the logbooks for the airframe and engines. The commenter adds that it should be the first flight after delivery of the airplane to the first operator.

The FAA does not agree. The justification for the difference between the proposed AD and the DGACs airworthiness directive, as specified in the ''Differences'' section of the proposed AD, is the following: ''This decision is based on our determination that ''since the first flight of the airplane'' may be interpreted differently by different operators. We find that our proposed terminology is generally understood within the industry and records will always exist that establish these dates with certainty. In addition, we have determined that a 6-month grace period will ensure an acceptable level of safety and is an appropriate interval of time wherein the modification can be accomplished during scheduled maintenance intervals for the majority of affected operators.'' We have not changed the AD in this regard.

The same commenter asks that the effective date for the compliance time specified in paragraphs (a)(1)(ii) and (a)(2)(ii) of this proposed AD be changed to match the effective date of the airworthiness directive issued by the DGAC. The DGAC airworthiness directive was effective on November 9, 2002.

We do not agree. We do not express compliance times in terms of calendar dates unless engineering analysis establishes a direct relationship between the date and either the compliance threshold or the grace period. Additionally, in consideration of the average utilization rate by the affected U.S. operators, and the practical aspects of an orderly modification of the U.S. fleet during regular maintenance periods, we have determined that a grace period of 6 months after the effective date of this AD, is appropriate.

Another commenter asks that the 6-month grace period specified in paragraph (a)(2)(ii) of the proposed AD, for airplanes beyond the compliance threshold specified in paragraph (a)(2)(i) of the proposed AD, be extended to 18 months. The commenter states that it anticipates incorporation of the subject modification during upcoming C-checks, and that an 18-month compliance time would align with those maintenance checks. The commenter adds that if an operator has already accumulated more than 11,400 total flight cycles or 33,100 total flight hours on the airplane, the operator may be forced to do the subject modification outside of a heavy maintenance environment, which would extend the out-of-service time. The commenter notes that extending the grace period to 18 months would allow for accomplishment of the modification without specially scheduled downtime outside of scheduled maintenance.

We do not agree. In developing an appropriate compliance time for this action, we considered the safety implications, operators' normal maintenance schedules, and the compliance time recommended by the airplane manufacturer for the timely accomplishment of the required actions. In consideration of these items, we have determined that a grace period of 6 months will ensure an acceptable level of safety and is an appropriate interval of time wherein the required actions can be accomplished during scheduled maintenance intervals for the majority of affected operators. However, according to the provisions of paragraph (d) of this AD, we may approve requests to adjust the compliance time if the request includes data that justify that a different compliance time would provide an acceptable level of safety. We have not changed the AD in this regard.

Explanation of Change to Final Rule

The number of affected airplanes has changed since issuance of the proposed AD; therefore, we have changed the Cost Impact section in this final rule to reflect the correct number of airplanes.

Conclusion

We have carefully reviewed the available data and have determined that air safety and the public interest require adopting the AD with the change previously described. We have determined that this change will not significantly increase the economic burden on any operator or increase the scope of the AD.

Cost Impact

We estimate that 16 airplanes of U.S. registry will be affected by this AD, that it will take about 67 work hours per airplane to do the modification, and that the average labor rate is $65 per work hour. Required parts will cost about $1,420 per airplane. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $92,400, or $5,775 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2004–12–01 Airbus: Amendment 39–13660. Docket 2003–NM–183–AD.

Applicability: A330–202, –203, –223, and –243 airplanes, and A330–300 series airplanes; certificated in any category; on which Airbus Modification 49404 has not been done.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking, which could result in reduced structural integrity of the fuselage, accomplish the following:

Modification

(a) Modify the center box junction and upper bent sections of the center fuselage, between frame (FR) 40.3 and FR 45 at stringers 26 through 29, on the left and right sides of the airplane, by doing all the actions per the Accomplishment Instructions of Airbus Service Bulletin A330–53–3126, Revision 01, dated March 19, 2003. Do the modification at the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) For Model A330–301, –322, –321, –341, and –342 airplanes: Do the modification at the later of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Before the accumulation of 13,500 total flight cycles or 39,200 total flight hours since the date of issuance of the original Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever is first.

(ii) Within 6 months after the effective date of this AD.

(2) For Model A330–202, –203, –223, –243, –323, and –343 airplanes: Do the modification at the later of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Before the accumulation of 11,400 total flight cycles or 33,100 total flight hours since the date of issuance of the original Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever is first.

(ii) Within 6 months after the effective date of this AD.

Previously Accomplished Actions

(b) Accomplishment of the modification per Airbus Service Bulletin A330–53–3126, dated October 18, 2002, is considered acceptable for compliance with the modification required by paragraph (a) this AD.

Repair

(c) If any crack is found during accomplishment of the modification required by paragraph (a) of this AD, and the service bulletin recommends contacting Airbus for appropriate action: Before further flight, repair per a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent).

Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(e) Unless otherwise provided in this AD, the actions shall be done in accordance with Airbus Service Bulletin A330–53–3126, Revision 01, dated March 19, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton,

Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Note 1: The subject of this AD is addressed in French airworthiness directive 2002–528(B), dated October 30, 2002.

Effective Date

(f) This amendment becomes effective on July 14, 2004.

Issued in Renton, Washington, on May 28, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–12822 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–244–AD; Amendment 39–13661; AD 2004–12–02]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model BAe.125 Series 800A, 800A (C–29A), and 800B Airplanes; and Model Hawker 800 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Raytheon Model BAe.125 series 800A, 800A (C–29A), and 800B airplanes; and Model Hawker 800 airplanes, that requires a one-time inspection of certain wire bundles for discrepancies and related corrective action. This action is necessary to find and fix chafing and damage to the wire bundles, which could result in electrical arcing and heat damage in a potential fuel zone and possible fire or explosion in the fuel tank. This action is intended to address the identified unsafe condition.

DATES: Effective July 14, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 14, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Philip Petty, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4139; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Raytheon Model BAe.125 series 800A, 800A (C–29A), and 800B airplanes; and Model Hawker 800 airplanes was published in the **Federal Register** on March 25, 2004 (69 FR 15264). That action proposed to require a one-time inspection of certain wire bundles for discrepancies and related corrective action.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been submitted on the proposed AD or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Cost Impact

There are about 184 airplanes of the affected design in the worldwide fleet. We estimate that 110 airplanes of U.S. registry will be affected by this AD, that it will take about 1 work hour per airplane to accomplish the inspection, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $7,150, or $65 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2004–12–02 Raytheon Aircraft Company: Amendment 39–13661. Docket 2003–NM–244–AD.

Applicability: Model BAe.125 series 800A, 800A (C–29A), and 800B airplanes; and Model Hawker 800 airplanes, as listed in Raytheon Service Bulletin SB 24–3588, Revision 1, dated September 2003; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To find and fix chafing and damage to certain wire bundles, which could result in electrical arcing and heat damage in a potential fuel zone and possible fire or explosion in the fuel tank, accomplish the following:

One-Time Inspection/Corrective Action

(a) Within 125 flight hours or 90 days after the effective date of this AD, whichever is first: Do a one-time detailed inspection for discrepancies of the wire bundles extending from relays 'JT' and 'KT' on Panel 'JA,' and the wire bundle entering pressure bung 'DD'; and do any related corrective action; by doing all the actions per Part 3.A. of the Accomplishment Instructions of Raytheon Service Bulletin SB 24–3588, Revision 1, dated September 2003. Do any related corrective action before further flight.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Inspections/Corrective Action Accomplished Per Previous Issue of Service Bulletin

(b) Inspections and corrective action accomplished before the effective date of this AD per Raytheon Service Bulletin SB 24–3588, dated February 2003, are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, Wichita Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

Incorporation by Reference

(d) Unless otherwise provided in this AD, the actions shall be done in accordance with Raytheon Service Bulletin SB 24–3588, Revision 1, dated September 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Effective Date

(e) This amendment becomes effective on July 14, 2004.

Issued in Renton, Washington, on May 28, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–12821 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–337–AD; Amendment 39–13663; AD 2004–12–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and A300 B4 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300 B2 and A300 B4 series airplanes, that requires modification of the 107VU electronics rack in the avionics compartment to ensure that fluid does not enter the rack. This action is necessary to prevent the loss of electrical power during flight, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective July 14, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 14, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A300 B2 and A300 B4 series airplanes was published in the **Federal Register** on March 5, 2004 (69 FR 10383). That action proposed to require modification of the 107VU electronics rack in the avionics compartment to ensure that fluid does not enter the rack.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

We have determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

We estimate that 120 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $65 per work hour. Required parts will cost approximately $390 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $78,000, or $650 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various

levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2004–12–04 Airbus: Amendment 39–13663. Docket 2002–NM–337–AD.

Applicability: Model A300 B2 and A300 B4 series airplanes, except those on which Airbus Modification 12447 has been accomplished; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fluid from entering the 107VU electronics rack, which could result in the loss of electrical power during flight, and consequent reduced controllability of the airplane, accomplish the following:

Modification

(a) Within 12 months after the effective date of this AD, modify the 107VU electronics rack in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–24–0098, dated June 13, 2002.

Alternative Methods of Compliance

(b) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(c) The actions shall be done in accordance with Airbus Service Bulletin A300–24–0098, dated June 13, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Note 1: The subject of this AD is addressed in French airworthiness directive 2002–579(B) R1, dated February 19, 2003.

Effective Date

(d) This amendment becomes effective on July 14, 2004.

Issued in Renton, Washington, on May 28, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–12819 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–94–AD; Amendment 39–13664; AD 2004–12–05]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all BAE Systems (Operations) Limited Model BAe 146 series airplanes, that requires repetitive detailed inspections of the inside of each air conditioning sound-attenuating duct, and corrective actions as necessary. This action is necessary to prevent impairment of the operational skills and abilities of the flightcrew caused by the inhalation of agents released from oil or oil breakdown products, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective July 14, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 14, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all BAE Systems (Operations) Limited Model BAe 146 series airplanes published in the **Federal Register** on April 15, 2004 (69 FR 19954). That action proposed to require repetitive detailed inspections of the inside of each air conditioning sound-attenuating duct, and corrective actions as necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

We have determined that air safety and the public interest require the adoption of the rule as proposed.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

We estimate that 20 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per airplane to accomplish the required actions, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $6,500, or $325 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2004–12–05 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–13664. Docket 2003–NM–94–AD.

Applicability: All Model BAe 146 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent impairment of the operational skills and abilities of the flightcrew caused by the inhalation of agents released from oil or oil breakdown products, which could result in reduced controllability of the airplane, accomplish the following:

Repetitive Inspections and Corrective Action

(a) Within 120 days or 500 flight cycles after the effective date of this AD, whichever is first: Do a detailed inspection of the inside of each of the four air conditioning sound-attenuating ducts for the presence of oil contamination, and corrective actions as applicable. Do all of the applicable actions per BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–156, dated October 31, 2002. Any corrective action must be done before further flight. Repeat the inspection thereafter at intervals not to exceed 4,000 flight cycles.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, *etc.*, may be used. Surface cleaning and elaborate access procedures may be required.''

Submission of Information Not Required

(b) Although the service bulletin specifies to report inspection results to the manufacturer, this AD does not include such a requirement.

Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(d) The actions shall be done in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–156, dated October 31, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Note 2: The subject of this AD is addressed in British airworthiness directive 003–10–2002.

Effective Date

(e) This amendment becomes effective on July 14, 2004.

Issued in Renton, Washington, on May 28, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–12818 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16693; Airspace Docket No. 03–AGL–21]

Establishment of Class D Airspace; St. Cloud, MN; Modification of Class E Airspace; St. Cloud, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace at St. Cloud, MN, and modifies Class E airspace at St. Cloud, MN. Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPS) have been developed for St. Cloud Regional Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing these approaches. Additionally, an Air Traffic Control Tower is under construction. This action would establish a radius of Class D airspace, and increase the radius of the existing Class E airspace for St. Cloud Regional Airport.

EFFECTIVE DATE: 0901 UTC, August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Patricia A. Graham, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, February 25, 2004, the FAA proposed to amend 14 CFR part 71 to establish Class D airspace and modify Class E airspace at St. Cloud, MN (69 FR 8579). The proposal was to establish Class D and modify Class E airspace, extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace designations are published in paragraph 5000, and Class E airspace areas extending upward from 700 feet above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9L dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class D airspace at St. Cloud, MN, and modifies Class E airspace at St. Cloud, MN, to accommodate aircraft executing instrument flight procedures into and out of St. Cloud Regional Airport. The area will be depicted on appropriate aeronautical charts.

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 will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; 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 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

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

* * * * *

Paragraph 5000 Class D airspace

* * * * *

AGL MN D St. Cloud, MN [New]

St. Cloud Regional Airport, MN
(Lat.45°32′48″ N., long.94°03′36″ W.)

That airspace extending upward from the surface to and including 3,500 feet MSL within a 4.1-mile radius of the St. Cloud Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

AGL MN E5 St. Cloud, MN [Revised]

St. Cloud Regional Airport, MN
(Lat.45°32′48″ N., long.94°03′36″ W.)
St. Cloud VOR/DME
(Lat.45°32′58″ N., long.94°03′31″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the St. Cloud Regional Airport and within 2.4 miles each side of the St. Cloud VOR/DME 143° extending from the 6.6-mile radius to 7.2 miles southeast of the airport.

* * * * *

Paragraph 6002 Class E airspace designated as surface areas.

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AGL MN E2 St. Cloud, MN [Revised]

St. Cloud Regional Airport, MN
(Lat.45°32′48″ N., long.94°03′36″ W.)
St. Cloud VOR/DME
(Lat.45°32′58″ N., long.94°03′31″ W.)

Within a 4.1-mile radius of the St. Cloud Regional Airport and within 2.4 miles each side of the St. Cloud VOR/DME 143° radial, extending from the 4.1-mile radius to 7.2 miles southeast of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E airspace designated as an extension to a Class D or Class E surface area.

* * * * *

AGL MN E4 St. Cloud, MN [NEW]

St. Cloud Regional Airport, MN
(Lat.45°32′48″ N., long.94°03′36″ W.)
St. Cloud VOR/DME
(Lat.45°32′58″ N., long.94°03′31″ W.)

That airspace extending upward from the surface within 2.4 miles each side of the St. Cloud VOR/DME 143° radial extending from the 4.1-mile radius of the St. Cloud Regional Airport to 7.2 miles southeast of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois, on June 1, 2004.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 04–12985 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17345; Airspace Docket No. 04–ASO–5]

Amendment of Class D and E Airspace; Goldsboro, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D and E5 airspace at Goldsboro, NC. As a result of an evaluation, it has been determined a modification should be made to the Goldsboro, NC, Class D and E5 airspace areas to contain the Tactical Air Navigation (TACAN) or Instrument Landing System (ILS) Standard Instrument Approach Procedures (SIAPs) to Seymour Johnson AFB. Additional surface area airspace and controlled airspace extending upward 700 feet Above Ground Level (AGL) is needed to contain the SIAP.

DATES: *Effective Date:* 0901 UTC, August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

On April 13, 2004, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class D and E5 airspace at Goldsboro, AL, (69 FR 19359). This action provides adequate Class D and E5 airspace for IFR operations at Seymour Johnson AFB. Designations for Class D airspace areas extending upward from the surface of the earth and Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraphs 5000 and 6005 respectively, of FAA Order 7400.9L, dated September 2, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR part 71.1. The Class D and E designations listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class D and E5 airspace at Goldsboro, NC.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 107(g), 40103, 40113, 40120, E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 380.

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace

* * * * *

ASO NC D Goldsboro, NC [Revised]

Goldsboro, Seymour Johnson AFB, NC
(Lat. 35°20′22″N., long. 77°57′38″W.)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 5.7-mile radius of Seymour Johnson AFB.

* * * * *

Paragraph 6005 Class E Airspace Designated as Surface Areas

* * * * *

ASO NC E5 Goldsboro, NC [Revised]

Goldsboro, Seymour Johnson, AFB, NC
(Lat. 35°20′22″ N., long. 77°57′38″ W.)
Seymour Johnson TACAN
(Lat. 35°20′06″ N., long. 77°58′18″ W.)
Goldsboro-Wayne Municipal Airport
(Lat. 35°27′38″ N., long. 77°57′54″ W.)
Mount Olive Municipal Airport
(Lat. 35°13′20″ N., long. 78°02′16″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Seymour Johnson AFB and within 2.5 miles each side of the Seymour Johnson TACAN 265° radial extending from the 6.6-mile radius to 12 miles west of the TACAN; within a 5-mile radius of the Goldsboro-Wayne Municipal Airport and within a 5-mile radius of Mount Olive Municipal Airport.

* * * * *

Issued in College Park, Georgia, on May 26, 2004.

Jeffrey U. Vincent,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 04–12982 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17513; Airspace Docket No. 04–AEA–04]

Establishment of Class E Airspace; Cooperstown, NY

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Cooperstown, NY. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft operating into Cooperstown-Westville Airport, Cooperstown, NY, under Instrument Flight Rules (IFR).

DATES: *Effective Date:* 0901 UTC November 25, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On April 28, 2004, a notice proposing to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at Cooperstown, NY, was published in the **Federal Register** (69 FR 23161–23162). The proposed action would provide controlled airspace to accommodate Standard Instrument Approach Procedures (SIAP), based on area navigation (RNAV), to Cooperstown-Westville Airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before May 28, 2004. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace area designations for airspace extending upward from the surface of the earth are published in paragraph 6005 of FAA

Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting IFR operations within an 8-mile radius of Cooperstown-Westville Airport, Cooperstown, NY.

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 will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA NY E5 Cooperstown, NY (New)

Cooperstown-Westville Airport,
Cooperstown, NY
(Lat. 42°37′45″ N., long. 74°53′28″ W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Cooperstown-Westville Airport, excluding that portion that coincides with the Oneonta, NY, Class E airspace area.

* * * * *

Issued in Jamaica, New York, on June 1, 2004.

John G. McCartney,

Assistant Manager, Air Traffic Division, Eastern Region.

[FR Doc. 04–12984 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17429; Airspace Docket No. 04–ACE–28]

Modification of Class E Airspace; Scottsbluff, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by revising Class E airspace areas at Scottsbluff, NE. William B. Heilig Field has been renamed Western Nebraska Regional Airport/William B. Heilig Field and its airport reference point (ARP) revised. The Scottsbluff Class E airspace surface area and Class E airspace area extending upward from 700 feet above the surface (AGL) are each expanded and the extensions to these airspace areas eliminated and/or redefined. The effect of this rule is to provide controlled airspace of appropriate dimensions for aircraft departing and executing instrument approach procedures (IAPs) at Western Nebraska Regional Airport/William B. Heilig Field, to replace ''William B. Heilig Field'' with ''Western Nebraska Regional Airport/William B. Heilig Field'' in the legal description of Scottsbluff, NE Class E airspace areas, to incorporate the correct ARP and to bring the Scottsbluff, NE Class E airspace areas and their legal descriptions into compliance with FAA Orders.

DATES: This direct final rule is effective on 0901 UTC, September 30, 2004. Comments for inclusion in the Rules Docket must be received on or before July 29, 2004.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–17429/ Airspace Docket No. 04–ACE–28, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E surface area and the Class E airspace area extending upward from 700 feet AGL at Scottsbluff, NE. William B. Heilig Field has been renamed Western Nebraska Regional Airport/ William B. Heilig Field and its ARP revised. Neither airspace area complies with airspace requirements for diverse departures as set forth in FAA Order 7400.2E, Procedures for Handling Airspace Matters. Extensions to both airspace area are eliminated and/or redefined in order to comply with FAA Order 8260.19C, Flight Procedures and Airspace. ''William B. Heilig Field'' is replaced with ''Western Nebraska Regional Airport/William B. Heilig Field'' in the legal descriptions of Scottsbluff, NE Class E airspace areas and the ARP amended to reflect current data. The Scottsbluff, NE Class E surface area is increased from a 4.5-mile radius to a 5.3-mile radius of Western Nebraska Regional Airport/William B. Heilig Field, thereby complying with requirements for diverse departures and eliminating the need for extensions.

The Class E airspace area extending upward from 700 feet above the surface is increased from a 6.8-mile radius to a 7.8-radius of Western Nebraska Regional Airport/William B. Heilig Field in order to comply with the criteria for 700 feet AGL airspace required for diverse departures. The east extension of this airspace area is redefined as extending 7 miles east of the Scottsbluff collocated very high frequency omni-directional radio range and tactical air navigational

aid (VORTAC) versus the current 11.2 miles and its width reduced to from 4 miles south and 6 miles north to 2.5 five miles each side of the VORTAC 078° radial. The southeast extension is no longer required and its therefore eliminated. The west extension of this airspace area is lengthened .2 miles and redefined as 2.5 miles each side of the Scottsbluff VORTAC 256° radial versus the current 4 miles each side. The northwest extension is redefined in relation to the Gering nondirectional radio beacon (NDB), is reduced in length by 2.4 miles and reduced in width from 4 miles southwest and 6 miles northeast to 2.5 five miles each side of the 317° bearing from the Gering NDB.

These modifications bring the legal descriptions of the Scottsbluff, NE Class E airspace areas into compliance with FAA Orders 7400.2E and 8260.19C. Class E airspace areas designated as surface areas are published in Paragraph 6002 of FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of the same Order. The Class E airspace designations listed in this document would be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, and adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking buy submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2004–17429/Airspace Docket No. 04–ACE–28.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, 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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ACE NE E2 Scottsbluff, NE

Scottsbluff, Western Nebraska Regional Airport/William B. Heilig Field, NE (lat. 41°52′27″ N., long. 103°35′44″ W.)

Within a 5.3-mile radius of Western Nebraska Regional Airport/William B. Heilig Field.

* * * * *

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

* * * * *

ACE NE E5 Scottsbluff, NE

Scottsbluff, Western Nebraska Regional Airport/William B. Heilig Field, NE (lat. 41°52′27″ N., long. 103°35′44″ W.)
Scottsbluff VORTAC
(lat. 41°53′39″ N., long. 103°28′55″ W.)
Gering NDB
(lat. 41°56′40″ N., long. 103°40′59″ W.)

That airspace extending upward from 700 feet above the surface within a 7.8 radius of Western Nebraska Regional Airport/William B. Heilig Field and within 2.5 miles each side of the Scottsbluff VORTAC 078° radial extending from the 7.8-mile radius of the airport to 7 miles east of VORTAC and within 2.5 miles each side of the VORTAC 256° radial extending from the 7.8-mile radius of the airport to 17.2 miles west of VORTAC and within 2.5 miles each side of the 317° bearing from the Gering NDB extending from the 7.8-mile radius of the airport to 7 miles northwest of the NDB.

* * * * *

Issued in Kansas City, MO, on May 25, 2004.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–12983 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16544; Airspace Docket No. 03–AGL–19]

Modification of Class E Airspace; Greencastle, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Greencastle, IN. Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPS) have been developed for Putnam County Airport. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing these approaches. This action increases the area of the existing controlled airspace for Putnam County Airport.

DATES: *Effective Date:* 0901 UTC, August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Patricia A. Graham, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, January 14, 2004, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Greencastle, IN (69 FR 2089). The proposal was to modify controlled airspace extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9L dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Greencastle, IN, to accommodate aircraft executing instrument flight procedures into and out of Putnam County Airport. The area will be depicted on appropriate aeronautical charts.

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, proposed regulation—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AGL IN E5 Greencastle, IN [Revised]

Greencastle, Putnam County Airport, IN.
(Lat. 39°37′49″N, long. 86°48′50″W.)

That airspace extending upward from 700 feet above the surface within an 8.9-mile radius of the Putnam County Airport.

* * * * *

Issued in Des Plaines, Illinois, on May 19, 2004.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 04–12979 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

14 CFR Part 71

[Docket No. FAA–2003–15876; Airspace Docket No. 03–AGL–14]

Modification of Class E Airspace; Zanesville, OH; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error contained in a final rule that was published in the **Federal Register** on Wednesday, December 24, 2003 (68 FR 74476). The final rule modified Class E airspace at Zanesville, OH.

DATES: *Effective Date:* 0901 UTC, August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Patricia A. Graham, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018, telephone: (847) 294–7477.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 03–31736 published on Wednesday, December 24, 2003 (68 FR 74476), modified Class E airspace at Zanesville, OH. A radius of Class E airspace around a point of space, was left out of the docket's legal description. This action corrects this error.

■ Accordingly, pursuant to the authority delegated to me, the error for the Class E airspace, Zanesville, OH, as published in the **Federal Register** Wednesday, December 24, 2003, (68 FR 74476), (FR Doc. 03–31736), is corrected as follows:

§ 71.1 [Corrected]

■ 1. On page 74477, Column 2; in the legal description, after the words: ''southwest of the VOR/DME'', and before the word: ''excluding'', add: ''and within a 6-mile radius of the point in space serving the Bethesda Hospital,''.

Issued in Des Plaines, Illinois, on May 19, 2004.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 04–12978 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16225; Airspace Docket No. 03–AGL–18]

Modification of Class E Airspace; Ashtabula, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Ashtabula, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) 282° helicopter point in space approach has been developed for Ashtabula County Medical Center, Ashtabula, OH. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing this approach. This action increases the radius of the existing controlled airspace for Ashtabula County Airport.

EFFECTIVE DATE: 0901 UTC, August 5, 2004.

FOR FURTHER INFORMATION CONTACT: Patricia A. Graham, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, January 14, 2004, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Ashtabula, OH (69 FR 2090). The proposal was to modify controlled airspace extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9L dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Ashtabula, OH, to accommodate aircraft executing instrument flight procedures into and out of Ashtabula County Medical Center. The area will be depicted on appropriate aeronautical charts.

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 proposed regulation—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AGL OH E5 Ashtabula, OH [Revised]

Ashtabula County Airport, IN
(Lat. 41°46′41″ N., long. 80°41′44″ W.)

Ashtabula, Ashtabula County Medical Center, OH

Point in Space Coordinates
(Lat. 41°52′47″ N., long. 80°46′42″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Ashtabula County Airport, and within a 6-mile radius of the Point in Space serving Ashtabula County Medical Center.

Issued in Des Plaines, Illinois, on May 19, 2004.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 04–12976 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2004–17772; Airspace Docket No. 04–AEA–05]

RIN 2120–AA66

Amendment to Restricted Area 6604 (R–6604); Chincoteague Inlet, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Restricted Area 6604 (R–6604), Chincoteague Inlet, VA, by subdividing the airspace into two separate areas (R–6604A and R–6604B). This will not affect the outer boundary of restricted airspace. The FAA is taking this action to enhance the management of air traffic operations along major East Coast Federal airways and jet routes.

DATES: *Effective Date:* 0901 UTC, August 5, 2004.

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

SUPPLEMENTARY INFORMATION

Background

In its current configuration, R–6604 infringes on the protected airspace for the segments of Jet Routes 121 and 124 (J–121 and J–124), and VOR Federal Airway 139 (V–139), that extend between the Snow Hill, MD, very high frequency omnidirectional range/tactical air navigation aid (VORTAC) and the Norfolk, VA, VORTAC. When R–6604 is active, the FAA must reroute aircraft off of those segments in order to avoid the restricted airspace. During

periods of high traffic demand or severe weather, this situation contributes to increased controller workload and air traffic delays.

As a result of discussions between the FAA and the National Aeronautics and Space Administration (NASA), the using agency for R–6604, it was determined that certain NASA missions do not require use of the entire restricted area as it is currently charted. The FAA and NASA have agreed to internally subdivide R–6604 into two areas which can be activated independently based on NASA's mission requirements. Subdividing the airspace in this manner will allow NASA to release, for FAA use, the part of the restricted area that conflicts with the above routes (subject to NASA mission requirements). This would permit aircraft to continue flight along J–121, J–124, or V–139, reducing both controller workload and air traffic congestion.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 73 (part 73) by subdividing R–6604 into two separate areas within the current outer boundaries of existing restricted airspace. The subdivided areas will be designated as R–6604A and R–6604B. This subdivision will not change the external boundaries, altitudes, time of designation, or activities conducted within the restricted area.

These changes will enhance the management of air traffic operations along heavily traveled East Coast air traffic routes. Therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Section 73.66 of part 73 was republished in FAA Order 7400.8L, dated October 7, 2003.

This regulation is limited to 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. It has been determined that 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.

Environmental Review

This action is a minor administrative change to internally subdivide an existing restricted area. There are no changes to air traffic procedures or routes as a result of this action. Therefore, this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy Act of 1969.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 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.

§ 73.66 [Amended]

■ 2. § 73.66 is amended as follows:

* * * * *

R–6604 Chincoteague Inlet, VA [Revoked]

* * * * *

R–6604A Chincoteague Inlet, VA [Added]

Boundaries. Beginning at lat. 37°55′25″ N., long. 75°24′54″ W.; to lat. 37°51′30″ N., long. 75°17′14″ W.; then along a line 3 NM from and parallel to the shoreline to lat. 37°38′45″ N., long. 75°31′19″ W.; to lat. 37°47′00″ N., long. 75°31′18″ W.; to lat. 37°51′00″ N., long. 75°29′36″ W.; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. FAA, Washington ARTCC.

Using agency. Chief, Wallops Station, National Aeronautics and Space Administration, Wallops Island, VA.

R–6604B Chincoteague Inlet, VA [Added]

Boundaries. Beginning at lat. 37°56′45″ N., long. 75°27′29″ W.; to lat. 37°55′25″ N., long. 75°24′54″ W.; to lat. 37°51′00″ N., long. 75°29′36″ W.; to lat. 37°47′00″ N., long. 75°31′18″ W.; to 37°50′24″ N., long. 75°31′19″ W.; to the point of beginning.

Designated altitudes. Unlimited.

Time of designation. Continuous.

Controlling agency. FAA, Washington ARTCC.

Using agency. Chief, Wallops Station, National Aeronautics and Space Administration, Wallops Island, VA.

* * * * *

Issued in Washington, DC, on May 27, 2004.

Paul Gallant,

Acting Manager, Airspace and Rules, ATO–R.

[FR Doc. 04–12968 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–P

RAILROAD RETIREMENT BOARD

20 CFR Part 321

RIN 3220–AB57

Electronic Filing of Applications and Claims for Benefits Under the Railroad Unemployment Insurance Act

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends its regulations to permit the filing of applications and claims for benefits under the Railroad Unemployment Insurance Act via the Internet electronically. The Government Paperwork Elimination Act provides that Federal agencies are required to provide ''for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper''. The new part will permit the filing of applications and claims for benefits under the Railroad Unemployment Insurance Act via the Internet electronically.

DATES: Effective Date: This rule is effective June 9, 2004.

ADDRESSES: Comments, if any, may be addressed to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General Counsel, (312) 751–4945, TTD (312) 751–4701.

SUPPLEMENTARY INFORMATION: This amendment adds a new part 321 to the Board's regulations (20 CFR part 321) to permit the filing of applications and claims for benefits under the Railroad Unemployment Insurance Act via the Internet electronically. The Government Paperwork Elimination Act, Public Law 105–277, sections 1701–1710 (codified as a note after 44 U.S.C. 3504) provides that Federal agencies are required to provide ''for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper''.

The new part 321 provides that both an application and claims for benefits under the Railroad Unemployment Insurance Act may be filed electronically through the Board's Internet Web site utilizing a User ID and a PIN/Password system. The new part further provides that determinations regarding those applications and claims will be adjudicated in accord with established procedures.

In establishing the authenticity of the person who is filing an application or claim for benefits, the Board intends to use a User ID and a PIN/Password system for identification as a substitute for a signature.

The Board currently uses a User ID and a PIN/Password system to allow employers access to RRBLINK to make electronic tax deposits and submit Form DC–1, ''Employer's Quarterly Report of Contributions Under the RUIA'' (Railroad Unemployment Insurance Act) electronically. A PIN/Password system is used to access the Pay.gov Web site. The U.S. Department of the Treasury operates the Pay.gov Web site. Such a system is also consistent with the guidance provided by the Department of Justice regarding the use of electronic processes.

The Board published part 321 as a proposed rule on November 7, 2003 (68 FR 63041). Only one comment was received. The commenter found the reference to the ''User ID/PIN/Password system'' confusing. In this final rule publication we have clarified that the person will be identified by a User ID and a PIN that will serve as the password to make transactions through the system.

The Board, with the concurrence of the Office of Management and Budget, has determined that this final rule does not constitute a significant regulatory action under Executive Order 12866. Therefore, no regulatory analysis is required. The Office of Management and Budget has approved information collections associated with this rule under control numbers 3220–0022, 3220–0039, and 3220–0198.

List of Subjects in 20 CFR Part 321

Claims, Railroad unemployment insurance, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble, the Railroad Retirement Board amends title 20, chapter II, of the Code of Federal Regulations by adding a new part 321 to read as follows:

PART 321—ELECTRONIC FILING OF APPLICATIONS AND CLAIMS FOR BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Sec.
321.1 Filing applications electronically.
321.2 Filing claims for benefits electronically.

Authority: 45 U.S.C. 355 and 362(l).

§ 321.1 Filing applications electronically.

(a) *Electronic filing.* An application for benefits under the Railroad Unemployment Insurance Act may be filed electronically through the Board's Internet Web site, *http://www.rrb.gov*, utilizing a User ID and a PIN/Password.

(b) *Adjudication of applications filed electronically.* An application filed electronically shall be adjudicated in accordance with the procedures set forth in this part.

(c) *Date of filing.* The date of filing for an application filed electronically shall be the date that the electronic filing of the application is accepted by the Board's electronic system. If an attempt to file an application through the Board's electronic system is unsuccessful and is rejected by that system, the claimant must submit another application. If the subsequent application, filed either electronically or on paper, is received by the Board within 30 days from the date of the notification that the initial filing attempt was rejected, the Board will establish the filing date of the subsequent application as the date the rejected application was attempted to be filed.

§ 321.2 Filing claims for benefits electronically.

(a) *Electronic filing.* A claim for benefits under the Railroad Unemployment Insurance Act may be filed electronically through the Board's Internet Web site, *http://www.rrb.gov*, utilizing a User ID and a PIN/Password.

(b) *Adjudication of claims filed electronically.* A claim for benefits under the Railroad Unemployment Insurance Act filed electronically shall be adjudicated in accordance with the procedures set forth in this part.

(c) *Date of filing.* The date of filing for a claim for benefits under the Railroad Unemployment Insurance Act filed electronically shall be the date that the electronic filing of the claim is accepted by the Board's electronic system. If an attempt to file a claim for benefits under the Railroad Unemployment Insurance Act is unsuccessful and is rejected by the Board's electronic system, the claimant must submit another claim for benefits. If the subsequent claim for benefits, either filed electronically or on paper, is received by the Board within 30 days from the date of the notification that the initial filing was rejected, the Board will establish the filing date of the subsequent claim as the date the rejected claim was attempted to be filed.

Dated: June 3, 2004.

By Authority of the Board.
For the Board,

Carolyn Rose,

Staff Assistant, Office of Secretary to the Board.

[FR Doc. 04–13009 Filed 6–8–04; 8:45 am]

BILLING CODE 7905–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulation No. 4]

RIN 0960–AF29

Revised Medical Criteria for Evaluating Skin Disorders

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are revising the criteria in the Listing of Impairments (the listings) that we use to evaluate claims involving skin disorders. We apply these criteria when you claim benefits based on disability under title II and title XVI of the Social Security Act (the Act). The revisions reflect advances in medical knowledge, treatment, and methods of evaluating skin disorders.

DATES: These rules are effective July 9, 2004.

ADDRESSES: *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: Suzanne DiMarino, Social Insurance Specialist, Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1769 or TTY (410) 966–5609. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet Web site, Social Security Online, at *http://www.socialsecurity.gov/.*

SUPPLEMENTARY INFORMATION: We are revising and making final the rules we proposed in the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on December 10, 2001

(66 FR 63634). We provide a summary of the provisions of the final rules below, with an explanation of the changes we have made from the text in the NPRM. We then provide a summary of the public comments and our reasons for adopting or not adopting the recommendations in the summaries of the comments in the section, ''Public Comments.'' The final rule language follows the comment section.

What Programs Do These Final Rules Affect?

These final rules affect disability determinations and decisions that we make under title II and title XVI of the Act. In addition, to the extent that Medicare entitlement and Medicaid eligibility are based on whether you qualify for disability benefits under title II or title XVI, these final rules also affect the Medicare and Medicaid programs.

Who Can Get Disability Benefits?

Under title II of the Act, we provide for the payment of disability benefits if you are disabled and belong to one of the following three groups:

- Workers insured under the Act,
- Children of insured workers, and
- Widows, widowers, and surviving divorced spouses (see § 404.336) of insured workers.

Under title XVI of the Act, we provide for Supplemental Security Income (SSI) payments on the basis of disability if you are disabled and have limited income and resources.

How Do We Define Disability?

Under both the title II and title XVI programs, disability must be the result of any medically determinable physical or mental impairment or combination of impairments that is expected to result in death or which has lasted or can be expected to last for a continuous period of at least 12 months. Our definitions of disability are shown in the following table:

If you file a claim under	And you are	Disability means you have a medically determinable impairment(s) as described above and that results in . . . .
Title II	An adult or child	The inability to do any substantial gainful activity (SGA).
Title XVI	An individual age 18 or older	The inability to do any SGA.
Title XVI	An individual under age 18	Marked and severe functional limitations.

How Do We Decide Whether You Are Disabled?

To decide whether you are disabled under the Act, we use a five-step ''sequential evaluation process,'' which we describe in our regulations at §§ 404.1520 and 416.920. We follow the five steps in order and stop as soon as we can make a determination or decision. The steps are:

1. Are you working, and is the work you are doing substantial gainful activity? If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled, regardless of your medical condition or your age, education, and work experience. If you are not, we will go on to step 2.

2. Do you have a ''severe'' impairment? If you do not have an impairment or combination of impairments that significantly limits your physical or mental ability to do basic work activities, we will find that you are not disabled. If you do, we will go on to step 3.

3. Do you have an impairment(s) that meets or equals the severity of an impairment in the listings? If you do, and the impairment(s) meets the duration requirement, we will find that you are disabled. If you do not, we will go on to step 4.

4. Do you have the residual functional capacity to do your past relevant work? If you do, we will find that you are not disabled. If you do not, we will go on to step 5.

5. Does your impairment(s) prevent you from doing any other work that exists in significant numbers in the national economy, considering your residual functional capacity, age, education, and work experience? If it does, and it meets the duration requirement, we will find that you are disabled. If it does not, we will find that you are not disabled.

We use a different sequential evaluation process for children who apply for payments based on disability under SSI. If you are already receiving benefits, we also use a different sequential evaluation process when we decide whether your disability continues. See §§ 404.1594, 416.924, 416.994, and 416.994a of our regulations. However, all of these processes include steps at which we consider whether your impairment meets or medically equals one of our listings.

What Are the Listings?

The listings are examples of impairments that we consider severe enough to prevent you as an adult from doing any gainful activity. If you are a child seeking SSI benefits based on disability, the listings describe impairments that we consider severe enough to result in marked and severe functional limitations. Although the listings are contained only in appendix 1 to subpart P of part 404 of our regulations, we incorporate them by reference in the SSI program in § 416.925 of our regulations, and apply them to claims under both title II and title XVI of the Act.

How Do We Use the Listings?

The listings are in two parts. There are listings for adults (part A) and for children (part B). If you are an individual age 18 or over, we apply the listings in part A when we assess your claim, and we never use the listings in part B.

If you are an individual under age 18, we first use the criteria in part B of the listings. If the listings in part B do not apply, and the specific disease process(es) has a similar effect on adults and children, we then use the criteria in part A. (See §§ 404.1525 and 416.925.)

If your impairment(s) does not meet any listing, we will also consider whether it medically equals any listing; that is, whether it is as medically severe. (See §§ 404.1526 and 416.926.)

What If You Do Not Have an Impairment That Meets or Medically Equals a Listing?

We use the listings only to decide that individuals are disabled or that they are still disabled. We will never deny your claim because your impairment(s) does not meet or medically equal a listing. If you are not working and you have a severe impairment(s) that does not meet or medically equal any listing, we may still find you disabled based on other rules in the ''sequential evaluation process.'' Likewise, we will never

decide that your disability has ended only because your impairment(s) does not meet or medically equal a listing.

Also, when we conduct reviews to determine whether your disability continues, we will not find that your disability has ended because we have changed a listing. Our regulations explain that, when we change our listings, we continue to use our prior listings when we review your case, if you qualified for disability benefits or SSI payments based on our determination or decision that your impairment(s) met or medically equaled a listing. In these cases, we determine whether you have experienced medical improvement, and if so, whether the medical improvement is related to the ability to work. If your condition(s) has medically improved so that you no longer meet or medically equal the prior listing, we evaluate your case further to determine whether you are currently disabled. We may find that you are currently disabled, depending on the full circumstances of your case. See §§ 404.1594(c)(3)(i) and 416.994(b)(2)(iv)(A). If you are a child who is eligible for SSI payments, we follow a similar rule when we decide whether you have experienced medical improvement in your condition(s). See § 416.994a(b)(2).

Why Are We Revising the Listings for Skin Disorders?

We are revising the listings to update their medical criteria and to provide more information about how we evaluate skin disorders. We last published final rules containing comprehensive revisions to the skin disorder listings in the **Federal Register** on March 27, 1979 (44 FR 18170). In subsequent rules published on December 6, 1985 (50 FR 50068), we indicated that due to advances in medical treatment, technology, and program experience we would periodically review and update the listings. We published the latest extension for part A of the skin disorders listings, until July 1, 2005, in the **Federal Register** on June 20, 2003 (68 FR 36911).

When Will We Start To Use These Final Rules?

We will start to use these final rules on their effective date. We will continue to apply the prior rules until the effective date of these final rules. When the final rules become effective, we will apply them to new applications filed on or after the effective date of these rules.

As is our usual practice when we make changes to our regulations, we will apply these final rules on or after their effective date when we make a determination or decision in claims for benefits that are pending in our administrative review process, including those claims that are pending administrative review after remand to us from a Federal court. With respect to claims in which we have made a final decision, and that are pending judicial review in Federal court, we expect that the court's review of the Commissioner's final decision would be made in accordance with the rules in effect at the time of the final decision. If the court determines that the Commissioner's final decision is not supported by substantial evidence, or contains an error of law, we would expect that the court would reverse the final decision and remand the case for further administrative proceedings pursuant to the fourth sentence of section 205(g) of the Act, except in those few instances in which the court determines that it is appropriate to reverse the final decision and award benefits without remanding the case for further administrative proceedings. In those cases decided by a court after the effective date of the rules, where the court reverses the Commissioner's final decision and remands the case for further administrative proceedings, on remand, we will apply the provisions of these final rules to the entire period at issue in the claim.

What Do We Mean by ''Final Rules'' and ''Prior Rules''?

Even though these rules will not go into effect until 30 days after publication of this notice, for clarity we refer to the changes we are making here as the ''final rules'' and to the rules that will be changed by these final rules as the ''prior rules.''

How Long Will These Final Rules Be Effective?

These final rules will no longer be effective 8 years after the date on which they become effective, unless we extend them, or revise and issue them again.

What Revisions Are We Making With These Final Rules?

We are:

- Revising the headings of the listings to put them in plain language;
- Revising the order of the listings and updating the diagnostic groupings to more logically group skin disorders;
- Adding listings for xeroderma pigmentosum and other genetic photosensitivity disorders;
- Adding a new listing for burns that do not meet the requirements of listing 1.08;
- Providing a more uniform and clearly defined statement of severity required for a listing-level skin disorder;
- Expanding the guidance in the introductory text to the listings;
- Making nonsubstantive editorial changes to the prior listings and introductory text; and
- Adding a skin disorders body system in part B of appendix 1 to provide a set of childhood skin disorder listings.

How Are We Changing the Introductory Text to the Adult Skin Disorder Listings?

We are changing the heading from 8.00 Skin to 8.00 Skin Disorders. We are expanding and reorganizing the introductory text to the skin disorders listings in prior 8.00A and 8.00B to provide additional guidance in applying the skin disorders listings. In doing so, we are:

- Expanding and supplementing the first sentence of prior 8.00A and moving it into final 8.00C;
- Expanding and supplementing the second sentence of prior 8.00A and moving it into final 8.00C2 and 8.00G;
- Expanding the third sentence of prior 8.00A and moving it into final 8.00C4; and
- Expanding the material in 8.00B and moving it into final 8.00D.

8.00A—What Skin Disorders Do We Evaluate With These Listings?

This new section describes the kinds of skin disorders we evaluate under these listings.

8.00B—What Documentation Do We Need?

We are adding a new section that discusses the documentation we require when we evaluate the existence and severity of skin disorders. The section explains the information we expect to find in a complete dermatologic case record in order to assess the existence and severity of your impairment. It also explains that we may need laboratory findings or evidence from other medically acceptable methods consistent with the prevailing state of medical knowledge and clinical practice to confirm your diagnosis. In a nonsubstantive editorial revision, we clarified the language of the NPRM to explain that these are considerations we make whenever we assess the severity of skin disorders.

8.00C—How Do We Assess the Severity of Your Skin Disorder(s)?

This section, which is partially new and partially based on the first sentence of prior 8.00A, explains four factors that

we consider whenever we evaluate the severity of skin disorders. The section consists of four subsections.

Final section 8.00C1 defines extensive skin lesions. ''Extensive'' is a term we use in most of the final listings. We explain that the term ''extensive'' means lesions that involve multiple body sites or critical body areas and that result in ''a very serious limitation,'' a term we use to define an extreme limitation for purposes of determining listing-level severity in other regulations. Because extensive skin lesions result in a very serious limitation, we will often be able to determine whether your lesions meet the requirement of these listings based on the medical evidence in your case record, without the need to develop additional evidence about your ability to perform the specific activities in the examples set out in final sections 8.00C1a, C1b, and C1c.

We changed the phrase ''very serious limitations'' from the NPRM to ''a very serious limitation'' in response to a comment we describe below. We also made a number of editorial changes from the language of the NPRM to clarify our intent. For example, we removed the phrase ''sufficient surface area'' which we proposed in section 8.00C1 of the NPRM, because it was not specific and was unnecessary to the meaning of the sentence. Lesions that result in a very serious limitation are by definition of sufficient surface area to do so. In the examples, we also added the word ''both'' in front of the words ''hands,'' ''feet,'' and ''inguinal areas'' to be even clearer about our intent.

Final section 8.00C2 is a new section we added in response to comments that asked us to explain how we evaluate skin conditions that produce lesions that do not persist for at least 3 months but are subject to frequent flareups.

Final section 8.00C3, which was section 8.00C2 in the NPRM, explains that we evaluate symptoms (including pain) consistent with our rules in §§ 404.1528, 404.1529, 416.928, and 416.929. We revised this section to correct a technical error in the cross-references we used in the NPRM.

Final section 8.00C4, which was proposed section 8.00C3 in the NPRM, explains that while skin disorders frequently respond to treatment, there is a wide variation in how people respond to treatment, and that some impairments become resistant to treatment. We also note that treatment can have side effects that in themselves result in limitations. Therefore, we consider each case on an individual basis. In response to a comment, we added a reference to final section 8.00H in final section 8.00C4b to remind our adjudicators how to assess situations in which there is no treatment or in which treatment has not lasted for 3 months.

8.00D—How Do We Assess Impairments That May Affect the Skin and Other Body Systems?

This section revises prior section 8.00B. We are clarifying that other impairments besides the systemic ones we included in prior section 8.00B can involve the skin, and we explain how we evaluate such impairments under the listings. We are also expanding the list of examples of impairments that may affect the skin and other body systems.

In the final rules, we revised the heading of this section and reorganized its text for clarity. For example, we combined proposed sections 8.00D3 and 8.00D4 in final section 8.00D3 because both proposed sections addressed connective tissue and other immune system disorders. In response to a comment, we added a reference to Sjögren's syndrome in the examples of connective tissue disorders and other immune disorders we include in parentheses in the heading of final section 8.00D3. We redesignated section 8.00D5 and 108.00D5 in the NPRM, which addressed disfigurement and deformity, to 8.00D4 and 108.00D4 in the final rules.

8.00E—How Do We Evaluate Genetic Photosensitivity Disorders?

Final section 8.00E is another new section. It explains how we evaluate xeroderma pigmentosum (XP) and other genetic photosensitivity disorders. We added it in response to comments that said the proposed listings did not make allowance for individuals with XP who do not have extensive skin lesions because they live an extremely restricted lifestyle in order to avoid or minimize serious consequences of the impairment. Because we agreed with the commenters, we added a new listing 8.07A, which provides that we will consider disabled any person who has a diagnosis of XP confirmed by clinical and laboratory findings. We also added a separate listing 8.07B for individuals who have other kinds of genetic photosensitivity disorders. We describe these listings in more detail later in this preamble.

Final section 8.00E provides more information about XP and other genetic photosensitivity disorders. It also explains how we apply the new listings and includes a definition of the term, ''inability to function outside of a highly protective environment,'' the severity criterion we use in final listing 8.07B2. In final section 8.00E3, we explain our criteria for the clinical and laboratory findings we need to establish the existence of XP or another genetic photosensitivity disorder. Final section 8.00E3 is based on section 10.00B of our listings, a provision that explains the evidence we need to confirm a diagnosis of Down syndrome, another kind of genetic disorder. Like that section, final section 8.00E3 explains that we need both clinical evidence and evidence of definitive genetic laboratory testing. However, in recognition of the fact that in many cases laboratory testing may have been conducted years in the past, we provide that we do not need a copy of the actual laboratory report if we have medical evidence that is persuasive that a positive diagnosis has been confirmed by laboratory testing in the past.

Because we added this new section 8.00E, we redesignated proposed section 8.00E as final section 8.00F.

8.00F—How Do We Evaluate Burns?

Final section 8.00F was proposed section 8.00E in the NPRM. We include this new section on burns in the introductory text to the skin disorder listings in response to many inquiries we have received over the years about how to evaluate these injuries.

In response to a comment, we added a new listing 8.08 for evaluating burns that do not meet the criteria of listing 1.08. As a consequence, we revised the language we proposed for this section of the introductory text to reflect this change. We also revised the language of this section to explain more clearly that we evaluate burns the way we evaluate other disorders that can affect both the skin and other body systems; that is, by referring first to the listing for the predominant feature of the impairment.

For consistency, we are also adding a sentence to section 1.00M in the musculoskeletal body system that cross-refers to final section 8.00F. This paragraph in the musculoskeletal listings defines the term ''under continuing surgical management'' for purposes of listing 1.08. The sentence we are adding explains that when burns are not under continuing surgical management, our adjudicators should refer to section 8.00F.

8.00G—How Do We Determine if Your Skin Disorder(s) Will Continue at a Disabling Level of Severity in Order To Meet the Duration Requirement?

We are adding this section to explain how we determine if your impairment(s) meets the duration requirement. This section is partially new and partially based on the second sentence of prior section 8.00A. We revised the language from the NPRM to more clearly state our

intent. This is not a substantive change from the NPRM, only a clarification of the proposed language.

In the final rules, we explain that in most of these final listings we will find that your impairment meets the duration requirement if you have a skin disorder with extensive skin lesions that persist for at least 3 months despite continuing treatment as prescribed. We explain that by ''persist,'' we mean that the longitudinal clinical record shows that, with few exceptions, the lesions have been at the level of severity specified in the listing.

We also explain how we consider whether your impairment meets the duration requirement under listings 8.07 and 8.08, the listings that do not include the 3-month criterion. As we have already noted, under listing 8.07A, we presume that you meet the duration requirement if you have XP, established by the clinical and laboratory findings described in 8.00E. For listings 8.07B and 8.08, you must show that your limitations have lasted or can be expected to last for a continuous period of at least 12 months. Therefore, we explain in final section 8.00G that we will decide whether your skin disorder satisfies the duration requirement under these listings by considering all of the relevant medical and other information in your case record.

8.00H—How Do We Assess Your Skin Disorder(s) if Your Impairment Does Not Meet the Requirements of One of These Listings?

This new section explains how we assess a skin disorder(s) when you do not have continuing treatment as prescribed, when your treatment has not lasted for at least 3 months, or when you do not have extensive skin lesions that have persisted for at least 3 months.

In the final rules, we are making changes in response to public comments about this section and to reflect other changes we are making in these final rules. We are also making nonsubstantive editorial changes for clarity and correcting an error in the NPRM. We explain that your impairment cannot meet the requirements of most of these listings unless you have extensive skin lesions that have persisted for at least 3 months despite continuing treatment as prescribed; however, we may still find that you are disabled based on our other rules for determining disability. In the final rules, we indicate that final listings 8.07 and 8.08 are exceptions to this general rule. In final listing 8.08, we do require evidence of extensive skin lesions, but do not require evidence of 3 months of continuing treatment as prescribed because we believe that it will be evident from the extent of the burns whether extensive lesions can be expected to last for a continuous period of at least 12 months.

We also deleted the reference to our policy regarding failure to follow prescribed treatment, which we had included in proposed section 8.00G1 of the NPRM. The reference was inappropriate in this context and could have been confusing. Under our policy, failure to follow prescribed treatment is a basis for denying a claim for benefits and does not apply when we consider whether you meet the requirements of a listing.

How Are We Proposing To Change the Criteria in the Listings for Evaluating Skin Disorders in Adults?

8.01—Category of Impairments, Skin Disorders

Most of the changes we are making in these final skin disorder listings:

- Update medical terminology,
- Clarify our criteria,
- Include more skin disorders in each category, and
- Reorganize the prior listings.

We are also adding final listings 8.07A and B for photosensitivity disorders and final listing 8.08 for burns. Under the prior listings, these disorders were not listed and could therefore only be found to medically equal a listing, such as a skin or musculoskeletal disorder listing, if they were of listing-level severity. We are also revising the requirement in most of the prior skin disorders listings for extensive lesions ''not responding to prescribed treatment'' with the more specific requirement that there be extensive skin lesions that persist for at least 3 months despite continuing treatment as prescribed.

The following is a detailed explanation of the revised listing criteria.

Listing 8.02—Ichthyosis

We are revising the heading of listing 8.02 to cover the general group of disorders characterized by noninflammatory scaling of the skin. The prior listing named three specific kinds of disorders. The final listing includes all forms of ichthyosis. We are also moving exfoliative dermatitis from prior listing 8.02 to final listing 8.05, where it will be evaluated with the other dermatitis disorders.

Listing 8.03—Bullous Disease

We are revising the heading of listing 8.03 so that we can apply it to all types of bullous diseases. We are citing as examples four diseases we included in the prior listings and adding epidermolysis bullosa as a fifth example. We include dermatitis herpetiformis in this listing instead of listing 8.05 because, despite the word ''dermatitis'' in its name, dermatitis herpetiformis is primarily a bullous disease.

Listing 8.04—Chronic Infections of the Skin or Mucous Membranes

We are revising the heading of listing 8.04 so that it will include infections other than deep mycotic (fungal) infections. In this listing, similarly to the prior listing, we use the words ''fungating'' (to grow exuberantly like a fungus or spongy growth) and ''ulcerating'' (a lesion through the skin or a mucous membrane resulting from loss of tissue, usually with inflammation) to modify the term ''extensive skin lesions'' because they are descriptive of the different types of lesions frequently associated with the more severe types of chronic skin infections. Listing-level severity is characterized by either extensive fungating or extensive ulcerating lesions that persist for at least 3 months despite continuing treatment as prescribed.

Listing 8.05—Dermatitis

We are revising the heading of listing 8.05 so that we can also use it to evaluate miscellaneous inflammatory conditions of the skin, rather than just the three conditions the prior listing cited (psoriasis, atopic dermatitis, and dyshidrosis). We will use the revised listing to evaluate all dermatitis disorders, including environmental skin conditions such as allergic contact dermatitis, which we have added to the list of examples of impairments covered by this listing. As already noted, we are also including exfoliative dermatitis under this listing instead of including it under listing 8.02.

Listing 8.06—Hidradenitis Suppurativa

We are removing the reference to acne conglobata from listing 8.06 because it frequently responds well to treatment. Therefore, we cannot assume that it will meet the duration requirement. We are also providing the same severity standard for hidradenitis suppurativa as for most of the other listings in these final rules. The condition must result in extensive skin lesions, as defined in final section 8.00C1, that persist despite at least 3 months of continuing treatment as prescribed. The lesions must involve both axillae, both inguinal areas or the perineum. We deleted the reference to surgical treatment from the prior listing because the phrase

''continuing treatment as prescribed'' includes surgical treatment. As we did in final section 8.00C1, we added the word ''both'' in front of the words ''axillae'' and ''inguinal areas'' to be clearer about our intent.

Listing 8.07—Genetic Photosensitivity Disorders

We are adding a listing for evaluating photosensitivity disorders, including xeroderma pigmentosum (XP), in adults. Some individuals with these disorders are now surviving into adulthood, and we believe it is appropriate to have separate listings for them.

In the NPRM, we proposed a listing for photosensitivity disorders, such as XP, that used the same criteria as the other proposed listings: extensive lesions that persist for at least 3 months despite prescribed treatment. Some commenters pointed out that very few people with XP could meet the criteria of the proposed listing because many people with the disorder live very restricted lifestyles to avoid consequences like extensive lesions. In reviewing these comments and reconsidering our proposed listing, we determined that XP is such a serious disorder that we could conclude that any person who has XP would be very seriously limited, given the likelihood that he or she would need to be in a highly protective environment to avoid the serious consequences of the disorder. Indeed, two of the commenters described this precise situation. Moreover, XP is a lifelong disorder that does not improve, so we could conclude that any person who has XP would meet the duration requirement. Therefore, we provide in final listing 8.07A that individuals who have XP that is confirmed by clinical and laboratory findings are disabled from birth.

In final listing 8.07B, we provide criteria for evaluating other genetic photosensitivity disorders. XP is only an example of the kind of photosensitivity disorders we intended to include in proposed listing 8.07A; that is, what physicians call ''heritable'' photosensitivity disorders, and what we call ''genetic'' photosensitivity disorders in these listings. In considering other types of genetic photosensitivity disorders, we determined that these other disorders can have unpredictable courses where skin lesions improve and a highly protective environment may not be required. Therefore, to meet this listing you must show that your genetic photosensitivity disorder results in extensive lesions or that you are unable to function outside of a highly protective environment. You must also show that these limitations have lasted or can be expected to last for a continuous period of at least 12 months.

Listing 8.08—Burns

In response to a comment, we are adding a listing for evaluating burns that do not meet the criteria of listing 1.08 in our musculoskeletal listings. Listing 1.08 applies to individuals who have soft tissue injuries, including burns, that are under continuing surgical management (as defined in 1.00M in the introductory text to the musculoskeletal listings) directed toward the salvage or restoration of major function of an extremity, the trunk, or the face and head, and in which such salvage or restoration was not achieved or expected to be achieved within 12 months of onset. Under the prior listings, we used our policy of medical equivalence to evaluate individuals whose burns did not meet listing 1.08. Generally we used our medical equivalence policy to evaluate claims by individuals who had achieved maximum benefit from surgical management or whose burns did not satisfy one of the requirements of the listing.

Your impairment will meet this listing if you have extensive skin lesions, as defined in final section 8.00C1, that have lasted or that can be expected to last for a continuous period of at least 12 months. We explain our reasons for making this change in more detail in the public comments section of this preamble.

Why Are We Adding Listings for Evaluating Skin Disorders in Children?

We are adding new listings to evaluate claims of individuals under age 18 who have skin disorders to maintain consistency with the other body system listings, which have both adult and child criteria.

How Do the Final Skin Disorder Listings for Children Differ From the Final Adult Listings?

The skin disorder listings for children are essentially identical to those for adults. Exceptions are in final sections 108.00D5 and D6, where we include examples of erythropoietic porphyrias and hemangiomas for children.

We mention these disorders only in the introductory text in part B because the skin manifestations of these disorders are not likely to be the primary manifestations in adults. For example, a major symptom in children who have erythropoietic porphyria, a metabolic disorder characterized by a deficiency of the enzyme ferrochelatase that is essential to the synthesis of hemoglobin, is hypersensitivity of skin to sunlight and some types of artificial light. Generally, by adulthood, anemia is a prominent manifestation in the more severe cases, with possible complications related to liver and gallbladder function. Therefore, we evaluate the impairment in adults under the appropriate body systems for those manifestations, the hemic and lymphatic system (7.00) and the digestive system (5.00). Similarly, most hemangiomas disappear spontaneously or are surgically removed in childhood. When hemangiomas are associated with Kasabach-Merritt Syndrome, a condition in which the low number of blood platelets causes bleeding, the hematologic manifestations are obvious in adults and we evaluate them under the listings in the hemic and lymphatic system, sections 7.00.

The rules in part B are also slightly different from the rules in part A to reflect differences between the rules for evaluating disability in children under the SSI program and the rules for evaluating disability in adults. For example, instead of referring to the ''inability to do any gainful activity,'' we refer to the standard for childhood disability, ''marked and severe functional limitations.'' Likewise, instead of referring to residual functional capacity assessments and the last step of the five-step adult sequential evaluation process, we refer to the policy of functional equivalence.

Other Changes

Throughout these final rules, we are making nonsubstantive editorial changes from the language we proposed in the NPRM. The changes:

- Make the language clearer and simpler;
- Improve the consistency between parts A and B of the skin disorders listings;
- Improve the consistency between the skin disorders listings and other body system listings; and,
- Correct technical errors that were in the NPRM.

For example, in these final rules, we changed the term ''skin impairments,'' which we used in the introductory text in the NPRM, to ''skin disorders.'' We also changed the phrase ''prescribed treatment'' in the NPRM to ''continuing treatment as prescribed'' wherever it appeared. In the NPRM we used both phrases inconsistently and now we are using the same phrase everywhere throughout these final rules. We have already given examples of several of the other changes in the explanation of changes above.

Public Comments

We published these rules in the **Federal Register** as an NPRM on December 10, 2001 (66 FR 63634). We gave members of the public a period of 60 days in which to comment. The comment period ended on February 8, 2002.

We received a total of 12 letters, telefaxes, and e-mails responding to our request for comments. The comments came from a professional medical organization, advocacy organizations for specific types of skin disorders and other disorders that may involve the skin, legal advocates, parents of children with skin disorders, and a State agency that makes disability determinations for us. We carefully considered all of the comments, and we are making a number of changes in these final rules as a result of the comments.

Some of the comment letters were long and detailed, requiring us to condense, summarize, or paraphrase them. We have tried to present all views and to respond to all of the significant issues raised by the commenters. We provide our reasons for adopting or not adopting the comments in our responses below.

Final Sections 8.00D and 108.00D—How Do We Assess Impairments That May Affect the Skin and Other Body Systems?

Comment: We received two comments about facial disfigurement. One commenter discussed the social difficulties an individual with a facial disfigurement may encounter in school and in finding a job. Another commenter mentioned the difficulties that can result if frequent surgeries or other medical attention is needed to care for or correct the disfigurement. The first commenter encouraged us to make the changes needed to help these individuals.

Response: We agree with the commenters that facial disfigurement can be a cause of significant physical and mental limitations. This is why we proposed new sections 8.00D5 and 108.00D5 in the NPRM to address the complications of facial disfigurement and its psychological effects. (In the final rule, we redesignated these sections as 8.00D4 and 108.00D4.) The final provisions explain that disfigurement may have specific physical effects, such as loss of sight, hearing, speech, and the ability to chew, but may also have effects that we evaluate under the mental disorders listings, such as when they affect mood or social functioning. We evaluate the physical and mental effects of disfigurement under the appropriate listings for the manifestations; for example, special senses and speech, 2.00 and 102.00, the digestive system, 5.00 and 105.00, and mental disorders, 12.00 and 112.00. In addition, we explain in final sections 8.00C4 and 108.00C4 (proposed sections 8.00C3 and 108.00C3) that we consider the effects of surgery when we evaluate the severity and duration of your impairment. We do not believe that other changes are needed to respond to these comments.

Final Sections 8.00F and 108.00F—How Do We Evaluate Burns?

Comment: One commenter stated that we should make clear that, when we evaluate burn victims under the musculoskeletal listings, it is the functional limitations that are being compared, not the underlying diagnostic criteria. For example, a burn may leave someone with the inability to move a joint, but the reason for the immobility will not be seen on x-ray. Therefore, it may not be clear that an individual could have an impairment that medically equals listing 1.02 or 101.02 because those listings include a requirement for appropriate medically acceptable imaging (such as an x-ray) showing joint space narrowing.

Response: We adopted the comment by adding new listings 8.08 and 108.08 for evaluating burns and by revising sections 8.00F and 108.00F. Final listings 8.08 and 108.08 now include burns that result in extensive skin lesions and that are not under continuing surgical management (as defined in 1.00M and 101.00M). With these final rules, it will no longer be necessary for our adjudicators to consider medical equivalence to a musculoskeletal listing when there is an extreme limitation resulting from extensive burn lesions.

We believe that this is a simpler solution to the problem raised by the commenter than clarifying how to use the musculoskeletal listings to show medical equivalence for individuals whose burns do not meet the requirements of listings 1.08 or 101.08. We will also continue to use listings 1.08 and 101.08 when there are burns that meet their criteria. We are also adding references to final section 8.00F and 108.00F in sections 1.00M and 101.00M to remind our adjudicators to consider these new provisions.

Final Sections 8.00G and 108.00G—How Do We Determine if Your Skin Disorder(s) Will Continue at a Disabling Level of Severity in Order To Meet the Duration Requirement?

Comment: Two commenters expressed concern about the requirement in proposed sections 8.00G and 108.00G, as well as other sections of the proposed rules, that skin lesions must persist for at least 3 months despite treatment. One commenter believed that our adjudicators would not properly consider conditions that go in and out of remission in periods shorter than 3 months, and said that such conditions might be disabling even if flareups are shorter than 3 months. The other commenter pointed out that in proposed sections 8.00B and 108.00B we indicated that we consider the frequency of flareups when we evaluate the severity of skin disorders. This commenter noted that we did not go on to provide any standards for considering flareups, especially when there are frequent flareups of shorter than 3 months despite treatment.

Response: We revised the rules to address these comments. Although the prior listings also contained a requirement that the lesions not respond to treatment, we agree that it is appropriate to provide guidance in the introductory text to the listings about how to consider frequent flareups. Therefore, in response to these comments, we are adding new sections 8.00C2 and 108.00C2, Frequency of flareups, in these final rules. The new sections explain that, if your skin lesions do not meet the requirements of one of these listings, your impairment may still medically equal one of the skin disorder listings. We explain that we will consider the frequency and seriousness of the flareups over time, especially if they result in extensive skin lesions, as described in final section 8.00C1, and even though there are intervening periods of remission. We must also consider how you function between flareups, and whether your impairment(s) has met or will meet the 12-month duration requirement.

We did not provide a specific number of episodes or specific rules regarding the seriousness or length of episodes because there are too many possible combinations of circumstances that could result in an impairment of listing-level severity. We will evaluate each case individually based on the evidence we have in the case record.

In addition, we added guidance in final sections 8.00H and 108.00H in response to these comments and the comment we summarize next. The new

text reminds our adjudicators that these listings are only examples of common skin disorders that we consider to be of listing-level severity. It also explains that we may still find you disabled under other listings, based on medical equivalence, or based on your residual functional capacity, age, education, and work experience (or, if you are a child claiming disability payments under SSI, based on functional equivalence). When we make these determinations, we will also consider the frequency of your flareups.

Comment: One commenter stated that, while it is true that most skin disorders are responsive to treatment, it is also true that not all claimants have access to health care. The commenter said that we should make it clear that claimants will not be penalized if they are unable to obtain state-of-the-art care.

Response: We adopted the comment. We revised sections 8.00H and 108.00H as explained in the preceding response.

As a point of clarification, it should be noted that you are not required to have ''state-of-the-art'' treatment to meet these listings, as the commenter assumed. As in all of our other listings that include requirements for persistence of findings despite treatment (see, for example, the cardiovascular body system listings in 4.00 and 104.00), we require only that you receive prescribed treatment in order to meet this requirement of the listings. We generally do not specify the kind or level of treatment. The treatment requirements in the listings are primarily to establish that the impairment is of a particular level of severity; that is, one that is so serious that it does not respond to medical treatment. You can still show that you are disabled in other ways if your impairment does not meet the requirements of a listing. Also, we use the listings only to find that people are disabled. We will never deny your claim or find that your disability has ended only because your impairment does not meet or medically equal the requirements of a listing.

Listings 8.03 and 108.03—Bullous Disease

Comment: One commenter asked us to rename this listing ''immunobullous disease.'' The commenter believed that this is a broader category and would allow for the inclusion of newly recognized diseases. The commenter also suggested that we add epidermolysis bullosa acquisita to the listing.

Response: We did not adopt the comment. We use the term ''bullous disease'' generically in our listings to include any disease that is characterized by bullae, including immunobullous diseases. The parenthetical examples of the kinds of impairments we intend to cover should make this clear because they include examples of immunobullous diseases. The fact that we list only some examples of bullous diseases should also make clear that we will evaluate epidermolysis bullosa acquisita under these listings and that they will include any newly discovered diseases that are characterized by bullae.

Listings 8.05 and 108.05—Dermatitis

Comment: One commenter suggested that we give psoriasis its own category instead of listing it with dermatitis, because psoriasis can affect the joints and other body systems in addition to the skin.

Response: We did not adopt the comment because we have other listings that address the effects of psoriasis in other body systems. See, for example, listings 14.09 and 114.09, which include psoriatic arthritis, as explained in 14.00B6 and 114.00E of the introductory text to those listings.

Comment: One commenter suggested that we address the role of temperature in listing 8.05 because extensive skin lesions from dermatitis can be, and often are, exacerbated by a lack of temperature control.

Response: We did not adopt the comment. We consider the role of temperature extremes when we evaluate your ability to do work-related activities. Therefore, we consider it when we determine whether you have a ''severe'' impairment and when we assess your residual functional capacity to determine whether you can do your past relevant work or any other work that exists in significant numbers in the national economy. See, generally, §§ 404.1520 and 416.920. We also consider the role of temperature extremes when we make findings about functional equivalence in children.

Comment: Another commenter asked us to add ''or other inflammation caused by rheumatic autoimmune conditions, such as Sjögren's syndrome'' to the examples of dermatitis in proposed listing 108.05.

Response: We did not adopt the specific suggestion, but we did add a reference to Sjögren's syndrome in final sections 8.00D3 and 108.00D3 in response to this comment. We refer specifically to Sjögren's syndrome in our instructions for applying listings 14.03 and 14.09 for adults and listing 114.09 for children in our immune system listings. See sections 14.00B2 and B6 and 114.00E of the introductory text to those body system listings. We can also use any other appropriate listing in the immune system. While Sjögren's syndrome can result in inflammation of the skin, we believe that it is most appropriate to consider it under the immune system listings.

The introductory text in the proposed rules included two paragraphs that explained how we evaluate individuals who have autoimmune disorders that can have effects on the skin. In the final rules, we combined the two paragraphs in final sections 8.00D3 and 108.00D3, and in response to these comments, we added Sjögren's syndrome to the list of examples of connective tissue disorders and other immune system disorders in those sections. We also included a reminder that we evaluate Sjögren's syndrome under listing 14.03, 14.09, 114.09, or any other appropriate immune system listing.

Listings 8.06 and 108.06—Hidradenitis Suppurativa

Comment: One commenter opposed our proposal to remove acne conglobata from this listing, stating that the debilitating state resulting from this disease can last for at least 3 months in some cases. The commenter believed that the most severely impaired acne conglobata patients should be considered eligible for disability benefits.

Response: We did not adopt the comment. To meet the statutory duration requirement, you must have a medically determinable impairment that has lasted or can be expected to last at a disabling level for a continuous period of at least 12 months. We require documentation of at least 3 months of persistent, extensive skin lesions in most of these listings because, for those listings that include this requirement, it is reasonable to assume that the disabling level of severity will continue for at least 12 months. Although we agree that some people with acne conglobata can be seriously limited for at least 3 months, we believe that it would be extremely rare for the condition to persist at a listing level of severity for a continuous period of at least 12 months. Therefore, we cannot presume that the duration requirement will be met after 3 months. We may still find individuals with the most serious cases of acne conglobata to be disabled using our other rules for determining disability based on medical equivalence or at later steps of the sequential evaluation processes for adults and children.

Comment: One commenter stated that the 3-month duration of treatment for hidradenitis suppurativa is too

restrictive and not realistic where antimicrobial treatment may be offered as part of a staged procedure that ends with surgical treatment.

Response: As we stated earlier, the 3-month duration of extensive skin lesions despite continuing treatment as prescribed (which includes both medical and surgical treatment) is only a criterion for meeting the listing. If your impairment does not meet this criterion, we may still find you disabled based on medical equivalence or at later steps of the sequential evaluation process.

Comment: One commenter noted that proposed section 108.00C1 used the phrase ''very serious limitations,'' instead of ''very serious limitation.'' He pointed out that, when read in the context of our definition of the term ''extreme'' in our functional equivalence regulation for children (§ 416.926a(e)(3)), the plural ''limitations'' might be misinterpreted as an even stricter standard than in the functional equivalence rule, which uses the singular form of the word.

Response: We adopted the comment. We now use the phrase ''a very serious limitation'' in both part A and part B of these final rules. Our intent in the NPRM was to describe an ''extreme'' limitation in the same way we use the term in the musculoskeletal listings for adults and children and in our functional equivalence rules. We also provide equivalent severity criteria in other listings, such as the neurological listings, that do not use the term ''extreme.''

Listings 8.07 and 108.07—Genetic Photosensitivity Disorders

Comment: We received comments from three commenters about the proposed listings for photosensitivity disorders, including xeroderma pigmentosum (XP). One commenter stated that proposed listings 8.07 and 108.07 did not make allowance for people with XP who may have not developed extensive skin lesions because they live extremely restricted lifestyles by totally avoiding sunlight. The commenter added that the listings should not require that one get sick in order to establish disability. Similarly, a second commenter described her personal experience with a child with XP. She explained that her son had had many surgeries for skin cancer and must stay in a specially protected home so he can avoid exposure to sunlight and any other ultraviolet light. She expressed concern that he would not meet proposed listing 108.07 because he did not have the extensive skin lesions required. The third commenter asked us to give more funding for research of XP, and to provide more assistance for the parents of children with XP and more education to the public about this disease.

Response: We adopted most of these comments. As we have already noted, we are adding listings 8.07A and 108.07A for adults and children with documented XP in response to these comments.

We are also adding new sections 8.00E and 108.00E to explain the criteria of the final listings and the documentation required to satisfy the listings. We also define the phrase ''inability to function outside of a highly protective environment,'' the severity criterion we use in final listings 8.07B and 108.07B. By adding these final rules, we will assist individuals with XP and other genetic photosensitivity disorders, and families who have children with these disorders, by providing them better access to disability benefits and, in many cases, access to health care through Medicare or Medicaid. The new rules also provide some information to the public about XP and how we consider it. However, we are unable to provide funding for research into XP or to provide training for the public about XP beyond what is required by our rules. These activities are not within our purview.

Other Comment

Comment: One commenter suggested that, instead of changing the body system name to ''Skin disorders,'' we change it to ''Skin, hair, nails, and mucous membranes'' because these denote the full range of body systems treated by dermatologists. The commenter noted that proposed listing 8.04 included a reference to the mucous membranes.

Response: We did not adopt the comment. The headings of our body systems explain the kinds of disorders we list within the body systems, not the range of conditions treated by particular medical specialties. Since these listings include primarily disorders of the skin, we are not changing the heading. Although we refer to mucous membranes in final listings 8.04 and 108.04, Chronic infections of the skin or mucous membranes, it is only to recognize that infections of the skin often involve the mucous membranes.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these final rules meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were subject to OMB review.

Regulatory Flexibility Act

We certify that these final rules do 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

The Paperwork Reduction Act (PRA) of 1995 says that no persons are required to respond to a collection of information unless it displays a valid OMB control number. In accordance with the PRA, SSA is providing notice that OMB has approved the information collection requirements contained in sections 8.00C, 8.00D, 108.00B, 108.00C and 108.00D of these final rules. The OMB Control Number for this collection is 0960–0642 expiring 12/31/2004.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; and 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Reporting and record keeping requirements, Social Security.

Dated: March 12, 2004.

Jo Anne B. Barnhart,

Commissioner of Social Security.

■ For the reasons set forth in the preamble, subpart P of part 404 of chapter III of title 20 of the Code of Federal Regulations is amended as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart P—Determining Disability and Blindness

■ 1. The authority citation for subpart P of part 404 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.

Appendix 1 to Subpart P of Part 404—[Amended]

■ 2. Appendix 1 to subpart P of part 404 is amended as follows:
■ a. Item 9 of the introductory text before part A of appendix 1 is amended by revising the body system name, revising the expiration date for section 8.00, and adding section 108.00 and its expiration date.
■ b. The list of sections for part A of appendix 1 is amended by revising the body system name for section 8.00.
■ c. Section 1.00M of part A of appendix 1 is amended by adding a new last sentence to the paragraph.
■ d. Section 8.00 of part A of appendix 1 is revised.
■ e. The list of sections for part B of appendix 1 is amended by revising section 108.00 to read ''108.00 Skin Disorders''.
■ f. Section 101.00M of part B of appendix 1 is amended by adding a new last sentence to the paragraph.
■ g. Section 108.00 of part B of appendix 1 is added.

The new and revised text is set forth as follows:

Appendix 1 To Subpart P of Part 404—Listing of Impairments

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9. Skin Disorders (8.00 and 108.00): July 9, 2012.

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Part A

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8.00 Skin Disorders

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1.00 Musculoskeletal System

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M. * * * When burns are not under continuing surgical management, see 8.00F.

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8.00 Skin Disorders

A. *What skin disorders do we evaluate with these listings?* We use these listings to evaluate skin disorders that may result from hereditary, congenital, or acquired pathological processes. The kinds of impairments covered by these listings are: Ichthyosis, bullous diseases, chronic infections of the skin or mucous membranes, dermatitis, hidradenitis suppurativa, genetic photosensitivity disorders, and burns.

B. *What documentation do we need?* When we evaluate the existence and severity of your skin disorder, we generally need information about the onset, duration, frequency of flareups, and prognosis of your skin disorder; the location, size, and appearance of lesions; and, when applicable, history of exposure to toxins, allergens, or irritants, familial incidence, seasonal variation, stress factors, and your ability to function outside of a highly protective environment. To confirm the diagnosis, we may need laboratory findings (for example, results of a biopsy obtained independently of Social Security disability evaluation or blood tests) or evidence from other medically acceptable methods consistent with the prevailing state of medical knowledge and clinical practice.

C. *How do we assess the severity of your skin disorder(s)?* We generally base our assessment of severity on the extent of your skin lesions, the frequency of flareups of your skin lesions, how your symptoms (including pain) limit you, the extent of your treatment, and how your treatment affects you.

1. *Extensive skin lesions.* Extensive skin lesions are those that involve multiple body sites or critical body areas, and result in a very serious limitation. Examples of extensive skin lesions that result in a very serious limitation include but are not limited to:

a. Skin lesions that interfere with the motion of your joints and that very seriously limit your use of more than one extremity; that is, two upper extremities, two lower extremities, or one upper and one lower extremity.

b. Skin lesions on the palms of both hands that very seriously limit your ability to do fine and gross motor movements.

c. Skin lesions on the soles of both feet, the perineum, or both inguinal areas that very seriously limit your ability to ambulate.

2. *Frequency of flareups.* If you have skin lesions, but they do not meet the requirements of any of the listings in this body system, you may still have an impairment that prevents you from doing any gainful activity when we consider your condition over time, especially if your flareups result in extensive skin lesions, as defined in C1 of this section. Therefore, if you have frequent flareups, we may find that your impairment(s) is medically equal to one of these listings even though you have some periods during which your condition is in remission. We will consider how frequent and serious your flareups are, how quickly they resolve, and how you function between flareups to determine whether you have been unable to do any gainful activity for a continuous period of at least 12 months or can be expected to be unable to do any gainful activity for a continuous period of at least 12 months. We will also consider the frequency of your flareups when we determine whether you have a severe impairment and when we need to assess your residual functional capacity.

3. *Symptoms (including pain).* Symptoms (including pain) may be important factors contributing to the severity of your skin disorder(s). We assess the impact of symptoms as explained in §§ 404.1528, 404.1529, 416.928, and 416.929 of this chapter.

4. *Treatment.* We assess the effects of medication, therapy, surgery, and any other form of treatment you receive when we determine the severity and duration of your impairment(s). Skin disorders frequently respond to treatment; however, response to treatment can vary widely, with some impairments becoming resistant to treatment. Some treatments can have side effects that can in themselves result in limitations.

a. We assess the effects of continuing treatment as prescribed by determining if there is improvement in the symptoms, signs, and laboratory findings of your disorder, and if you experience side effects that result in functional limitations. To assess the effects of your treatment, we may need information about:

i. The treatment you have been prescribed (for example, the type, dosage, method, and frequency of administration of medication or therapy);

ii. Your response to the treatment;

iii. Any adverse effects of the treatment; and

iv. The expected duration of the treatment.

b. Because treatment itself or the effects of treatment may be temporary, in most cases sufficient time must elapse to allow us to evaluate the impact and expected duration of treatment and its side effects. Except under 8.07 and 8.08, you must follow continuing treatment as prescribed for at least 3 months before your impairment can be determined to meet the requirements of a skin disorder listing. (See 8.00H if you are not undergoing treatment or did not have treatment for 3 months.) We consider your specific response to treatment when we evaluate the overall severity of your impairment.

D. *How do we assess impairments that may affect the skin and other body systems?* When your impairment affects your skin and has effects in other body systems, we first evaluate the predominant feature of your impairment under the appropriate body system. Examples include, but are not limited to the following.

1. *Tuberous sclerosis* primarily affects the brain. The predominant features are seizures, which we evaluate under the neurological listings in 11.00, and developmental delays or other mental disorders, which we evaluate under the mental disorders listings in 12.00.

2. *Malignant tumors of the skin* (for example, malignant melanomas) are cancers, or neoplastic diseases, which we evaluate under the listings in 13.00.

3. *Connective tissue disorders and other immune system disorders* (for example, systemic lupus erythematosus, scleroderma, human immunodeficiency virus (HIV) infection, and Sjögren's syndrome) often involve more than one body system. We first evaluate these disorders under the immune system listings in 14.00. We evaluate lupus erythematosus under 14.02, scleroderma under 14.04, symptomatic HIV infection under 14.08, and Sjögren's syndrome under 14.03, 14.09, or any other appropriate listing in section 14.00.

4. *Disfigurement or deformity* resulting from skin lesions may result in loss of sight, hearing, speech, and the ability to chew (mastication). We evaluate these impairments and their effects under the special senses and speech listings in 2.00 and the digestive system listings in 5.00. Facial disfigurement or other physical deformities may also have effects we evaluate under the mental disorders listings in 12.00, such as when they affect mood or social functioning.

E. *How do we evaluate genetic photosensitivity disorders?*

1. *Xeroderma pigmentosum (XP).* When you have XP, your impairment meets the

requirements of 8.07A if you have clinical and laboratory findings showing that you have the disorder. (See 8.00E3.) People who have XP have a lifelong hypersensitivity to all forms of ultraviolet light and generally lead extremely restricted lives in highly protective environments in order to prevent skin cancers from developing. Some people with XP also experience problems with their eyes, neurological problems, mental disorders, and problems in other body systems.

2. *Other genetic photosensitivity disorders.* Other genetic photosensitivity disorders may vary in their effects on different people, and may not result in an inability to engage in any gainful activity for a continuous period of at least 12 months. Therefore, if you have a genetic photosensitivity disorder other than XP (established by clinical and laboratory findings as described in 8.00E3), you must show that you have either extensive skin lesions or an inability to function outside of a highly protective environment to meet the requirements of 8.07B. You must also show that your impairment meets the duration requirement. By *inability to function outside of a highly protective environment* we mean that you must avoid exposure to ultraviolet light (including sunlight passing through windows and light from unshielded fluorescent bulbs), wear protective clothing and eyeglasses, and use opaque broad-spectrum sunscreens in order to avoid skin cancer or other serious effects. Some genetic photosensitivity disorders can have very serious effects in other body systems, especially special senses and speech (2.00), neurological (11.00), mental (12.00), and neoplastic (13.00). We will evaluate the predominant feature of your impairment under the appropriate body system, as explained in 8.00D.

3. *Clinical and laboratory findings.* We need evidence confirming the diagnosis of your XP or other genetic photosensitivity disorder. The evidence must include a clinical description of abnormal physical findings associated with the condition. There must also be definitive genetic laboratory studies documenting appropriate chromosomal damage, abnormal DNA repair, or other DNA or genetic abnormality specific to your type of photosensitivity disorder. However, we do not need a copy of the actual laboratory report if we have medical evidence that is persuasive that a positive diagnosis has been confirmed by laboratory testing.

F. *How do we evaluate burns?* Electrical, chemical, or thermal burns frequently affect other body systems; for example, musculoskeletal, special senses and speech, respiratory, cardiovascular, renal, neurological, or mental. Consequently, we evaluate burns the way we evaluate other disorders that can affect the skin and other body systems, using the listing for the predominant feature of your impairment. For example, if your soft tissue injuries are under continuing surgical management (as defined in 1.00M), we will evaluate your impairment under 1.08. However, if your burns do not meet the requirements of 1.08 and you have extensive skin lesions that result in a very serious limitation (as defined in 8.00C1) that has lasted or can be expected to last for a continuous period of at least 12 months, we will evaluate them under 8.08.

G. *How do we determine if your skin disorder(s) will continue at a disabling level of severity in order to meet the duration requirement?* For all of these skin disorder listings except 8.07 and 8.08, we will find that your impairment meets the duration requirement if your skin disorder results in extensive skin lesions that persist for at least 3 months despite continuing treatment as prescribed. By *persist,* we mean that the longitudinal clinical record shows that, with few exceptions, your lesions have been at the level of severity specified in the listing. For 8.07A, we will presume that you meet the duration requirement. For 8.07B and 8.08, we will consider all of the relevant medical and other information in your case record to determine whether your skin disorder meets the duration requirement.

H. *How do we assess your skin disorder(s) if your impairment does not meet the requirements of one of these listings?*

1. These listings are only examples of common skin disorders that we consider severe enough to prevent you from engaging in any gainful activity. For most of these listings, if you do not have continuing treatment as prescribed, if your treatment has not lasted for at least 3 months, or if you do not have extensive skin lesions that have persisted for at least 3 months, your impairment cannot meet the requirements of these skin disorder listings. (This provision does not apply to 8.07 and 8.08.) However, we may still find that you are disabled because your impairment(s) meets the requirements of a listing in another body system or medically equals the severity of a listing. (See §§ 404.1526 and 416.926 of this chapter.) We may also find you disabled at the last step of the sequential evaluation process.

2. If you have not received ongoing treatment or do not have an ongoing relationship with the medical community despite the existence of a severe impairment(s), or if your skin lesions have not persisted for at least 3 months but you are undergoing continuing treatment as prescribed, you may still have an impairment(s) that meets a listing in another body system or that medically equals a listing. If you do not have an impairment(s) that meets or medically equals a listing, we will assess your residual functional capacity and proceed to the fourth and, if necessary, the fifth step of the sequential evaluation process in §§ 404.1520 and 416.920 of this chapter. When we decide whether you continue to be disabled, we use the rules in §§ 404.1594 and 416.994 of this chapter.

8.01 Category of Impairments, Skin Disorders

8.02 *Ichthyosis,* with extensive skin lesions that persist for at least 3 months despite continuing treatment as prescribed.

8.03 *Bullous disease* (for example, pemphigus, erythema multiforme bullosum, epidermolysis bullosa, bullous pemphigoid, dermatitis herpetiformis), with extensive skin lesions that persist for at least 3 months despite continuing treatment as prescribed.

8.04 *Chronic infections of the skin or mucous membranes,* with extensive fungating or extensive ulcerating skin lesions that persist for at least 3 months despite continuing treatment as prescribed.

8.05 *Dermatitis* (for example, psoriasis, dyshidrosis, atopic dermatitis, exfoliative dermatitis, allergic contact dermatitis), with extensive skin lesions that persist for at least 3 months despite continuing treatment as prescribed.

8.06 *Hidradenitis suppurativa,* with extensive skin lesions involving both axillae, both inguinal areas or the perineum that persist for at least 3 months despite continuing treatment as prescribed.

8.07 *Genetic photosensitivity disorders,* established by clinical and laboratory findings as described in 8.00E.

A. Xeroderma pigmentosum. Consider the individual disabled from birth.

B. Other genetic photosensitivity disorders, with:

1. Extensive skin lesions that have lasted or can be expected to last for a continuous period of at least 12 months, or

2. Inability to function outside of a highly protective environment for a continuous period of at least 12 months (see 8.00E2).

8.08 *Burns,* with extensive skin lesions that have lasted or can be expected to last for a continuous period of at least 12 months (see 8.00F).

* * * * *

Part B

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108.00 Skin Disorders

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101.00 Musculoskeletal System

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M. * * * When burns are not under continuing surgical management, see 108.00F.

* * * * *

108.00 Skin Disorders

A. *What skin disorders do we evaluate with these listings?* We use these listings to evaluate skin disorders that may result from hereditary, congenital, or acquired pathological processes. The kinds of impairments covered by these listings are: Ichthyosis, bullous diseases, chronic infections of the skin or mucous membranes, dermatitis, hidradenitis suppurativa, genetic photosensitivity disorders, and burns.

B. *What documentation do we need?* When we evaluate the existence and severity of your skin disorder, we generally need information about the onset, duration, frequency of flareups, and prognosis of your skin disorder; the location, size, and appearance of lesions; and, when applicable, history of exposure to toxins, allergens, or irritants, familial incidence, seasonal variation, stress factors, and your ability to function outside of a highly protective environment. To confirm the diagnosis, we may need laboratory findings (for example, results of a biopsy obtained independently of Social Security disability evaluation or blood tests) or evidence from other medically acceptable methods consistent with the

prevailing state of medical knowledge and clinical practice.

C. *How do we assess the severity of your skin disorders(s)?* We generally base our assessment of severity on the extent of your skin lesions, the frequency of flareups of your skin lesions, how your symptoms (including pain) limit you, the extent of your treatment, and how your treatment affects you.

1. *Extensive skin lesions.* Extensive skin lesions are those that involve multiple body sites or critical body areas, and result in a very serious limitation. Examples of extensive skin lesions that result in a very serious limitation include but are not limited to:

a. Skin lesions that interfere with the motion of your joints and that very seriously limit your use of more than one extremity; that is, two upper extremities, two lower extremities, or one upper and one lower extremity.

b. Skin lesions on the palms of both hands that very seriously limit your ability to do fine and gross motor movements.

c. Skin lesions on the soles of both feet, the perineum, or both inguinal areas that very seriously limit your ability to ambulate.

2. *Frequency of flareups.* If you have skin lesions, but they do not meet the requirements of any of the listings in this body system, you may still have an impairment that results in marked and severe functional limitations when we consider your condition over time, especially if your flareups result in extensive skin lesions, as defined in C1 of this section. Therefore, if you have frequent flareups, we may find that your impairment(s) is medically equal to one of these listings even though you have some periods during which your condition is in remission. We will consider how frequent and serious your flareups are, how quickly they resolve, and how you function between flareups to determine whether you have marked and severe functional limitations that have lasted for a continuous period of at least 12 months or that can be expected to last for a continuous period of at least 12 months. We will also consider the frequency of your flareups when we determine whether you have a severe impairment and when we need to assess functional equivalence.

3. *Symptoms (including pain).* Symptoms (including pain) may be important factors contributing to the severity of your skin disorder(s). We assess the impact of symptoms as explained in §§ 404.1528, 404.1529, 416.928, and 416.929 of this chapter.

4. *Treatment.* We assess the effects of medication, therapy, surgery, and any other form of treatment you receive when we determine the severity and duration of your impairment(s). Skin disorders frequently respond to treatment; however, response to treatment can vary widely, with some impairments becoming resistant to treatment. Some treatments can have side effects that can in themselves result in limitations.

a. We assess the effects of continuing treatment as prescribed by determining if there is improvement in the symptoms, signs, and laboratory findings of your disorder, and if you experience side effects that result in functional limitations. To assess the effects of your treatment, we may need information about:

i. The treatment you have been prescribed (for example, the type, dosage, method and frequency of administration of medication or therapy);

ii. Your response to the treatment;

iii. Any adverse effects of the treatment; and

iv. The expected duration of the treatment.

b. Because treatment itself or the effects of treatment may be temporary, in most cases sufficient time must elapse to allow us to evaluate the impact and expected duration of treatment and its side effects. Except under 108.07 and 108.08, you must follow continuing treatment as prescribed for at least 3 months before your impairment can be determined to meet the requirements of a skin disorder listing. (See 108.00H if you are not undergoing treatment or did not have treatment for 3 months.) We consider your specific response to treatment when we evaluate the overall severity of your impairment.

D. *How do we assess impairments that may affect the skin and other body systems?* When your impairment affects your skin and has effects in other body systems, we first evaluate the predominant feature of your impairment under the appropriate body system. Examples include, but are not limited to the following.

1. *Tuberous sclerosis* primarily affects the brain. The predominant features are seizures, which we evaluate under the neurological listings in 111.00, and developmental delays or other mental disorders, which we evaluate under the mental disorders listings in 112.00.

2. *Malignant tumors of the skin* (for example, malignant melanoma) are cancers, or neoplastic diseases, which we evaluate under the listings in 113.00.

3. *Connective tissue disorders and other immune system disorders* (for example, systemic lupus erythematosus, scleroderma, human immunodeficiency virus (HIV) infection, and Sjögren's syndrome) often involve more than one body system. We first evaluate these disorders under the immune system listings in 114.00. We evaluate lupus erythematosus under 114.02, scleroderma under 114.04, symptomatic HIV infection under 114.08, and Sjögren's syndrome under 114.03, 114.09, or any other appropriate listing in section 114.00.

4. *Disfigurement or deformity* resulting from skin lesions may result in loss of sight, hearing, speech, and the ability to chew (mastication). We evaluate these impairments and their effects under the special senses and speech listings in 102.00 and the digestive system listings in 105.00. Facial disfigurement or other physical deformities may also have effects we evaluate under the mental disorders listings in 112.00, such as when they affect mood or social functioning.

5. We evaluate *erythropoietic porphyrias* under the hemic and lymphatic listings in 107.00.

6. We evaluate *hemangiomas associated with thrombocytopenia and hemorrhage* (for example, Kasabach-Merritt syndrome) involving coagulation defects, under the hemic and lymphatic listings in 107.00. But, when hemangiomas impinge on vital structures or interfere with function, we evaluate their primary effects under the appropriate body system.

E. *How do we evaluate genetic photosensitivity disorders?*

1. *Xeroderma pigmentosum (XP).* When you have XP, your impairment meets the requirements of 108.07A if you have clinical and laboratory findings showing that you have the disorder. (See 108.00E3.) People who have XP have a lifelong hypersensitivity to all forms of ultraviolet light and generally lead extremely restricted lives in highly protective environments in order to prevent skin cancers from developing. Some people with XP also experience problems with their eyes, neurological problems, mental disorders, and problems in other body systems.

2. *Other genetic photosensitivity disorders.* Other genetic photosensitivity disorders may vary in their effects on different people, and may not result in marked and severe functional limitations for a continuous period of at least 12 months. Therefore, if you have a genetic photosensitivity disorder other than XP (established by clinical and laboratory findings as described in 108.00E3), you must show that you have either extensive skin lesions or an inability to function outside of a highly protective environment to meet the requirements of 108.07B. You must also show that your impairment meets the duration requirement. By *inability to function outside of a highly protective environment* we mean that you must avoid exposure to ultraviolet light (including sunlight passing through windows and light from unshielded fluorescent bulbs), wear protective clothing and eyeglasses, and use opaque broad-spectrum sunscreens in order to avoid skin cancer or other serious effects. Some genetic photosensitivity disorders can have very serious effects in other body systems, especially special senses and speech (102.00), neurological (111.00), mental (112.00), and neoplastic (113.00). We will evaluate the predominant feature of your impairment under the appropriate body system, as explained in 108.00D.

3. *Clinical and laboratory findings.* We need evidence confirming the diagnosis of your XP or other genetic photosensitivity disorder. The evidence must include a clinical description of abnormal physical findings associated with the condition. There must also be definitive genetic laboratory studies documenting appropriate chromosomal damage, abnormal DNA repair, or other DNA or genetic abnormality specific to your type of photosensitivity disorder. However, we do not need a copy of the actual laboratory report if we have medical evidence that is persuasive that a positive diagnosis has been confirmed by laboratory testing.

F. *How do we evaluate burns?* Electrical, chemical, or thermal burns frequently affect other body systems; for example, musculoskeletal, special senses and speech, respiratory, cardiovascular, renal, neurological, or mental. Consequently, we evaluate burns the way we evaluate other disorders that can affect the skin and other body systems, using the listing for the predominant feature of your impairment. For

example, if your soft tissue injuries are under continuing surgical management (as defined in 101.00M), we will evaluate your impairment under 101.08. However, if your burns do not meet the requirements of 101.08 and you have extensive skin lesions that result in a very serious limitation (as defined in 108.00C1) that has lasted or can be expected to last for a continuous period of at least 12 months, we will evaluate them under 108.08.

G. *How do we determine if your skin disorder(s) will continue at a disabling level of severity in order to meet the duration requirement?* For all of these skin disorder listings except 108.07 and 108.08, we will find that your impairment meets the duration requirement if your skin disorder results in extensive skin lesions that persist for at least 3 months despite continuing treatment as prescribed. By *persist*, we mean that the longitudinal clinical record shows that, with few exceptions, your lesions have been at the level of severity specified in the listing. For 108.07A, we will presume that you meet the duration requirement. For 108.07B and 108.08, we will consider all of the relevant medical and other information in your case record to determine whether your skin disorder meets the duration requirement.

H. *How do we assess your skin disorder(s) if your impairment does not meet the requirements of one of these listings?*

1. These listings are only examples of common skin disorders that we consider severe enough to result in marked and severe functional limitations. For most of these listings, if you do not have continuing treatment as prescribed, if your treatment has not lasted for at least 3 months, or if you do not have extensive skin lesions that have persisted for at least 3 months, your impairment cannot meet the requirements of these skin disorder listings. (This provision does not apply to 108.07 and 108.08.) However, we may still find that you are disabled because your impairment(s) meets the requirements of a listing in another body system, medically equals (see §§ 404.1526 and 416.926 of this chapter) the severity of a listing, or functionally equals the severity of the listings.

2. If you have not received ongoing treatment or do not have an ongoing relationship with the medical community despite the existence of a severe impairment(s), or if your skin lesions have not persisted for at least 3 months but you are undergoing continuing treatment as prescribed, you may still have an impairment(s) that meets a listing in another body system or that medically equals a listing. If you do not have an impairment(s) that meets or medically equals a listing, we will consider whether your impairment(s) functionally equals the listings. (See § 416.924 of this chapter.) When we decide whether you continue to be disabled, we use the rules in § 416.994a of this chapter.

108.01 Category of Impairments, Skin Disorders

108.02 *Ichthyosis*, with extensive skin lesions that persist for at least 3 months despite continuing treatment as prescribed.

108.03 *Bullous disease* (for example, pemphigus, erythema multiforme bullosum, epidermolysis bullosa, bullous pemphigoid, dermatitis herpetiformis), with extensive skin lesions that persist for at least 3 months despite continuing treatment as prescribed.

108.04 *Chronic infections of the skin or mucous membranes*, with extensive fungating or extensive ulcerating skin lesions that persist for at least 3 months despite continuing treatment as prescribed.

108.05 *Dermatitis* (for example, psoriasis, dyshidrosis, atopic dermatitis, exfoliative dermatitis, allergic contact dermatitis), with extensive skin lesions that persist for at least 3 months despite continuing treatment as prescribed.

108.06 *Hidradenitis suppurativa*, with extensive skin lesions involving both axillae, both inguinal areas, or the perineum that persist for at least 3 months despite continuing treatment as prescribed.

108.07 *Genetic photosensitivity disorders*, established by clinical and laboratory findings as described in 108.00E.

A. Xeroderma pigmentosum. Consider the individual disabled from birth.

B. Other genetic photosensitivity disorders, with:

1. Extensive skin lesions that have lasted or can be expected to last for a continuous period of at least 12 months, or

2. Inability to function outside of a highly protective environment for a continuous period of at least 12 months (see 108.00E2).

108.08 *Burns*, with extensive skin lesions that have lasted or can be expected to last for a continuous period of at least 12 months. (See 108.00F).

* * * * *

[FR Doc. 04–12895 Filed 6–8–04; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Clindamycin Capsules and Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental abbreviated new animal drug applications (ANADAs) filed by Phoenix Scientific, Inc. One supplemental ANADA provides for an expanded dose range and revised indications wording for the oral use of clindamycin hydrochloride capsules in dogs for the treatment of certain bacterial diseases. The other supplemental ANADA provides for use of a 300-milligram capsule size.

DATES: This rule is effective June 9, 2004.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lluther@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, filed two supplements to ANADA 200–298 for Clindamycin Hydrochloride Capsules. One supplemental ANADA provides for an expanded dose range and revised indications wording for the oral use of clindamycin hydrochloride capsules in dogs for the treatment of certain bacterial diseases. The other supplemental ANADA provides for use of a 300-milligram capsule size. The supplemental applications are approved as of April 21, 2004, and the regulations are amended in 21 CFR 520.446 to reflect their approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), summaries of safety and effectiveness data and information submitted to support approval of these applications may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that these actions are of a type that do not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required for either.

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 520

Animal drugs.

■ 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 520 is 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.

§ 520.446 [Amended]

■ 2. Section 520.446 is amended by removing paragraphs (a)(2) and (b)(2); by redesignating paragraphs (a)(3) and (b)(3) as paragraphs (a)(2) and (b)(2); in paragraph (b)(1) by removing ''No. 000009'' and by adding in its place ''Nos. 000009 and 059130''; and in newly redesignated paragraph (b)(2) by removing ''(a)(3)'' and by adding in its place ''(a)(2).''

Dated: May 19, 2004.

Steven D. Vaughn,

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

[FR Doc. 04–12961 Filed 6–8–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD01–04–052]

Special Local Regulation; Harvard-Yale Regatta, Thames River, New London, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of implementation of regulation.

SUMMARY: The Coast Guard is implementing the permanent regulations for the annual Harvard-Yale Regatta, a rowing competition held on the Thames River in New London, CT. The regulation controls vessel traffic within the immediate vicinity of the event due to the confined nature of the waterway and anticipated congestion at the time of the event, thus providing for the safety of life and property on the affected navigable waters.

DATES: The regulations in 33 CFR 100.101 will be enforced from 9:30 a.m. on June 12, 2004, until 5 p.m on June 13, 2004.

FOR FURTHER INFORMATION CONTACT: Petty Officer Austin Nagle, Office of Search and Rescue, First Coast Guard District, (617) 223–8460.

SUPPLEMENTARY INFORMATION: This notice implements the permanent special local regulation governing the 2004 Harvard-Yale Regatta. The regulations in 33 CFR 100.101 will be enforced from 9:30 a.m. until 5 p.m. on June 12, 2004, with a rain date of June 13, 2004, if the regatta is postponed due to inclement weather.

A portion of the Thames River in New London, Connecticut will be closed during the event to all vessel traffic except participants, official regatta vessels, patrol craft and spectators as prescribed by the regulation. The regulated area is that area of the river between the Penn Central drawbridge, now known as the Thames River Amtrak drawbridge, and Bartlett's Cove. Additional public notification will be made via the First Coast Guard District Local Notice to Mariners and marine safety broadcasts. The full text of this regulation is found in 33 CFR 100.101.

Dated: May 27, 2004.

Vivien S. Crea,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 04–12964 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NV–040–0075; FRL–7663–4]

Approval and Promulgation of Implementation Plans; Nevada-Las Vegas Valley PM–10 Nonattainment Area; Serious Area Plan for Attainment of the Annual and 24-Hour PM–10 Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the serious area particulate matter (PM–10) plan for the Las Vegas Planning Area that addresses attainment of the annual and 24-hour PM–10 national ambient air quality standards (NAAQS) and includes motor vehicle emissions budgets for transportation conformity. We are also granting Nevada's request to extend the Clean Air Act (CAA or Act) deadline for attaining the 24-hour PM–10 standard in the Las Vegas area from 2001 to 2006. Finally, we are approving into the State Implementation Plan (SIP) fugitive dust rules adopted by Clark County (County).

DATES: *Effective Date:* July 9, 2004.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours by appointment. You can inspect copies of the submitted SIP revisions by appointment at the following locations:

Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901;

Clark County Department of Air Quality Management, 500 S. Grand Central Parkway, Las Vegas, NV 89155;

Nevada Division of Environmental Protection, 333 West Nye Lane, Carson City, NV 89710.

Electronic Availability

This document and the Response to Comments Document for this action are also available as electronic files on EPA's Region 9 Web Page at *http://www.epa.gov/region09/air.*

FOR FURTHER INFORMATION CONTACT: Karen Irwin, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105. (415) 947–4116, *irwin.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA. This supplementary information is organized as follows:

I. Summary of Today's Actions
II. Public Comments and EPA Responses
III. Background to Today's Actions
A. Prior PM Planning Activities in Clark County
B. Serious Area Plan for the Las Vegas Area
IV. Other Related Action in the Las Vegas Area
V. Final Actions
VI. Administrative Requirements

I. Summary of Today's Actions

We are approving the *PM–10 State Implementation Plan for Clark County* (''Clark County Serious Area Plan'' or ''Plan''), submitted on July 23, 2001.[1] The Plan addresses attainment of the annual and 24-hour PM–10 standards.[2] This action is based on our determination that this Plan complies with the CAA requirements for serious PM–10 nonattainment area plans.

First, we are approving the following specific elements of the Plan:

• A demonstration that the Plan provides for implementation of best available control measures (BACM); [3]

[1] On November 19, 2002, the Nevada Division of Environmental Protection submitted to EPA an amendment to the Plan adopted by the Clark County Board of Commissioners on November 19, 2002. The amendment establishes new deadlines for SIP commitments concerning revisions to Sections 90 through 94 and adds documentation on adopted local ordinances for fireplaces and woodstoves as Appendix R of the Plan. EPA approved these ordinances in a separate action. 68 FR 52838 (Sept. 8, 2003).

[2] PM–10 is particulate matter with an aerometric diameter of less than or equal to a nominal 10 micrometers. There are two separate NAAQS for PM–10, an annual standard of 50 μg/m^3 and a 24-hour standard of 150 μg/m^3.

[3] Because the demonstration of BACM subsumes the demonstration of Reasonably Available Control Measures (RACM), a separate analysis to determine if the measures represent a RACM level of control is not necessary. The BACM demonstration, therefore, is also a finding that the Plan provides for the implementation of RACM as required under CAA sections 173(c)(1) and 189(a)(1)(C).

- An emissions inventory;
- A demonstration of attainment of the annual standard by the CAA deadline of December 31, 2001 and a demonstration that attainment of the 24-hour standard by December 31, 2001 is impracticable;
- A demonstration that attainment of the 24-hour standard will occur by the most expeditious alternative date practicable, in this case, December 31, 2006;
- A demonstration that the Plan includes to our satisfaction the most stringent measures (MSM) found in the implementation plan of another state or achieved in practice in another state and that can be feasibly implemented in the area;
- A demonstration that major sources of PM–10 precursors such as nitrogen oxides and sulfur dioxide do not significantly contribute to violations of the PM–10 standards;
- A demonstration that the Plan provides for reasonable further progress and quantitative milestones;
- Transportation conformity motor vehicle emissions budgets; and
- Contingency measures.

We are also approving the County's fugitive dust rules (Sections 90 through 94 and portions of Section 0),[4] as well as specific commitments by the County and local jurisdictions within the County to implement the Plan and perform other activities. As explained in our proposed approval, we are finding that the Plan and these rules comply with CAA sections 110(a) and 189(b)(1)(B).

This action also grants Nevada's request to extend the attainment date for the 24-hour PM–10 standard from December 31, 2001 to December 31, 2006. This approval is based on our determination that the State has met the CAA's criteria for granting such extensions.

This preamble describes our actions on the Clark County Serious Area Plan. We have not repeated the evaluation of the Plan that we provided in the proposal for today's action. See 68 FR 2954, January 22, 2003.

[4] The Plan included the November 16, 2000, versions of these rules. On October 24, 2002, the Nevada Division of Environmental Protection submitted to EPA revised versions of Clark County Sections 90 through 93, dated November 20, 2001, which supersede the earlier versions submitted with the Plan. It is this 2001 version of Sections 90 through 93 that we are approving in today's action. The versions of Section 94 and the portions of Section 0 being approved are the November 16, 2000 versions. The County has since adopted revisions to these rules and EPA will review and act on these changes in a separate rulemaking.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following parties:

1. Jennifer Anderson, Sierra Club; letter dated February 21, 2003.
2. Robert Hall, Nevada Environmental Coalition, Inc.; letter dated February 21, 2003.

Responses to all comments can be found in our Response to Comments Document that accompanies this final action. A copy of this document can be downloaded from our website or obtained by calling or writing the contact person listed above.

III. Background to Today's Action

A. Prior PM Planning Activities in Clark County

The 1977 Amendments to the CAA required States to revise their SIPs for all areas that did not meet the NAAQS. At that time, EPA's particulate matter NAAQS were measured in terms of total suspended particulates (TSP). The Las Vegas Valley was designated nonattainment for TSP. As a result, Nevada submitted, and EPA approved, a nonattainment area plan and a series of revisions with state and local control measures. See 46 FR 21758 (April 14, 1981), 46 FR 43141 (August 27, 1981) and 47 FR 26386 (June 18, 1982).

In 1987, EPA promulgated NAAQS for PM–10, 52 FR 24643 (July 1, 1987), and the approach by which areas would be designated. 52 FR 24672 (July 1, 1987). In accordance with these rulemakings, EPA categorized areas based on the likelihood that the SIP existing at the time would need to be revised to meet the PM–10 standards. 52 FR 29383 (August 7, 1987). Clark County was placed in ''Group I'', meaning EPA found there was a strong likelihood that the area would violate the PM–10 NAAQS and that SIP revisions would be required. Id.; see also 55 FR 45799 (October 31, 1990) (refining definition of area to be the Hydrographic Area 212). EPA concluded that actual attainment and nonattainment designations with respect to the new PM–10 NAAQS were not required under the Act and retained the TSP designations in place at the time.

In 1990 Congress amended the Clean Air Act. Under section 107(d)(4)(B)(i) of the amended Act, all areas identified as Group I areas with respect to the PM–10 NAAQS were designated nonattainment by operation of law on November 15, 1990—the enactment date of the 1990 Clean Air Act Amendments. Section 188(a) of the amended Act further required that all areas designated nonattainment by operation of law be classified as moderate nonattainment areas. Thus, EPA designated Clark County a moderate PM–10 nonattainment area. See 56 FR 11101 (March 15, 1991) (announcing designation of areas) and 56 FR 56694 (November 6, 1991) (codifying designations). CAA section 189(a)(2) required moderate areas designated by operation of law to submit plans by November 15, 1991. The County submitted its moderate area plan on December 6, 1991.

In 1993, EPA found, in accordance with CAA section 188(b)(1)(A), that the Clark County area could not practicably attain the PM–10 standard by the applicable moderate area attainment date of December 31, 1994, and therefore should be reclassified to a serious PM–10 nonattainment area. 58 FR 3334 (January 8, 1993). EPA concluded that implementation of the control measures included in Clark County's moderate area plan would not result in emission reductions sufficient to attain the 24-hour standard. EPA also found that a substantial portion of PM–10 emissions in the area were due to fugitive dust and additional controls would be required. Id.

Reclassification to a serious PM–10 nonattainment area triggered, among other requirements, the requirement to implement more stringent control measures (*i.e.*, BACM) and the requirement to submit a revised plan demonstrating that the area would attain the PM–10 NAAQS by a new attainment date of December 31, 2001. See CAA section 189(b). The County submitted a serious area PM–10 plan in 1997 to demonstrate attainment in accordance with section 189(b). EPA, however, found this attainment demonstration, along with previously submitted plans for RACM and BACM,[5] failed to meet the requirements of the CAA and therefore proposed to disapprove these submittals. 65 FR 37324 (June 14, 1998). Prior to EPA taking final action on the proposed disapproval, the State of Nevada withdrew the moderate and serious area plans for Clark County. See Letter from Allen Biaggi, Administrator, Division of Environmental Protection, Nevada Department of Conservation, to Felicia Marcus, Regional Administrator,

[5] See Clark County's February 15, 1995 submittal, ''Addendum to the '' ''Moderate Area''' PM–10 State Implementation Plan for the Las Vegas Valley'' (The 1995 RACM Addendum) and December 1994 submittal ''Providing for the Evaluation, Adoption and Implementation of Best Available Control Measures and Best Available Control Technology to Improve PM–10 Air Quality'' (1994 BACM Plan).

EPA Region 9 (December 5, 2000). On January 5, 2001, EPA issued a ''finding of nonsubmittal'' for failure to submit the required PM–10 plans. See 66 FR 1046. This finding was made effective December 20, 2000, and began an 18-month ''clock'' for mandatory application of sanctions and a 2-year clock for promulgation of a Federal Implementation Plan (FIP) in accordance with CAA section 179. Id. Under the sanctions clock, mandatory sanctions (*i.e.*, tighter offset ratios for new and modified major sources and, six months later, highway funding restrictions) would be imposed unless and until EPA found the State had made a ''complete'' submittal of a plan addressing the applicable PM–10 requirements for the Las Vegas Valley. See id. at 1047 (citing 40 CFR 52.31 and CAA section 179). Under the FIP clock, EPA was to promulgate a FIP in place of a SIP unless and until EPA approved a SIP for the area.[6] CAA section 110(c)(1).

B. Serious Area Plan for the Las Vegas Area

Following EPA's proposed disapproval of the 1997 PM–10 Plan, the County began revising its fugitive dust control measures. On June 22, 2000, the County adopted dust controls for open areas and vacant lots (Section 90), dust controls for unpaved roads (Section 91), dust controls for unpaved parking lots (Section 92), dust controls for paved roads and street sweepers (Section 93), and dust controls for construction activities (Section 94 and Construction Activities Notebook Including Section 94 Handbook).[7] On November 16, 2000, the County revised Section 0 governing regulatory definitions to include a number of definitions related to fugitive dust control measures. These rules provide the backbone for the Clark County Serious Area Plan, which was adopted by the Clark County Board of Commissioners on June 19, 2001.[8] The Nevada Division of Environmental Protection submitted Sections 90 through 94 and Section 0, along with the June 19, 2001, Plan to EPA on July 25, 2001.[9] On January 11, 2002, we determined the conformity budgets in the Plan were adequate (67 FR 1461) and on January 22, 2003, we proposed approval of the Plan and the associated rules (68 FR 2954). The Technical Support Document associated with our proposed approval is available on EPA's Web site.

The Plan supports the County's strategy of focusing controls on sources of fugitive dust. The Plan includes a detailed inventory of PM–10 emissions in the nonattainment area and uses modeling and monitoring data to determine the effect these emissions have on ambient concentrations and to identify the significant contributors to violations in the area. The Plan and PM–10 monitoring data show the area met and continues to meet the annual PM–10 standard but was not able to meet the 24-hour standard by the statutory deadline of December 31, 2001. The Plan further demonstrates that the County has adopted control measures meeting the CAA requirements for BACM and MSM and that implementation of these measures will result in reductions in the inventory of emissions to levels that ensure the area will attain the 24-hour standard by the extended attainment date of December 31, 2006. The Plan also includes demonstrations of reasonable further progress between now and the 2006 attainment deadline, a demonstration of the need for an extension, a description of contingency measures and enforceable commitments, and motor vehicle emissions budgets for ensuring transportation projects conform to the Plan.

We received comments on several aspects of the Plan and our responses to these comments are provided in a separate document. See Response to Comments Document (April 2004). While the comments led us to look more carefully at certain demonstrations and, in some cases, request additional information from the County, we have not changed our conclusions from the proposal that the rules and Plan comply with the requirements of the Act and reasonably support the County's demonstration of attainment.

IV. Other Related Action in the Las Vegas Area

In addition to working on this PM–10 Plan and the associated fugitive dust rulemakings, the County is in the process of updating air control requirements on several other fronts. The County has revised its stationary source permitting regulations for new and modified sources in Sections 12, 58 and 59 (and portions of Section 0). These regulations will ensure that new and modified major sources of PM–10 and other nonattainment criteria pollutants will be subject to offset and control requirements. In addition EPA is in the final stages of reviewing the Las Vegas carbon monoxide (CO) attainment plan. EPA proposed approval of this plan, which includes inspection and maintenance and gasoline and transportation control measure provisions, on January 28, 2003 (68 FR 4141). These actions may provide incidental PM–10 benefits for the area and will be reviewed to ensure consistency with today's action.

V. Final Actions

With this final action, we are incorporating by reference the following portions of the Clark County Serious Area Plan for the Las Vegas Planning Area, adopted June 19, 2001, with amendments adopted November 19, 2002, into the Nevada SIP:

(1) The demonstration in Chapter 4 and Appendices G and J that the Plan provides for implementation of BACM as required under CAA section 189(b)(1)(B).

(2) The baseline and projected emissions inventories provided in Chapter 3 and Appendices B through E and L as required under CAA section 172(c)(3).

(3) The demonstration in Chapters 5 and 7 of attainment of the annual standard by the CAA deadline of December 31, 2001 and that attainment of the 24-hour standard by December 31, 2001 is impracticable as required under CAA section 189(b)(1)(A).

(4) The demonstration in Chapter 7 and Appendix A that attainment of the 24-hour standard will occur by the most expeditious alternative date practicable, in this case, December 31, 2006, as required under CAA sections 189(b)(1)(A) and 188(e).

(5) The demonstration in Chapter 6 that the Plan includes MSM as required under CAA section 188(e).

[6] While the FIP Clock expired in December 2002, EPA pursued review and approval of the SIP submitted in 2001 rather than preparation of a FIP. Today's approval removes the obigation to prepare a FIP for the area.

[7] These new fugitive dust rules generally supplement the existing PM–10 measures previously approved into the SIP in 1981 and 1982. The two exceptions are: (1) Section 17 (''Permission to Disturb Topsoil''), which is being removed from the SIP by this action and replaced with the new Sections 90 through 94; and (2) the definitions in sections 1.35 (''Fugitive Dust'') and 1.64 (''Off-road Vehicle''), which are being replaced by the new definitions in Sections 0.70 and 0.114, respectively.

[8] In 2001, the Clark County Department of Air Quality Management (DAQM) was created to handle both the permitting and enforcement functions of the Clark County Health District along with the planning functions previously managed by the Clark County Department of Comprehensive Planning. Because of the shifting organization of the local air agencies, we refer generally to the ''County'' for both the new DAQM and its predecessor agencies.

[9] On October 24, 2002, the State submitted revised versions of Sections 90 through 93, dated November 20, 2001, to replace the November 16, 2000 versions included with the Plan submittal. In addition, on November 19, 2002, the State submitted amendments to the Plan regarding SIP commitment deadlines and adoption of local ordinances.

(6) The demonstration in Chapter 4 that major sources of PM–10 precursors such as nitrogen oxides and sulfur dioxide do not significantly contribute to violations of the PM–10 standards as required under CAA section 189(e).

(7) The demonstration in Chapter 5 and Appendix M that the Plan provides for reasonable further progress and quantitative milestones as required under CAA sections 189(c) and 172(c)(2).

(8) The contingency measures in Chapter 4 as required under CAA section 172(c)(9).

We are also approving the following transportation conformity motor vehicle emissions budgets in Appendix N [10] as required under CAA section 176(c):

Year	Motor vehicle emissions budget (tons PM–10 per day)
2001	201.75
2003	155.77
2006	141.41

Finally, today's final approval includes additions to and removals from the SIP of specific local measures as follows:

(1) We are approving into the SIP Clark County Sections 90, 91, 92 and 93, adopted on November 20, 2001, which supersede earlier versions submitted in Appendix G of the Plan.

(2) We are approving the following portions of Section 0, adopted on November 16, 2000, into the SIP: [11]

Section 0.25 ''Best Management Practices''
Section 0.33 ''Commercial and Residential Construction''
Section 0.36 ''Construction Activity''
Section 0.37 ''Control Measure''
Section 0.43 ''Disturbed Surface Area''
Section 0.45 ''Dust Palliative''
Section 0.46 ''Dust Suppressant''
Section 0.47 ''Easement''
Section 0.48 ''Easement Holder''
Section 0.51 ''Emergency''
Section 0.58 ''EPA or Administrator''
Section 0.65 ''Flood Control Construction''
Section 0.70 ''Fugitive Dust''
Section 0.81 ''Hearing Officer''
Section 0.84 ''Highway Construction''
Section 0.110 ''Nonroad Easement''
Section 0.111 ''Normal Farm Cultural Practice''
Section 0.114 ''Offroad Vehicle''
Section 0.117 ''Open Areas and Vacant Lots''
Section 0.120 ''Owner and/or Operator''
Section 0.127 ''Pave''
Section 0.132 ''PM–10 Nonattainment Area''
Section 0.133 ''PM–10''
Section 0.140 ''Public Road''
Section 0.141 ''Reclaimed Water''
Section 0.147 ''Road Easement''
Section 0.162 ''Trench''
Section 0.164 ''Unpaved Parking Lot''
Section 0.166 ''Vacant Lot''

(3) We are approving into the SIP the commitments contained in Chapter 4, section 4.8.

(4) We are approving into the SIP Clark County Section 94, adopted on November 16, 2000, along with the associated August 24, 2000, ''Construction Activities Notebook including the Section 94 Handbook'' (Appendix G).

(5) We are removing from the SIP Clark County Section 17 ''Permission to Disturb Topsoil'' and Sections 1.35 (defining ''Fugitive Dust'') and 1.64 (defining ''Off-road Vehicle'') because these sections are replaced by the overlapping provisions in Sections 0 and 90 through 94 being approved today.

VI. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state plan and rules implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

[10] EPA notified Clark County that the motor vehicle emissions budgets were adequate by letter from Jack Broadbent, EPA, to Allen Biaggi, Nevada Division of Environmental Protection, November 9, 2001. Public notice of EPA's adequacy determination was provided on January 11, 2002 (67 FR 1461).

[11] Clark County included all of Section 0 in Appendix G of the Plan. In this action, we are approving only definitions relevant to Sections 90 through 94.

This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: May 3, 2004.

Wayne Nastri,

Regional Administrator, Region IX.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart DD—Nevada

■ 2. Section 52.1470 is amended by adding paragraphs (c)(16)(viii)(B), (c)(24)(iv)(B), and (c)(42) to (c)(44) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(16) * * *

(viii) * * *

(B) Previously approved on August 27, 1981 at (c)(16)(viii) and now deleted Section 17, Rules 17.1–17.8.

* * * * *

(24) * * *

(iv) * * *

(B) Previously approved on June 18, 1982 at (c)(24)(iv) and now deleted Section 17, Rules 17.2.1 and 17.6.1.

* * * * *

(42) The following plan was submitted on July 23, 2001, by the Governor's designee.

(i) Incorporation by reference.

(A) Clark County Department of Air Quality Management.

(1) PM–10 State Implementation Plan for Clark County including: Chapter 3, Chapter 4 (excluding pages 4–125 and 4–126), Chapters 5 through 7, Appendices A through E, Appendix G (excluding pages 90–1 through 90–10, 91–1 through 91–9, 92–1 through 92–7, 93–1 through 93–8, and the following paragraphs of pages 0–1 through 0–46: 0.1–0.24, 0.26–0.32, 0.34, 0.35, 0.38–0.42, 0.44, 0.49, 0.50, 0.52–0.57, 0.59–0.64, 0.66–0.69, 0.71–0.80, 0.82, 0.83, 0.85–0.109, 0.112, 0.113, 0.115, 0.116, 0.118, 0.119, 0.121–0.126, 0.128–0.131, 0.134–0.139, 0.142–0.146, 0.148–0.161, 0.163, 0.165, and 0.167–0.172), Appendix J, and Appendices L through N adopted on June 19, 2001.

(43) The following regulations were submitted on October 24, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Clark County Department of Air Quality Management.

(1) Sections 90, 91, 92 and 93 adopted on November 20, 2001.

(44) The following plan amendments were submitted on November 19, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Clark County Department of Air Quality Management.

(1) Pages 4–125 and 4–126 and Appendix R adopted on November 19, 2002.

* * * * *

[FR Doc. 04–12918 Filed 6–8–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA149–5076a; FRL–7671–6]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; VOC Emission Standards for Solvent Metal Cleaning Operations in the Metropolitan Washington, DC Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Commonwealth of Virginia State Implementation Plan (SIP). The revision establishes regulations for the control of volatile organic compound (VOC) emissions from solvent metal cleaning operations in the Northern Virginia portion of the Metropolitan Washington, D.C. Ozone Nonattainment Area (Northern Virginia Area). EPA is approving this revision to the Commonwealth of Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on August 9, 2004 without further notice, unless EPA receives adverse written comment by July 9, 2004. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by VA149–5076 by one of the following methods:

A. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: morris.makeba@epa.gov.*

C. *Mail:* Makeba Morris, Chief, Air Quality Planning Branch Name, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. VA149–5076. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On January 24, 2003 (68 FR 3410), EPA issued a determination that the Metropolitan Washington, DC ozone nonattainment area (DC Area) failed to attain the ozone standard by the statutory date of November 15, 1999, and reclassified the area from ''serious'' to ''severe'' for one-hour ozone. As a severe nonattainment area, the DC Area must now meet the requirements of section 182(d) of the CAA, and attain the one-hour ozone standard by November 15, 2005. As a result of the reclassification to severe nonattainment, the States that comprise the DC Area (Maryland, Virginia, and the District of Columbia) must implement additional control measures and submit SIP revisions for post-1999 Rate of Progress Plans, revisions to Contingency Plans, and revisions to the Attainment Demonstration.

As part of Virginia's strategy to meet its portion of emission reductions keyed to the post-1999 ROPs, the 2005 attainment demonstration, and/or the contingency plan, the State adopted new measures to control volatile organic compound (VOC) emissions from four additional source categories, including a regulation to control emissions from solvent metal cleaning operations.

On February 23, 2004, the Commonwealth of Virginia submitted a formal revision to its SIP. The SIP revision consists of four new regulations to 9 VAC 5, Chapter 40, amendments to one existing article of 9 VAC 5, Chapter 40, and amendments to one article of 9 VAC Chapter 20.

The new regulations are: (1) 9 VAC 5 Chapter 40, New Article 42—''Emission Standards for Portable Fuel Container Spillage in the Northern Virginia Volatile Organic Compound Emissions Control Area'' (''Rule 4–42'')—(9 VAC 5–40–5700 to 9 VAC 5–40–5770).

(2) 9 VAC 5, Chapter 40, New Article 47—''Emission Standards for Solvent Metal Cleaning Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area'' (''Rule 4–47'')—(9 VAC 5–40–6820 to 9 VAC 5–40–6970).

(3) 9 VAC 5, Chapter 40, New Article 48—''Emission Standards for Mobile Equipment Repair and Refinishing Operations in the Northern Virginia Volatile Organic Compound Emission Control Area'' (''Rule 4–48'')—(9 VAC 5–40–6970 to 9 VAC 5–40–7110).

(4) 9 VAC 5, Chapter 40—New Article 49—''Emission Standards for Architectural and Industrial Maintenance Coatings in the Northern Virginia Volatile Organic Compound Emissions Control Area'' (''Rule 4–49'')—(9 VAC 5–40–7120 to 9 VAC 5–40–7230).

The February 23, 2004, submittal also included amendments to 9 VAC 5–20–21, ''Documents incorporated by reference,'' to incorporate by reference additional test methods and procedures needed for Rule 4–42 or Rule 4–49, and, also amendments to section 9 VAC 5–40–3260 of Article 24, ''Emission Standards for Solvent Metal Cleaning Operations Using Non-Halogenated Solvents'' (''Rule 4–24'').

This action concerns only Rule 4–47 of the February 23, 2004 SIP revision. The other portions of the February 23, 2004 SIP revision submittal will be the subject of separate rulemaking actions, these include the new rules: Rule 4–42, Rule 4–48, and, Rule 4–49, the amendment to 9 VAC 5–40–3260, and all of the other amendments and additions to 9 VAC 5–20–21.

II. Summary of SIP Revision

The standards and requirements contained in Virginia's solvent metal cleaning regulation are based on the Ozone Transport Commission (OTC) model rule. The OTC developed control measures into model rules for a number of source categories and estimated emission reduction benefits from implementing those model rules. On February 23, 2004, the Virginia Department of Environmental Quality (VADEQ) submitted a formal revision to its SIP. The SIP revision consists of VOC emission standards for solvent metal cleaning operations in the Northern Virginia counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford, and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. Affected persons must comply with the provisions of this regulation by January 1, 2005.

The Virginia solvent metal cleaning rule (Emission Standards for Solvent Metal Cleaning Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area—Rule 4–47, applies to each solvent metal cleaning operation, including, but not limited to, cold or vapor degreasing at service stations, motor vehicle repair shops, automobile dealerships, machine shops, and any other metal refinishing, cleaning, repair, or fabrication facility, in the Northern Virginia counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford, and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. Certain provisions of this regulation also apply to sellers of solvents for use in cold cleaning machines. The regulation establishes hardware and operating requirements, and alternative compliance options for vapor cleaning machines used to clean metal parts. These requirements are based on the Federal maximum achievable control technology (MACT) standards for chlorinated solvent vapor degreasers. The requirements implement higher levels of technology than required under most existing State requirements, based on EPA's Control Technique Guidelines (CTG). The rule also affects cold cleaning machines that process metal parts and that contain more than one liter of VOCs. The regulation defines applicability, compliance, notification, monitoring, recordkeeping, and reporting requirements similar to the OTC model rule.

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) That are generated or developed before the commencement of a voluntary environmental assessment; (2) that are

prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. * * *'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a State agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a State audit privilege and immunity law can affect only State enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the State plan, independently of any State enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, State audit privilege or immunity law.

IV. Final Action

EPA is approving a revision to the Commonwealth of Virginia SIP to establish regulations for the control of VOC emissions from solvent cleaning operations in the Northern Virginia ozone nonattainment area, which was submitted on February 23, 2004. Implementation of this VOC control measure will strengthen the Virginia SIP, and result in emission reductions that will assist the DC area in meeting the additional requirements associated with its reclassification as a severe nonattainment area for one-hour ozone.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment [as appropriate, insert language explaining why we anticipate no adverse comment]. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on August 9, 2004, without further notice unless EPA receives adverse comment by July 9, 2004. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, approving the Commonwealth of Virginia's regulation to control emission from solvent metal cleaning operations in the Northern Virginia area, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 27, 2004.

James W. Newsom,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by adding entries under chapter 40 to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation (former SIP citation)
*	*	*	*	*
Chapter 40	Existing Stationary Sources			
*	*	*	*	*
Part II Emission Standards				
*	*	*	*	*
Article 47	Emission Standards for Solvent Metal Cleaning Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4–47)			
5–40–6820	Applicability	3/24/04	6/09/04 [Insert Federal Register page citation].	
5–40–6830	Definitions	3/24/04	6/9/04 [Insert Federal Register page citation].	
5–40–6840	Standards for volatile organic compounds	3/24/04	6/9/04 [Insert Federal Register page citation].	
5–40–6850	Standard for visible emissions	3/24/04	6/9/04 [Insert Federal Register page citation].	
5–40–6860	Standard for fugitive dust/emissions	3/24/04	6/9/04 [Insert Federal Register page citation].	
5–40–6890	Compliance	3/24/04	6/9/04 [Insert Federal Register page citation].	
5–40–6900	Compliance schedules	3/24/04	6/9/04 [Insert Federal Register page citation].	
5–40–6910	Test methods and procedures	3/24/04	6/9/04 [Insert Federal Register page citation].	

EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation (former SIP citation)
5–40–6920	Monitoring	3/24/04	6/9/04 [Insert Federal Register page citation].	
5–40–6930	Notification, records and reporting	3/24/04	6/9/04 [Insert Federal Register page citation].	
5–40–6940	Registration	3/24/04	6/9/04 [Insert Federal Register page citation].	
5–40–6950	Facility and control equipment maintenance or malfunction.	3/24/04	6/9/04 [Insert Federal Register page citation].	
5–40–6960	Permits	3/24/04	6/9/04 [Insert Federal Register page citation].	
*	*	*	*	*

[FR Doc. 04–12926 Filed 6–8–04; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2004–0169; FRL–7362–4]

Indoxacarb; Tolerances for Residues; Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: EPA, in making amendments to this section, has identified typographical errors in the chemical name of indoxacarb throughout this section. This document is being issued to correct these typographical errors.

DATES: This final rule is effective on June 9, 2004.

ADDRESSES: EPA has established a docket for this action under docket ID number OPP–2004–0169. All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket/*. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., 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.

FOR FURTHER INFORMATION CONTACT: Ann Hanger, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 306–0395; e-mail address: *hanger.ann@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), e.g., Agricultural workers; Greenhouse, nursery, and floriculture workers; Farmers.
- Animal production (NAICS 112), e.g., Cattle ranchers and farmers, Dairy cattle farmers, Livestock farmers.
- Food manufacturing (NAICS 311), e.g., Agricultural workers; Farmers; Greenhouse, nursery, and floriculture workers; Ranchers; Pesticide applicators.
- Pesticide manufacturing (NAICS 32532), e.g., Agricultural workers; Commercial applicators; Farmers; Greenhouse, nursery, and floriculture workers; Residential users.

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 Access Electronic Copies of This Document and Other Related Information?

In addition to using EDOCKET (*http://www.epa.gov/edocket/*), you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available on E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

II. Why Is this Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment, because EPA is merely inserting language that was inadvertently omitted from the previously published final rule. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

III. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

This final rule is a technical correction. It does not otherwise impose or amend any requirements. As such, this action is not a ''significant regulatory action'' under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), and is therefore not subject to review by OMB.

Because this action is not economically significant as defined by section 3(f) of Executive Order 12866, this action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

This rule does not contain any new information collection requirements that require review or approval by OMB pursuant to PRA.

Since the Agency has made a ''good cause'' finding that this action is not subject to notice and comment requirements under the APA or any other statute (see Unit II.), this action is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Similarly, this rule will not have substantial direct effects on tribal governments, 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, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000).

This action does not involve any technical standards that require the Agency's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

This rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not a significant regulatory action under Executive Order 12866.

This action will not result in environmental justice related issues and does not therefore, require special consideration under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

IV. 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 27, 2004.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 is corrected as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.564 is amended by revising paragraphs (a)(1) introductory text, (a)(2) introductory text, and (b) introductory text to read as follows:

§ 180.564 Indoxacarb; tolerances for residues.

(a) * * *

(1) Tolerances are established for the combined residues of the insecticide indoxacarb, (S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate, and its R-enantimomer, (R)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl]amino] carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate, in or on the following raw agricultural commodities:

* * * * *

(2) Time-limited tolerances are established for combined residues of indoxacarb, (S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl) [4-(trifluoromethoxy) phenyl]amino] carbonyl] indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate, and its R-enantiomer, (R)-methyl 7-chloro- 2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy) phenyl]amino] carbonyl]indeno[1,2-e] [1,3,4]oxadiazine-4a(3H)- carboxylate, in connection with use of the pesticide under FIFRA section 5 experimental use permit granted by EPA. The tolerances are specified in the following table, and will expire and are revoked on the dates specified.

* * * * *

(b) Time-limited tolerances are established for the residues of indoxacarb, (S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno [1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate, and its R-enantiomer, (R)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate, in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances are specified in the following table, and will expire and are revoked on the dates specified.

* * * * *

[FR Doc. 04–12912 Filed 6–8–04; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 04–107; MM Docket No. 99–240; RM–9503]

Radio Broadcasting Services; Albemarle and Indian Trail, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule; application for review.

SUMMARY: This *Memorandum Opinion and Order* affirms action in a *Report and Order* 66 FR 39119 (July 27, 2001), that reallotted FM broadcast Channel 265A from Albemarle, North Carolina, to Indian Trail, North Carolina, thus providing Indian Trail with its first local aural transmission service. Susquehanna Radio Corp., the licensee of Station WABZ(FM), Channel 265A, Albemarle, North Carolina, had requested this reallotment. The *Report and Order* modified Station WABZ's license to specify operation on Channel 265A at Indian Trail. This document denies an application for review of that *Report and Order,* filed by Monroe Broadcasting Company, Inc., licensee of Station WIXE(AM), Monroe, North Carolina.

DATES: Effective June 9, 2004.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 99–240, adopted April 28, 2004 and released May 20, 2004. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.* This document is not subject to the Congressional Review Act.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–13037 Filed 6–8–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 04–116; MM Docket No. 89–120]

Radio Broadcasting Services; Cuba, Eldon, Lake Ozark, Northwye, and Waynesville, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration, dismissed.

SUMMARY: The Commission dismissed a petition for reconsideration filed by Lake Broadcasting, the former licensee, *inter alia,* of Station KBMX(FM), Eldon, Missouri. The Commission held that the petition for reconsideration, seeking to upgrade the class of the Eldon station, was moot because the revocation of its license had become final and because a federal appellate court ruled that no new proceedings regarding the revocation were warranted. *See* 67 FR 21182 (April 30, 2002).

DATES: Effective June 9, 2004.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 89–120, adopted May 20, 2004, and released May 26, 2004. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.* This document is not subject to the Congressional Review Act.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–13038 Filed 6–8–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031124287–4060–02; I.D. 060304C]

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

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for yellowfin sole in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2004 total allowable catch (TAC) of yellowfin sole in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), June 04, 2004, until 2400 hrs, A.l.t., December 31, 2004.

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

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

The 2004 TAC specified for yellowfin sole in the BSAI is 73,164 metric tons (mt) as established by the 2004 harvest specifications for groundfish of the BSAI (69 FR 9242, February 27, 2004).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2004 TAC specified for yellowfin sole will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 72,164 mt, and is setting aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for yellowfin sole in the BSAI.

Classification

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

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

prior notice and opportunity for public comment.

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

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

Dated: June 3, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04–13034 Filed 6–4–04; 2:55 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031124287–4060–02; I.D. 060104A]

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

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for ''other flatfish'' in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2004 total allowable catch (TAC) of ''other flatfish'' specified for the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), June 4, 2004, until 2400 hrs, A.l.t., December 31, 2004.

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

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

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

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2004 TAC specified for ''other flatfish'' will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,600 mt, and is setting aside the remaining 175 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for ''other flatfish'' in the BSAI.

''Other flatfish'' includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder and Alaska plaice.

Classification

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

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

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

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

Dated: June 3, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04–13033 Filed 6–4–04; 2:55 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 69, No. 111
Wednesday, June 9, 2004

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–37–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd. & Co KG, Model Tay 611–8, 620–15, 650–15, and 651–54 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for Rolls-Royce Deutschland Ltd. & Co KG (RRD) (formerly Rolls-Royce plc) Model Tay 611–8, 620–15, 650–15, and 651–54 turbofan engines, with low pressure (LP) fuel tube, part number (P/N) JR33021A, installed. That AD currently requires initial and repetitive inspections of the LP fuel tubes. This proposed AD would require the same inspections and adds a requirement to replace the fuel tube with a new design tube, as mandatory terminating action to the repetitive inspections. This proposed AD results from the manufacturer introducing a new design fuel tube, which eliminates the unsafe condition. We are proposing this AD to prevent a dual-engine flameout due to fuel exhaustion, which could lead to forced landing and possible damage to the airplane.

DATES: We must receive any comments on this proposed AD by August 9, 2004.

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

- By mail: Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–37–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- By fax: (781) 238–7055.
- By e-mail: *9-ane-adcomment@faa.gov*

You can get the service information identified in this proposed AD from Rolls-Royce Deutschland Ltd. & Co KG, Eschenweg 11, D–15827 DAHLEWITZ, Germany; telephone 49 (0) 33–7086–1768; fax 49 (0) 33–7086–3356.

You may examine the AD docket at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone 781–238–7747; fax 781–238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES.** Include ''AD Docket No. 2002–NE–37–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. If a person contacts us verbally, and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for the location.

Discussion

On March 4, 2003, the FAA issued AD 2003–05–04, Amendment 39–13080 (68 FR 11467, March 11, 2003). That AD requires:

- An initial inspection of LP fuel tube, P/N JR33021A, for fretting before further flight for Tay 620–15 and 650–15 turbofan engines.
- An initial inspection of LP fuel tube, P/N JR33021A, for fretting within 300 hours time-in-service (TIS) or one month after the effective date of this AD, whichever occurs first for Tay 611–8 and 651–54 turbofan engines.
- Repetitive inspections for fretting of the LP fuel tube at intervals not to exceed 2,000 hours TIS since the last inspection.

The Luftfhart Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that a leak from the LP fuel tube, P/N JR33021A, which connects the LP fuel flowmeter to the high pressure (HP) fuel pump, resulted in complete fuel exhaustion and subsequent dual engine flameout.

After AD 2003–05–04 Was Issued

After AD 2003–05–4 was issued, RRD introduced a new design fuel tube that has improved routing and an improved mounting flange at the HP fuel pump end of the tube. Installation of this fuel tube is considered terminating action to the repetitive inspections of the fuel tube, and eliminates the unsafe condition.

Relevant Service Information

We have reviewed and approved the technical contents of the following RRD service bulletins (SBs):

- SB TAY–73–1593, dated April 23, 2003, that specifies procedures for inspecting the LP fuel tube, P/N JR33021A, for fretting on Tay 620–15 and 650–15 turbofan engines.
- SB TAY–73–1553, Revision 2, dated April 23, 2003, that specifies procedures for inspecting the LP fuel tube, P/N JR33021A, for fretting on Tay 611–8 and 651–54 turbofan engines.
- SB TAY 73–1592, dated April 30, 2003, that specifies procedures for replacing fuel tubes on Tay 620–15, Tay 650–15, Tay 611–8, and Tay 651–54 turbofan engines, with a new design fuel tube.

The LBA classified these service bulletins as mandatory and issued AD No. 2002–358/5, dated November 18, 2003, in order to ensure the airworthiness of these engines in Germany.

Bilateral Agreement Information

These engine models are type certificated in Germany, 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. In keeping with this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. We have examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

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 products of this same type design, and we are proposing this AD. Since the effective date of AD 2003–05–04 was March 26, 2003, and all Tay 611–8, 620–15, 650–15, and 651–54 engines should have completed the initial inspection, this AD would require:

- An initial inspection of the LP fuel tube for fretting before further flight.
- Repetitive inspections for fretting of the LP fuel tube, within 2,000 hours TIS after the last inspection.
- As mandatory terminating action to the repetitive inspections, replacement of fuel tubes with fewer than 4,000 hours TIS on the effective date of the proposed AD, with a new design fuel tube, within 10 additional cycles-in-service or before reaching 4,000 hours TIS, whichever occurs later.
- As mandatory terminating action to the repetitive inspections, replacement of fuel tubes with 4,000 hours or more TIS on the effective date of the proposed AD, with a new design fuel tube before June 30, 2005.

The proposed AD would require that you do the inspections using the service information described previously.

Costs of Compliance

There are about 1,300 RRD Model Tay 611–8, 620–15, 650–15, and 651–54 turbofan engines of the affected design in the worldwide fleet. We estimate that 1,206 engines installed on airplanes of U.S. registry would be affected by this proposed AD. We also estimate that it would take about two work hours per engine to perform the proposed tube inspection, and two work hours per engine to perform the proposed tube replacement. The average labor rate is $65 per work hour. Required parts would cost about $1,300 per engine. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $1,720,000.

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. Would 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 summary of the costs to comply with this proposal and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''AD Docket No. 2002–NE–37–AD'' in your request.

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 Federal Aviation Administration 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 39–13080 (68 FR 11467, March 11, 2003) and by adding a new airworthiness directive, to read as follows:

Rolls-Royce Deutschland Ltd. & Co KG: Docket No. 2002–NE–37–AD. Supersedes AD 2003–05–04, Amendment 39–13080.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by August 9, 2004.

Affected ADs

(b) This AD supersedes AD 2003–05–04, Amendment 39–13080.

Applicability

(c) This AD applies to Rolls-Royce Deutschland Ltd. & Co KG (RRD) (formerly Rolls-Royce plc) Model Tay 611–8, 620–15, 650–15, and 651–54 turbofan engines, with low pressure (LP) fuel tube, part number (P/N) JR33021A, installed. These engines are installed on, but not limited to, Fokker F.28 Mark 0100 airplanes, Supplemental Type Certificate No. SA842SW, Boeing 727 airplanes, and Gulfstream G–IV airplanes.

Unsafe Condition

(d) This AD results from the manufacturer introducing a new design LP fuel tube which eliminates the unsafe condition. The actions specified in this AD are intended to prevent a dual-engine flameout due to fuel exhaustion which could lead to forced landing and possible damage to 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.

Initial Inspection

(f) Before further flight, for Tay 611–8 and 651–54 turbofan engines with Part 4 of RRD service bulletin (SB) TAY–73–1194 incorporated, inspect the LP fuel tube for fretting, and replace as necessary. Use 3.C.1. through 3.C.13. of the Accomplishment Instructions of RRD Service Bulletin (SB) No. TAY–73–1553, Revision 2, dated April 23, 2003.

(g) Before further flight, for Tay 620–15 and 650–15 turbofan engines, inspect the LP fuel tube for fretting, and replace as necessary. Use 3.C.1. through 3.C.13. of the Accomplishment Instructions of RRD SB No. TAY–73–1593, dated April 23, 2003.

Repetitive Inspections

(h) Thereafter, inspect the LP fuel tube for fretting, at intervals not to exceed 2,000 hours time-in-service (TIS) since the last inspection, and replace as necessary. Use 3.C.1. through 3.C.13. of the Accomplishment Instructions of RRD SBs referenced in paragraphs (f) and (g) of this AD.

Mandatory Terminating Action

(i) As mandatory terminating action to the repetitive inspections required by this AD, replace fuel tube, P/N JR33021, with a fuel tube P/N that is not listed in this AD. Information on fuel tube replacement can be found in RRD SB No. TAY–73–1592, dated April 30, 2003. Use the following compliance times:

(1) For fuel tubes with fewer than 4,000 hours TIS on the effective date of this AD, replace fuel tube within 10 additional cycles-in-service or before reaching 4,000 hours TIS, whichever occurs later.

(2) For fuel tubes with 4,000 or more hours TIS on the effective date of this AD, replace fuel tube before June 30, 2005.

Alternative Methods of Compliance

(j) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD, if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(k) None.

Related Information

(1) Luftfhart Bundesamt airworthiness directive No. 2002–358/5, dated November 18, 2003, and Rolls-Royce Deutschland Ltd. & Co KG SB No. TAY–73–1592, dated April 30, 2003 also address the subject of this AD.

Issued in Burlington, Massachusetts, on June 1, 2004.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 04–12958 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NE–23–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation (formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison) (RRC) Models 250–C30R/3, –C30R/3M, –C47B, and—C47M Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for RRC models 250–C30R/3, –C30R/3M, –C47B, and –C47M turboshaft engines. That AD currently requires initial and repetitive electrical signal inspections of the hydromechanical unit (HMU) Power Lever Angle (PLA) potentiometer. This proposed AD would continue to require those inspections and would add replacement of the existing HMU with a new design HMU as a mandatory terminating action to the repetitive inspection requirements. This proposed AD results from the manufacturer releasing a redesigned HMU that has a dual-element potentiometer. We are proposing this AD to prevent uncommanded and sudden changes in engine power.

DATES: We must receive any comments on this proposed AD by August 9, 2004.

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

- *By mail:* Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–NE–23–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- *By fax:* (781) 238–7055.
- *By e-mail:* 9-ane-adcomment@faa.gov.

You may get the service information referenced in this AD from Rolls-Royce Corporation, P.O. Box 420, Indianapolis, IN 46206–0420; telephone (317) 230–6400; fax (317) 230–4243.

You may examine the AD docket at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Khailaa Hosny, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, IL 60018–4696; telephone (847) 294–7134; fax (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES.** Include ''AD Docket No. 2003–NE–23–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. If a person contacts us verbally, and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. *See* **ADDRESSES** for the location.

Discussion

On June 19, 2003, we issued AD 2003–13–10, Amendment 39–13210 (68 FR 38590, June 30, 2003). That AD requires initial and repetitive inspections of the electrical signal from the HMU PLA potentiometer. That AD resulted from an investigation by the NTSB into uncommanded and sudden changes in engine power on a Bell 407 helicopter on March 27, 2003. The NTSB investigation revealed that a potential undetected failure of the electrical signal from the PLA potentiometer, provided by the HMU of the full-authority digital-electronic control (FADEC) system, could cause uncommanded and sudden changes in engine power.

Actions Since AD 2003–13–10 Was Issued

The manufacturer has released a new design HMU that incorporates a dual-element potentiometer. The dual-element function lessens the unsafe condition associated with the single-element design.

Relevant Service Information

We have reviewed and approved the technical contents of RRC Service Bulletins (SBs) CEB A–73–3103, Revision 4, dated December 2, 2003, and CEB A–73–6030, Revision 4, dated December 2, 2003; that describe procedures for inspecting the PLA potentiometer signal.

Differences Between This Proposed AD and the Manufacturer's Service Information

Although the combined RRC SB CEB A–73–3103 (250–C30 engines) and CEB A–73–6030 (250–C47 engines), Revision 4, dated December 2, 2003, also includes CEB A–73–5021 for 250–C40 engines, this AD is not applicable to the 250–C40 engine model because the 250–C40 engine model is used in twin-engine applications.

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 products of this same type design. We are proposing this AD, which would require:

• An initial inspection of the electrical signal of the HMU PLA potentiometer within 300 flight hours (FH) after the effective date of this AD and;

• Repetitive inspections every 300 FH until the single-element HMU is replaced with the dual-element HMU, and;

• Replacing the single-element HMU with a dual-element HMU within 600 FH after the effective date of the AD, or by January 30, 2005, whichever occurs earlier.

The proposed AD would require that you do these inspections using the service information described previously.

Costs of Compliance

We estimate that 700 engines installed on helicopters of U.S. registry would be affected by this proposed AD. We estimate that it would take about 4 work hours per engine to replace a single-element HMU with a dual-element HMU. We also estimate that 15 percent of the single-element HMU's would fail the required inspection and require replacing the HMU. The average labor rate is $65 per work hour. Required parts would cost approximately $615 per engine. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $704,375.

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. Would 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 summary of the costs to comply with this proposal and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''AD Docket No. 2003–NE–23–AD'' in your request.

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 Federal Aviation Administration 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 39–13210 (68 FR 38590, June 30, 2003) and by adding a new airworthiness directive to read as follows:

Rolls-Royce Corporation (formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison): Docket No. 2003–NE–23–AD. Supersedes AD 2003–13–10, Amendment 39–13210.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by August 9, 2004.

Affected ADs

(b) This AD Supersedes AD 2003–13–10.

Applicability

(c) This AD is applicable to Rolls-Royce Corporation (formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison) (RRC) models 250–C30R/3, –C30R/3M, –C47B, and –C47M turboshaft engines that have a hydromechanical unit (HMU) with a part number (P/N) listed in 1.A. Group A of RRC Alert Commercial Engine Bulletin (ACEB) No. CEB A–72–3103, Revision 4, dated December 2, 2003; and CEB A–72–6030, Revision 4, dated December 2, 2003. These engines are installed on, but not limited to, Bell OH–58D, Bell Helicopter Textron 407, Boeing AH/MH–6M, and MD Helicopters Inc. 600N helicopters.

Unsafe Condition

(d) This AD results from the manufacturer releasing a redesigned HMU that has a dual-element potentiometer. We are issuing this AD to prevent uncommanded and sudden changes in engine power.

Compliance

(e) Compliance with this AD is required as indicated, unless already done.

Initial Inspection

(f) Perform an initial electrical signal inspection of the hydromechanical unit (HMU) PLA potentiometer, within 300 flight hours (FH) after the effective date of this AD. Use paragraphs 2.B. through 2.B.(8) and 2.B.(10) of the Accomplishment Instructions of RRC ACEB No. CEB A–73–3103, Revision 4, dated December 2, 2003; or CEB A–73–6030, Revision 4, dated December 2, 2003; to perform the inspection.

(g) Replace the HMU before further flight if the electrical signal inspection result is unacceptable.

Repetitive Inspections

(h) Thereafter, perform repetitive electrical signal inspections of the HMU PLA potentiometer within 300 FH of the last inspection. Use paragraphs 2.B. through 2.B.(8) and 2.B.(10) of the Accomplishment Instructions of RRC ACEB No. CEB A–73–3103, Revision 4, dated December 2, 2003; or CEB A–73–6030, Revision 4, dated December 2, 2003; to perform the inspection.

(i) Replace the HMU before further flight if the electrical signal inspection is unacceptable.

Mandatory Terminating Action

(j) Replace the HMU with an HMU that has a P/N not specified in this AD within 600 FH after the effective date of this AD, or January 31, 2005, whichever occurs earlier. Replacing the HMU with an HMU that has a P/N not specified in this AD terminates the repetitive inspection requirement specified in paragraph (h) of this AD.

Alternative Methods of Compliance

(k) The Manager, Chicago Aircraft Certification Office, FAA, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(l) None.

Related Information

(m) None.

Issued in Burlington, Massachusetts, on June 3, 2004.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 04–13010 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FA–2004–17163; Airspace Docket No. 04–AGL–10]

Proposed Modification of Class D Airspace; Rochester, MN; Proposed Modification of Class E Airspace; Rochester, MN; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This action corrects the legal description contained in a NPRM that

was published in the **Federal Register** on Wednesday, April 21, 2004 (69 FR 421448). The NPRM proposed to modify Class D airspace, and Class E airspace, at Rochester, MN.

FOR FURTHER INFORMATION CONTACT: Patricia A. Graham, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018, telephone: (847) 294–7477.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 04–9076 published on Wednesday, April 21, 2004 (69 FR 21448), proposed to modify Class D airspace, and Class E airspace, at Rochester, MN. St. Cloud Regional Airport was incorrectly used in the legal description. This action corrects this error.

Accordingly, pursuant to the authority delegated to me, the legal description for the Class D airspace, and Class E airspace areas for Rochester, MN, as published in the **Federal Register** Wednesday, April 21, 2004 (69 FR 21448), (FR Doc. 04–9076), is corrected as follows:

§ 71.1 [Corrected]

1. On page 21449, column 2, under the sentence ''Paragraph 6002 Class E airspace designated as surface areas'', correct the legal description to read:

AGL MN E2 Rochester, MN [Revised]

Rochester International Airport, MN
(Lat. 43°54′26″N., long. 92°29′56″W.)
Rochester VOR/DME
(Lat. 43°46′58″N., long. 92°35′49″W.)

Within a 4.3-mile radius of the Rochester International Airport, and within 3.1 miles each side of the Rochester VOR/DME 028° radial, extending the 4.3-mile radius to 7 miles southwest of the airport. This Class E airspace area is effective during the specific dates and times established by a Notice to Airmen. The effective date and time will thereafter be continuosly published in the Airport/Facility Directory.

2. On page 21449, column 2, eliminated the sentence ''Paragraph 6004 Class E airspace designated as an extension to a class D or Class E surface area'', and the subsequent E4 legal description for St. Cloud, MN.

* * * * *

Issued in Des Plaines, Illinois, on May 19, 2004.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 04–12980 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17661; Airspace Docket No. 04–AAL–8]

Proposed Establishment of Class E Airspace; Shungnak, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish new Class E airspace at Shungnak, AK. Two new Standard Instrument Approach Procedures (SIAPs) and a new Textual Departure Procedure are being published for the Shungnak Airport. There is no existing Class E airspace to contain aircraft executing the new instrument approaches at Shungnak, AK. Adoption of this proposal would result in the establishment of Class E airspace upward from 700 feet (ft.) and 1200 ft. above the surface at Shungnak, AK.

DATES: Comments must be received on or before July 26, 2004.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–17661/ Airspace Docket No. 04–AAL–8, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Manager, Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2004–17661/Airspace Docket No. 04–AAL–8.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

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

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

Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71) by establishing new Class E airspace at Shungnak, AK. The intended effect of this proposal is to establish Class E airspace upward from 700 ft. and 1,200 ft. above the surface, to contain Instrument Flight Rules (IFR) operations at Shungnak, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two new SIAPs for the Shungnak Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV GPS) Runway (RWY) 9, original; and (2) RNAV (GPS) Runway 27, original. A new Textual Departure Procedure will also be established. New Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface within the Shungnak Airport area would be created by this action. The proposed airspace is sufficient to contain aircraft executing the new instrument procedures for the Shungnak Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9L, *Airspace Designations and Reporting Points,* dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

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

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AAL AK E5 Shungnak, AK [New]

Shungnak Airport, AK
(Lat. 66°53′17″ N., long. 157°09′44″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Shungnak Airport and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of 66°45′29″ N 156°30′39″ W and within a 30-mile radius of 66°49′54.50 N 156°24′52.38 W, excluding the Ambler Class E airspace.

* * * * *

Issued in Anchorage, AK, on June 1, 2004.

Judith G. Heckl,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 04–12972 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17660; Airspace Docket No. 03–AAL–09]

Proposed Revision of Class E Airspace; King Salmon, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at King Salmon, AK. Three new Standard Instrument Approach Procedures (SIAP's) are being published for the King Salmon Airport. An airspace review has determined that the existing Class E airspace at King Salmon is insufficient to contain aircraft executing the new SIAP's. Adoption of this proposal would result in additional Class E airspace upward from 1,200 feet (ft.) above the surface at King Salmon, AK. The airspace upward from 700 ft. above the surface would be unchanged.

DATES: Comments must be received on or before July 26, 2004.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–17600/ Airspace Docket No. 03–AAL–09, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Manager, Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic,

environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2004–17660/Airspace Docket No. 03–AAL–09.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

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

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

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71) by revising Class E airspace at King Salmon, AK. The intended effect of this proposal is to extend Class E airspace upward from 1,200 ft. above the surface, to contain Instrument Flight Rules (IFR) operations at King Salmon, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed three new SIAP's for the King Salmon Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV GPS) RWY 11, original, (2) RNAV (GPS) Y RWY 29, original and (3) RNAV (GPS) Z RWY 29, original. Additional Class E controlled airspace extending upward from 1,200 ft. above the surface within the King Salmon, Alaska area would be created by this action. The proposed airspace is sufficient to contain aircraft executing the new instrument procedure for the King Salmon Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9L, *Airspace Designations and Reporting Points,* dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 956, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AAL AK E5 King Salmon, AK [Revised]

King Salmon Airport, AK
(lat. 58°40′36″N., long. 156°38′57″W.)
King Salmon VORTAC
(lat. 58°43′29″N., long. 156°45′08″W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the King Salmon Airport and within 4 miles northeast and 8 miles southwest of the King Salmon VORTAC 312° radial extending from the VORTAC to 21 miles northwest of the VORTAC and within 14 miles of the VORTAC 259° radial clockwise to the 004° radial and that airspace within 3.3 miles either side of the 132° radial of the VORTAC extending from the VORTAC to 17 miles southeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 43-mile radius of the King Salmon Airport excluding the Yukon-Kuskokwim Delta, AK Class E airspace.

* * * * *

Issued in Anchorage, AK, on June 1, 2004.

Judith G. Heckl,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 04–12971 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17608; Airspace Docket No. 04–AAL–07]

Proposed Establishment of Class E Airspace; Teller, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish new Class E airspace at Teller, AK. Two new Standard Instrument Approach Procedures (SIAP) are being published for the Teller Airport. There is no existing Class E airspace to contain aircraft executing the new instrument approaches at Teller, AK. Adoption of this proposal would result in the establishment of Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Teller, AK.

DATES: Comments must be received on or before July 26, 2004.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–17608/ Airspace Docket No. 04–AAL–07, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Manager, Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2004–17608/Airspace Docket No. 04-AAL–07.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

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

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

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71) by establishing new Class E airspace at Teller, AK. The intended effect of this proposal is to establish Class E airspace upward from 700 ft. and 1,200 ft. above the surface, to contain Instrument Flight Rules (IFR) operations at Teller, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two new SIAP's for the Teller Airport. The new approaches are Area Navigation (Global Positioning System) (RNAV GPS) RWY 7, original and RNAV GPS RWY 25, original, a TAA approach. New Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface within the Teller, Alaska area would be created by this action. The proposed airspace is sufficient to contain aircraft executing the new instrument procedures for the Teller Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9L, *Airspace Designations and Reporting Points*, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

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

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AAL AK E5 Teller, AK [New]

Teller Airport, AK

(Lat. 65°14′25″ N., long. 166°20′22″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Teller Airport and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of 65°14′35″ N 166°53′16″ N, excluding the Nome Class E airspace and that airspace designated for federal airways.

* * * * *

Issued in Anchorage, AK, on June 1, 2004.

Judith G. Heckl,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 04–12970 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17446; Airspace Docket No. 04–AGL–11]

Proposed Modification of Class E Airspace; Albert Lea, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to modify Class E airspace at Albert Lea, MN. Standard Instrument Approach Procedures (SIAPS) have been developed for Albert Lea Municipal Airport, Albert Lea, MN. Controlled airspace extending upward from 700 feet or more above the surface of the earth designated as an extension, is no longer needed. This action would eliminate the area of controlled airspace used as an extension to the existing Class E airspace area, at Albert Lea Municipal Airport.

DATES: Comments must be received on or before July 30, 2004.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket Number FAA–2004–17446/ Airspace Docket No. 04–AGL–11, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Patricia A. Graham, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this document must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2004–17446/Airspace Docket No. 04–AGL–11.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination of the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

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

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Albert Lea, MN, for Albert Lea Municipal Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth used as an extension to the existing Class E airspace area is no longer required. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9L dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT

Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule 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 Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AGL MN E5 Albert Lea, MN [Revised]

Albert Lea Municipal Airport, MN
(Lat. 43°40′54″N., long. 93°22′02″W.)
Albert Lea VOR/DME
(Lat. 43°40′54″N., long. 93°22′15″W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Albert Lea Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois, on May 19, 2004.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 04–12981 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–17447; Airspace Docket No. 04–AGL–12]

Proposed Modification of Class E Airspace; Merrill, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to modify Class E airspace at Merrill, WI. Standard Instrument Approach Procedures (SIAPS) have been developed for Merrill Municipal Airport, Merrill, WI. Controlled airspace is extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing these approach procedures. This action would increase the area of existing controlled airspace for Merrill Municipal Airport.

DATES: Comments must be received on or before July 30, 2004.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket Number FAA–2004–17447/ Airspace Docket No. 04–AGL–12, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Patricia A. Graham, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this document must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2004–17447/Airspace Docket No. 04–AGL–12.'' The postcard will be date/time stamped and returned on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 Devon Avenue, Des Plains, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

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

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify

Class E airspace at Merrill, WI, for Merrill Municipal Airport. Controlled airspace extending upward from 70 feet or more above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9L dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

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

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposed to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AGL WI E5 Merrill, WI [Revised]

Merrill Municipal Airport, WI
(Lat. 45°11′56″N., long. 89°42′46″W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Merrill Municipal Airport.

* * * * *

Dated: Issued in Des Plaines, Illinois, on May 19, 2004.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 04–12977 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA 2003–16460; Airspace Docket 02–ANM–16]

Proposed Revision of Class E Airspace; Wray, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal would revise Class E airspace at Wray, CO. New Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAPs) have been developed at Wray Municipal Airport. Additional Class E airspace extending upward from 700 feet above the surface of the earth is necessary for the safety of instrument flight rules (IFR) aircraft executing these new SIAPs and transitioning between the terminal and en route environment.

DATES: Comments must be received by July 26, 2004.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the Docket FAA 2003–16460, Airspace Docket 02–ANM–16 at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final dispositions in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone number 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the Office of the Regional Air Traffic Division, Northwest Mountain Region, Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW., Renton, WA 98055.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify Docket FAA 2003–16460, Airspace Docket 02–ANM–16 and be submitted in triplicate to the address listed above. Comments wishing the FAA to acknowledge receipt of their comments on this action must submit, with those comments, a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket FAA 2003–16460; Airspace Docket 02–ANM–16.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

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

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration ANM–520, 1601 Lind Avenue, SW., Renton, WA 98055. Communications must identify both document numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

The Proposal

This action proposes to amend Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class E airspace at Wray, CO. New RNAV GPS SIAPs have been developed at Wray Municipal Airport making it necessary to increase the area of controlled airspace. Additional Class E airspace extending upward from 700 feet or more above the surface of the earth is necessary for the safety of IFR aircraft executing these new SIAPs and transitioning to/from the en route environment.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9L dated September 02, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 02, 2003, and effective September 16, 2003, is amended as follows:

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

* * * * *

ANM CO E5 Wray, CO [Revised]

Wray Municipal Airport
(Lat. 40°06′01″N., long. 102°14′27″W.)

That airspace extending upward from 700 feet above the surface of the earth within a 6.5 mile radius of the Wray Municipal Airport; that airspace extending upward from 1,200 feet above the surface of the earth bounded by a line beginning at airway V80 and long. 102°00′00″W.; thence south via long. 102°00′00″W.; thence west via V4; thence north via V169; thence east via V80; thence to the point of origin; excluding that airspace within Federal airways.

* * * * *

Issued in Seattle, Washington, on May 27, 2004.

Suzanne Alexander,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 04–12975 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2004–17773; Airspace Docket No. 04–ASW–11]

RIN 2120–AA66

Proposed Modification of Restricted Areas 5103A, 5103B, and 5103C and Revocation of Restricted Area 5103D; McGregor, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Restricted Areas 5103A (R–5103A), 5103B (R–5103B), and 5103C (R–5103C) and revoke Restricted Area 5103D (R–5103D) at McGregor, NM. The United States Army (U.S. Army) requests that the FAA take action to modify R–5103A, R–5103B, and R–5103C by reducing the size of R–5103A; combining a portion of the area currently designated as R–5103A and a portion of the area currently designated as R–5103D and re-designating the combined area as a new R–5103B; and by combining the areas currently designated as R–5103B and R–5103C and re-designating the combined area as a new R–5103C. The new R–5103A, B, and C would essentially occupy the same overall boundaries and altitudes as the current R–5103A, B, C, and D. Except, a segment of the western boundary of R–5103C would move approximately 1 mile to the west and a portion of the area currently designated as R–5103D would be eliminated. The altitude structure of the new R–5103A would be surface to but not including FL180; R–5103B and R–5103C would be from the surface to unlimited. These modifications are proposed to allow the U.S. Army to activate the restricted areas in a manner that is more consistent with the actual utilization of the airspace.

DATES: Comments must be received on or before July 26, 2004.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify ''FAA Docket No. FAA–2004–17773 and Airspace Docket No. 04–ASW–11,'' at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.*

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2004–17773 and Airspace Docket No. 04–ASW–11) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments

on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2004–17773 and Airspace Docket No. 04–ASW–11.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the **Federal Register**'s Web page at *http://www.gpo.access.gov/fr/index.html.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person at the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2601 Meacham Blvd; Fort Worth, TX 76193–0500.

Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

History

On February 25, the U.S. Army requested that the FAA take action to revise R–5103A, R–5103B, and R–5103C and to revoke R–5103D. Specifically, the requested action would reduce the size of R–5103A; combine a portion of the area currently designated as R–5103A and a portion of the area currently designated as R–5103D, re-designating the combined area as a new R–5103B; and combine the areas currently designated as R–5103B and R–5103C, re-designating the combined area as a new R–5103C. The new R–5103A, B, and C would essentially occupy the same overall boundaries and altitudes as the current R–52103A, B, C, and D; except, a segment of the western boundary of the new R–5103C would move approximately 1 mile to the west and that portion of the area currently designated as R–5103D that is not combined into the new R–5103B would be eliminated from restricted area airspace. The altitude structure would be from the surface to but not including FL180 for the new R–5103A and from the surface to unlimited for the new R–5103B and R–5103C. These modifications are proposed to allow the U.S. Army to activate the restricted areas in a manner that is more consistent with the actual utilization of the airspace.

The Proposal

At the request of the U.S. Army, the FAA is proposing an amendment to title 14 Code of Federal Regulations (14 CFR) part 73 (part 73) to revise R–5103A, R–5103B, and R–5103C and to revoke R–5103D. Specifically, R–5103A would be reduced in size, in that, a portion of the area currently designated as R–5103A and a portion of the area currently designated as R–5103D would be combined and re-designated as a new R–5103B; the areas currently designed as R–5103B and R–5103C would be combined and re-designated as a new R–5103C; and R–5103D would be revoked. The new R–5103A, B, and C would essentially occupy the same overall boundaries and altitudes as the current R–5103A, B, C, and D; except, a segment of the western boundary of R–5103C would move approximately one mile to the west and that portion of the area currently designated as R–5103D that is not combined into the new R–5103B would be eliminated from restricted area airspace. The altitude structure would be from the surface to but not including FL180 for the new R–5103A and from the surface to unlimited for the new R–5103B and R–5103C. These modifications are proposed to allow the U.S. Army to activate the restricted areas in a manner that is more consistent with the actual utilization of the airspace. The requested action would not change the times of use, using agency, or controlling agency.

Section 73.51 of part 73 was republished in FAA Order 7400.8L, Special Use Airspace, dated October 7, 2003.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a 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.

Environmental Review

This proposal will be subjected to an environmental analysis in accordance with FAA Order 1050.1D, Procedures for Handling Environmental Impacts, prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 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.

§ 73.51 [Amended]

2. § 73.51 is amended as follows:

* * * * *

R–5103A McGregor, NM [Amended]

By removing the current boundaries and designated altitudes and substituting the following:

Boundaries. Beginning at lat. 32°03′55″ N., long. 106°10′00″ W.; to lat. 32°03′30″ N., long. 103°53′50″ W.; to lat. 32°00′15″ N., long. 105°56′42″ W.; to lat. 32°00′30″ N., long. 106°10′27″ W.; to the point of beginning.

Designated altitudes. Surface to but not including FL 180.

* * * * *

R–5103B McGregor, NM [Amended]

By removing the current boundaries and designated altitudes and substituting the following:

Boundaries. Beginning at lat. 32°15′00″ N., long. 106°10′02″ W.; to lat. 32°15′00″ N., long. 105°42′02″ W.; to lat. 32°03′30″ N., long. 105°53′50″ W.; to lat. 32°03′55″ N., long. 106°10′00″ W.; to lat.

32°05′02″ N., long. 106°09′22″ W.; to lat. 32°06′00″ N., long. 106°15′32″ W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

* * * * *

R–5103C McGregor, NM [Amended]

By removing the current boundaries and designated altitudes and substituting the following:

Boundaries. Beginning at lat. 32°45′00″ N., long. 105°53′02″ W.; to lat. 32°45′00″ N., long. 105°52′22″ W.; to lat. 32°33′20″ N., long. 105°30′02″ W.; to lat. 32°26′20″ N., long. 105°30′02″ W.; to lat. 32°15′00″ N., long. 105°42′02″ W.; to lat. 32°15′00″ N., long. 106°10′02″ W.; to lat. 32°28′00″ N., long. 106°02′00″ W.; to lat. 32°27′00″ N., long. 106°00′02″ W.; to lat. 32°36′00″ N., long. 106°00′00″ W.; to lat. 32°45′00″ N., long. 105°59′02″ W.; to the point of beginning, excluding that airspace within a 2 NM radius of lat. 32°39′00″ N., long. 105°41′00″ W.; from the surface to 1,500′ AGL and also excluding that airspace beginning at lat. 32°42′49″ N., long. 105°48′11″ W.; to lat. 32°41′00″ N., long. 105°50′00″ W.; to lat. 32°40′00″ N., long. 105°48′00″ W.; to lat. 32°41′48″ N., long. 105°46′00″ W.; to the point of beginning from the surface to 1,500′ above the surface.

Designated altitudes. Surface to unlimited.

* * * * *

R–5103D McGregor, NM [Revoked]

* * * * *

Issued in Washington, DC, May 28, 2004.

Paul Gallant,

Acting Manager, Airspace and Rules, ATO–R.

[FR Doc. 04–12969 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 158

[Docket No. FAA–2004–17999; Notice No. 04–09]

RIN 2120–AI15

Passenger Facility Charge Program, Non-Hub Pilot Program and Related Changes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA is proposing a pilot program to test new application and application approval procedures for the passenger facility charge (PFC) program. This pilot program will run for 3 years and is available to non-hub airports. Besides the pilot program, this proposed rule also contains several changes designed to streamline the PFC application procedures for all PFC applications and improve the existing PFC program. The FAA is proposing these changes in response to Congressional direction found in the Vision 100—Century of Aviation Reauthorization Act.

DATES: Send your comments on or before August 9, 2004.

ADDRESSES: You may send comments (Identified by Docket Number FAA–2004–17999) using any of the following methods:

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Fax: 1–202–493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. For more information, *see* the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sheryl Scarborough, Airports Financial Analysis & Passenger Facility Charge Branch, APP–510, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8825; facsimile: (202) 267–5302; e-mail: *sheryl.scarborough@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to join in this rulemaking by filing written comments, data, or views. We also invite comments about the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets. This includes the name of the individual sending the comment (or signing the comment for an association, business, labor union). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov*.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal because of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a preaddressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the Office of Rulemaking's Web page at *http://www.faa.gov/avr/arm/index.cfm*; or

(3) Accessing the Government Printing Office's Web page at *http://*

www.access.gpo.gov/su_docs/aces/aces140.html.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Background

History

The Aviation Safety and Capacity Expansion Act of 1990, codified under 49 U.S.C. 40117, created the passenger facility charge (PFC) program on November 5, 1990. The Aviation Safety and Capacity Expansion Act of 1990 allowed a public agency to impose a PFC of $1, $2, or $3 for each enplaned passenger at commercial service airports that the public agency controls. The public agency can then use this PFC revenue to finance FAA-approved, eligible airport-related projects. The FAA's regulations that govern the PFC program are at 14 CFR part 158 and became effective on June 28, 1991.

The first major revisions to the PFC Program occurred on May 30, 2000. At that time, a final rule was issued that incorporated changes mandated by the Federal Aviation Administration Authorization Act of 1994, the Federal Aviation Reauthorization Act of 1996, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21), and the recodification of the Federal Aviation Act of 1958. While this final rule made many changes to the PFC program, the most significant change increased the permitted PFC level by allowing public agencies to impose a $4 or $4.50 PFC as authorized in AIR–21.

On December 12, 2003, President Bush signed the Vision 100—Century of Aviation Reauthorization Act (Vision 100) into law. Vision 100 mandates many changes to the PFC program and this proposed rule addresses several of these changes. This notice proposes revisions to part 158 to implement a 3-year non-hub pilot program and related streamlining provisions. Vision 100 requires the FAA to propose regulations implementing the pilot program within 180 days of enactment of the Vision 100 pilot program section. A separate rulemaking in the future will address the other statutory and non-statutory changes to the PFC program that are not subject to the statutory deadline.

Statement of the Issue

To impose a PFC, use PFC revenue, or amend an approved PFC, all public agencies must apply for FAA approval through the same process by following the application rules set forth in part 158. The application and approval process is the same for airports of all sizes, every project type, and projects previously reviewed by the FAA in other contexts. Vision 100 requires streamlining the general PFC process and creating a pilot program for non-hub airports to test certain streamlining procedures and to reduce the burdens on public agencies and the FAA under the existing procedures. One such burden involves re-creating paperwork that has already been filed with, and, in some cases, reviewed by the FAA. For example, non-hub airports often apply to use PFC revenue either as their matching share for an Airport Improvement Program (AIP) grant or as a supplement to AIP funding. In these cases, the FAA has already reviewed the project under the AIP grant procedures. This duplication of efforts creates inefficiencies for both non-hub airports and the FAA.

In 2002, the FAA examined the PFC program to identify ways to preserve the public interest goals and the existing checks and balances while removing unnecessary, duplicative, and time-consuming steps. The FAA undertook a study of applications and projects approved over the previous five years. This study examined the distribution of PFC funding among projects and airport types. The FAA also studied the extent to which AIP grants partially funded PFC projects. Finally, the FAA examined the characteristics of projects generating air carrier objections during the consultation process and the FAA's public notice and comment process. As a result of this study, the FAA recommended enactment of the non-hub pilot program and other PFC streamlining initiatives included in Vision 100 and this rulemaking. The results of this study are discussed more fully in the section-by-section analysis below.

General Discussion of the Proposals

The FAA is required by statute and regulation to issue the final agency decision on each PFC application within 120 days of the receipt of the application. The current PFC application and review process is the same for all airports regardless of the size of the airport, the PFC collection amount, or the nature of the projects. This process has grown in complexity as the program has matured, leading to calls from airports and air carriers to speed up the process.

Vision 100 mandates creating a pilot program for non-hub airports to test new PFC application and application approval procedures. This NPRM proposes regulations to create the Non-Hub Airport Pilot Program (pilot program). The entire text of the pilot program subsection in Vision 100 reads:

''(1) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—

''(1) IN GENERAL.—The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for nonhub airports to impose passenger facility fees. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility fee under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.

''(2) NOTICE AND OPPORTUNITY FOR CONSULTATION.—The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

''(3) NOTICE OF INTENTION.—The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee under this subsection. This notice shall include—

''(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility fee is sought;

''(B) the amount of revenue from passenger facility fees that is proposed to be collected for each project; and

''(C) the level of the passenger facility fee that is proposed.

''(4) ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.—The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility fee under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

''(5) AUTHORITY TO IMPOSE FEE.—Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility fee in accordance with the terms of its notice under this subsection.

''(6) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

''(7) SUNSET.—This subsection shall cease to be effective beginning on the date that is 3 years after the date of issuance of regulations to carry out this subsection.

''(8) ACKNOWLEDGEMENT NOT AN ORDER.—An acknowledgement issued under paragraph (4) shall not be considered an order issued by the Secretary for purposes of section 46110.''.

Vision 100 states the pilot program will only apply to non-hub airports and will end three years after the date of issuance of regulations to carry out the pilot program subsection. Vision 100 defines a non-hub airport as a commercial service airport that has less than 0.05 percent of the passenger boardings in the U.S. in the prior calendar year on an aircraft in service in air commerce. The FAA estimates that non-hub airports account for over 70 percent of all commercial service airports and approximately 15 percent of aircraft operations nationwide. The FAA also estimates that non-hub airports account for about 60 percent of the PFC applications processed over the last 5 years. Non-hub airports produce roughly 2 percent of total annual PFC revenue.

The pilot program will:

(1) Require a public agency to consult with air carriers before filing an application to the FAA to collect or use a PFC. Vision 100 limits the consultation process to only those air carriers with a significant business interest at the airport (the significant business interest standard is also found in statutory changes to the general PFC program);

(2) Require a public agency to provide reasonable notice to and opportunity for comment by the public before filing an application to the FAA to collect or use a PFC (this notice and comment requirement is also included in statutory changes to the general PFC provisions);

(3) Reduce the information a public agency files with the FAA. Instead of filing the information required by 14 CFR 158.25, a public agency will file a notice including information such as:

(a) The proposed PFC level and amount to be collected,

(b) The proposed duration of the collection,

(c) A list of projects to be financed with PFC revenue along with the amount of PFC revenue to be used on each project, and

(d) Information about consultation with the air carriers and the public comment process;

(4) Require the FAA to acknowledge receipt of notice of intent filed by the public agency and state any objections to the notice within 30 days after receipt of the notice; and

(5) Authorize a public agency to impose a PFC unless the FAA states an objection to imposition within the 30-day time period.

The pilot program differs from current practice in at least three ways:

(1) The pilot program reduces the information a public agency must file with the FAA;

(2) The pilot program changes the FAA approval process by allowing a public agency to collect and use a PFC when the FAA acknowledges receipt of the notice of intent and the FAA does not object to the PFC; and

(3) The FAA's acknowledgment letter is not an agency final order for purposes of appeal to the U.S. Court of Appeals.

The FAA believes the pilot program will streamline the PFC process, as required by Congress. In addition, the pilot program will reduce the burden on public agencies and the FAA for a great number of PFC applications that make up a small percentage of total PFC revenue.

Vision 100 also contained several statutory changes that apply to the general PFC program. Some of these general statutory changes also apply to the pilot program.

First, Vision 100 limits the pool of air carriers a PFC applicant must contact during the consultation process, prior to submitting an application to the FAA. Under the proposed change, all PFC applicants (including pilot program applicants) need only contact air carriers with a significant business interest at an airport the public agency controls. This change is executed by adding a definition of significant business interest to the definitions section (§ 158.3) and amending the consultation with air carriers provisions (§ 158.23).

Second, Vision 100 adds a new requirement that PFC applicants publish a notice and provide an opportunity for the public to comment on the proposed PFC. This public comment provision is required whether a public agency is applying to impose a new PFC (under the general program or the pilot program) or amending a PFC. A second public comment period is required when a public agency applies to use a PFC (under the general program or the pilot program). This section is discussed below under new § 158.24.

Third, Vision 100 streamlines the PFC application process by eliminating the past requirement that the FAA publish a public notice in the **Federal Register** for each PFC application. Under Vision 100, any publication in the **Federal Register** by the FAA is optional. This section is discussed below under § 158.27.

Fourth, because Vision 100 requires the FAA to streamline the application process, the FAA is proposing to streamline the amendment process to bring parity between the two processes. The FAA proposes to streamline the amendment process for both the pilot program and the general PFC process. This section is discussed below under § 158.37.

Fifth, this notice proposes several other administrative changes due to substantive changes created by Vision 100. These administrative changes include changing the application format to include and exclude requirements that Vision 100 changed. These changes are discussed below under §§ 158.25 and 158.29.

Section-by-Section Discussion of the Proposals

The section-by-section discussion of the NPRM is organized by the three types of changes this document proposes. First, this discussion addresses the Vision 100 statutory changes related to implementing the pilot program. These changes include defining ''non-hub airport'' in § 158.3 and the new § 158.30.

Next, this discussion reviews the statutory changes mandated by Vision 100 applicable to both the pilot program and the general PFC program. These changes include proposed changes to §§ 158.3 (definitions—definition of ''significant business interest'') and 158.23 (air carrier consultation), as well as a discussion of new § 158.24 (public comment process). These changes are necessary to ensure that public agencies understand what is required to meet the air carrier consultation and public comment processes. In addition, changes to § 158.37 (amendments), which is not a part of Vision 100, are discussed. The changes to the amendment process are necessary to ensure that amending a PFC program established under the pilot program process is no more difficult than establishing the program.

Finally, this section-by-section discussion ends with a review of the changes to the general PFC program that do not apply to the pilot program. Sections 158.25 (application), 158.27 (review of applications), and 158.29 (the Administrator's decision) are changed because of provisions in Vision 100 that relate to or complement the changes to §§ 158.3 and 158.23 as well as the new § 158.24.

Vision 100 Statutory Changes Creating a Non-hub Airport Pilot Program

Section 158.3 Definitions

The proposed rule will add the definition of ''non-hub airport'' to part 158.

Before enactment of Vision 100, terms such as large, medium, small and non-hub airports were not statutorily

defined. Vision 100 added definitions to all of these terms in section 225 of that Act. The current part 158 defines ''large and medium hub'' airports but does not include definitions of ''small hub'' or ''non-hub'' airports. Part 158 has had many procedures that are specific to large and medium hub airports but no procedures or requirements that are specific to small hub or non-hub airports. Vision 100 requires the FAA to create a pilot program to streamline the application process for non-hub airports as well as the FAA's processing of those applications. To comply with the statutory change, the proposed rule will define ''non-hub airport'' to identify which airports are eligible for the pilot program. Section 225 of Vision 100 defines a ''non-hub airport'' as ''a commercial service airport (as defined in 49 U.S.C. 47102) that has less than 0.05 percent of the passenger boardings.'' The term ''passenger boardings'' is also defined in § 225 as follows:

''(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

''(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.''

The definition of non-hub airport in § 225 is the same definition used in the FAA's AIP grant program and National Plan of Integrated Airports. Therefore, public agencies familiar with the FAA's Airport programs should be familiar with this definition of ''non-hub airport.'' Although Vision 100 defines a small-hub airport, the FAA is not including a definition of ''small hub airport'' in this rulemaking. The PFC program does not contain procedures or requirements specific to small hub airports, so there is no current need to define ''small hub airport'' in the PFC regulation.

The PFC regulation currently defines ''passenger enplaned.'' Since this term is very similar to the term ''passenger boardings,'' we are not including a ''passenger boardings'' definition in this rulemaking.

Section 158.30 Pilot Program for PFC Authorization at Non-Hub Airports

The proposed rule will create a new § 158.30 to comply with Vision 100's requirement to set up a pilot program to streamline the application process for non-hub airports.

The FAA's 2002 examination of the PFC program determined that about 60 percent of the applications processed over the previous five years were for non-hub airports. In addition, nearly 50 percent of the PFC projects at non-hub airports over the study period provided either the local matching funds for AIP grants or supplemented AIP grants. A high percentage of the total PFC collections at non-hub airports were for airside projects, such as runways, taxiways and aprons, or for safety or security equipment, such as aircraft rescue and firefighting vehicles. Furthermore, only 2.3 percent of the nationwide approved PFC collections were for projects at non-hub airports. Based on these findings, the Congressional changes mandated by Vision 100 creating a pilot program should improve the application process for non-hub airports.

The pilot program will reduce the information a public agency must provide the FAA to gain approval to impose a PFC. Currently, a public agency must provide a detailed description and justification for any project proposed for PFC funding. In addition, the public agency must provide information on how the project meets at least one PFC objective or significant contribution finding. The public agency must also provide detailed project funding information as well as answer several questions about other requirements contained in §§ 158.27 and 158.29. The format required for each project requires an average of 6 pages of information per project.

In contrast, under § 158.30, the public agency will provide a completed FAA Form 5500–1 PFC Application and summary project information. If a proposed project is not in an existing AIP grant, the public agency will have to provide certain additional information. A public agency will not have to provide as detailed a description or justification as in the general PFC process. In addition, the public agency is not required to discuss the PFC objective in as great a detail as is required in the general PFC process or those projects included in AIP grants. Thus, public agencies should be able to provide the necessary information for all projects on 1 or 2 pages.

Section 158.30(a) includes a general description of the intent of the pilot program. This subsection also discusses that a public agency may request the authority to only impose a PFC under the pilot program. A public agency may also request authority to both impose a PFC and use that PFC revenue in the same notice. Finally, a public agency may request authority to use PFC revenue previously approved for collection. These options are the same as those available to other public agencies using the application procedures under § 158.25. Thus, the pilot program allows the same flexibility as the current application procedures to apply for various PFC authorities.

Sections 158.30(b) and 158.30(c) set forth the information that a public agency must include when notifying the FAA of its intent to impose and/or use a PFC under § 158.30. All notices of intent filed under § 158.30 must include consultation with air carriers pursuant to § 158.23 and a public comment period pursuant to § 158.24. This section-by-section discussion reviews these two sections later. All notices of intent under § 158.30 filed with the FAA must also include a copy of all comments received during the consultation and public comment processes. In addition, the notice of intent must include the public agency's reasons for proceeding with the notice of intent for any particular project that has been subject to disagreement or negative comments during the consultation or public comment processes.

Section 158.30(b) sets forth the information required for a notice of intent to impose a PFC. Similarly, § 158.30(c) sets forth the information required for a notice of intent to use PFC revenue. The primary difference between the two notices of intent is the requirement to provide airport layout plan (ALP), airspace, and environmental information for those projects for which the public agency is requesting to use PFC revenue. Section 158.30(c) also contains additional requirements if the notice of intent to use PFC revenue is not filed concurrently with the notice of intent to impose a PFC.

The FAA has designed a form for use in the current PFC application process that has already received Office of Management and Budget approval (FAA Form 5500–1 PFC Application). This form includes an application sheet with blocks for general application information and a certification and signature section. The form also includes two attachment forms, one for project information and the other for information on how the various projects meet ALP, airspace, and environmental requirements. The pilot program will use the application sheet and, in some instances, the ALP, airspace, and environmental requirements attachment.

The pilot program will use these forms because they have been in use in the PFC program for several years. They are also available for download from the FAA's PFC web-page. These forms

provide an easy format for information on:

(1) The airport where the PFC's will be collected;

(2) The airport or airports where it will be used;

(3) The total amount proposed to be collected and used; and

(4) The PFC level proposed for collection.

The application sheet also includes certifications about compliance with the PFC statute and regulation as well as PFC assurances.

A significant way in which the pilot program differs from the current program is the requirement to provide specific project information. The current application process requires detailed information about each project so the FAA can evaluate the eligibility and justification for each project. As discussed above, the FAA believes most projects proposed at non-hub airports are projects that the FAA is familiar with because of its management of the AIP program. The FAA's 2002 study of the PFC program revealed that most projects at non-hub airports involve runways, taxiways, aprons, equipment and simple terminal work. These types of projects are generally non-controversial. The majority of these projects are duplicative of AIP grant projects. In addition, the FAA has a wealth of knowledge about the need for airside and safety improvements at most commercial service airports. The FAA has gained this knowledge through its participation in various airport planning efforts and airport certification programs. This is why the FAA has proposed that public agencies need only file limited project information in the pilot program.

The FAA is proposing that the pilot program distinguish between projects already in an existing AIP grant and those projects that are not. To be included in an AIP grant, the FAA must determine that a project is eligible and justified under the AIP program. In accordance with the provisions of § 158.15(b)(1)–(5), planning and development projects that are eligible under the AIP program are also eligible under the PFC program. Thus, by determining that a project is eligible for an AIP grant, the FAA has also determined that the project meets PFC eligibility requirements. In addition, projects included in AIP grants must meet requirements identical with the PFC requirements on ALP, airspace, and environmental compliance. Therefore, the FAA is proposing in the pilot program that, for those projects already in an existing AIP grant, the public agency will provide:

(1) The title of the project;

(2) The PFC funds sought for the project; and

(3) The AIP grant number associated with the project.

For projects not currently included in an AIP grant, the FAA will require more information. This is because the FAA does not have a decision on record approving the eligibility or justification of the project. The FAA also does not have information on how the project meets the ALP, airspace, and environmental requirements. Therefore, besides the project title and PFC funds sought, the public agency will have to provide information on the project description and justification. This information must be detailed enough to allow the FAA to make determinations on eligibility, justification, and the extent to which the project meets a PFC objective. However, as mentioned above, the FAA is familiar with most types of projects the public agency may propose so this information will likely be brief. The FAA's 2002 study of the PFC program revealed that most projects at non-hub airports involve runways, taxiways, aprons, equipment and simple terminal work. The FAA expects that the types of projects submitted under the pilot program will be consistent with the types of projects submitted by non-hub airports in the past. To determine that ALP, airspace, and environmental requirements are met, the public agency will have to file FAA form 5500–1, Attachment G. This attachment is designed to allow completion without repetition of the same information for each project.

The FAA intends to develop a form or a series of forms for use in providing the information required by § 158.30(b)(2) independently from this rule. However, the FAA encourages public agencies not to wait for this form's availability to file a notice of intent.

The criteria and standards the FAA will use to review any notice of intent filed under the pilot program are set forth in § 158.30(d). The FAA will use the same criteria and standards currently used in the PFC decision making process and are found in §§ 158.15, 158.17 and 158.29. These criteria and standards are proposed to be incorporated in § 158.30(d)(2)–(3). The FAA's review of the notice of intent will be different depending on the AIP grant status of the projects. However, review of the public agency's consultation and public comment processes will be the same regardless of the AIP status of the projects.

The FAA has already made determinations on project eligibility and justification for projects in existing AIP grants. Therefore, the FAA will not duplicate that decision making in its pilot program review process for existing AIP projects. However, for those projects not included in existing AIP grants, the FAA will make eligibility and justification determinations.

Currently, the FAA approves, partially approves, or disapproves all PFC applications. However, the FAA will not approve or disapprove a public agency notice of intent under the pilot program (§ 158.30(e)). Rather, the FAA will acknowledge the public agency's notice of intent within 30 days of receipt of the notice of intent. This represents a savings of up to 90 days from the current application process. This acknowledgment will either agree with all proposed projects, object to some or all the proposed projects, or object to the notice of intent in its entirety.

The FAA will object to a project if it determines the project is not eligible or justified. In addition, for a project proposed for use authority, the FAA will object if the project does not meet ALP, airspace, or environmental requirements. Finally, the FAA will object to a project if an interested party raises an objection during the air carrier consultation or public comment process and the FAA determines that the public agency did not adequately address this objection in its notice of intent.

The FAA will object to a notice in its entirety if the FAA determines the consultation process did not comply with §§ 158.23 and 158.24 and/or the FAA objects to all projects in the notice of intent.

In all cases, the FAA will provide the public agency with its reasons for any objections.

Once the FAA issues an acknowledgment letter, § 158.30(f) sets forth the actions a public agency may take. If the FAA does not object to either a project or the notice of intent in its entirety, the public agency may implement its PFC program following the information in its notice of intent. If the FAA objects to a project, the public agency may not collect or use PFC revenue on that project. If the FAA objects to the notice of intent in its entirety, the public agency may not implement the PFC program proposed in that notice.

Even though the pilot program creates a separate application process, once the FAA acknowledges a notice, § 158.30(f) requires the public agency to comply with all sections of part 158 except for § 158.25.

The language in § 158.30(g) sets forth the Vision 100 mandate that any FAA

acknowledgement issued under this pilot program will not be considered an order issued by the Secretary. Therefore, these acknowledgments will not be subject to appeal to the U.S. Court of Appeals. This is in contrast to the FAA's current PFC decisions. Such decisions are considered to be orders issued by the Secretary and, can be appealed. However, since the FAA's acknowledgement letter will include the FAA's reasons for any objections, the public agency will potentially be able to fix any identified problems and resubmit its request. Therefore, the FAA does not believe that the lack of appeal rights will be a detriment to filing for PFC authority under the pilot program procedures. The FAA notes that there has never been an appeal of a PFC decision for a non-hub airport filed with the U.S. Court of Appeals. The FAA reminds non-hub airports that the pilot program is optional and, alternatively, they may file an application under the procedures of § 158.25, which includes the right to judicial review.

Finally, § 158.30(h) incorporates the Vision 100 requirement that the pilot program will be in effect for 3 years from the date the final rule is enacted.

Vision 100 Statutory Changes Applicable to the General PFC Program

Section 158.3 Definitions

The proposed rule will add the definition of ''significant business interest'' to part 158.

Before enactment of Vision 100, 49 U.S.C. 40117(c)(2) and current § 158.23 required public agencies to provide notice to all air carriers and foreign air carriers operating at the airport. Vision 100 modifies 49 U.S.C. 40117(c)(2) to limit the public agency notice requirement to carriers with a ''significant business interest'' at the airport. Therefore, the FAA proposes to revise § 158.23 to comply with the statutory change, limiting public agency notice to carriers with a ''significant business interest'' at the airport. However, part 158 does not define the term ''significant business interest,'' and that phrase is an integral part of the modified PFC process. Based on this change, the proposed rule will provide such a definition, using the following definition from § 123(a)(1) of Vision 100:

''* * * an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior calendar year, or provides scheduled service at the airport.''

Section 158.23 Consultation with air carriers and foreign air carriers

As discussed in the definitions section, § 158.23 currently requires public agencies to consult with all air carriers and foreign air carriers before filing a PFC application and before seeking certain amendments to a previously approved PFC. 49 U.S.C. 40117(c)(2) is the basis for this section. As discussed above, § 123(a) of Vision 100 modified 49 U.S.C. 40117(c)(2), with the following:

''(F) For the purposes of this section, an eligible agency providing notice and an opportunity for consultation to an air carrier or foreign air carrier is deemed to have satisfied the requirements of this paragraph if the eligible agency limits such notices and consultations to air carriers and foreign air carriers that have a significant business at the airport. In the subparagraph, the term 'significant business interest' means an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior calendar year, or provides scheduled service at the airport.''

To comply with the statutory change, the proposed rule limits the required consultation to only those air carriers and foreign air carriers having a significant business interest at the airport.

Vision 100 modifies the carrier consultation requirements by dropping the requirement that the public agency consult with all air carriers and foreign air carriers who have operated at the airport during the previous year. Vision 100 substitutes in its place a requirement that the public agency consult with carriers having a significant business interest at the airport. The FAA notes that the Vision 100 definition of significant business interest would capture all carriers that have filed consultation comments on the various PFC applications over the last five years.

However, the FAA notes that the definition of a carrier with a significant business interest at the airport may create possible confusion in certain situations. Under § 158.11, a public agency may request to exclude a class of carriers from the requirement to collect the PFC. The public agency is not required to consult with carriers that are a part of a proposed excluded class.

One possible excluded class is a carrier or carriers flying to a particular isolated community. If designated as an excluded class, a carrier may thus be exempt from collecting a PFC for a specific flight under § 158.11(2) but also qualify as having a significant business interest at the airport because of its other operations. The exemption in § 158.11 is regulatory and based on FAA discretion while the significant business interest notice requirement in Vision 100 is statutory. Because of the statutory requirement, if a public agency determines that a carrier has a significant business interest in its airport, the FAA will not approve the public agency's request under § 158.11 to avoid consultation with that carrier. This is the case even if the public agency would otherwise be able to use the exemption. The FAA notes that an air carrier need only provide scheduled service to qualify as a significant business interest under the statutory definition.

Vision 100 also requires that non-hub airports participating in the pilot program must follow the same significant business interest notice requirements as all other PFC applicants. Therefore, proposed § 158.23 requires participating pilot program public agencies to follow the significant business interest notice requirements. For further discussion of non-nub pilot program requirements see the discussion of proposed § 158.30.

Section 158.24 Notice and Opportunity for Public Comment

Before enactment of Vision 100, public agencies were not required by statute or regulation to seek public comment of proposed PFC's. Only the FAA was so required. This occurred after the public agency filed the PFC application for FAA approval. Public agencies were only required to consult with all air carriers at an airport, not with the public. Vision 100 now requires public agencies to seek public comment before filing a PFC application with the FAA. Section 123(a)(3) of Vision 100 amends 49 U.S.C. 40117(c) by inserting the following:

''(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following under this paragraph;

''(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies that may be affected. The public notice may include—

''(i) publication in local newspapers of general circulation;

''(ii) publication in other local media; and

''(iii) posting the notice on the agency's Internet website.

''(B) A requirement for submission of public comments no sooner than 30 days, and no later than 45 days, after the date of the publication of the notice.

''(C) A requirement that the agency include in its application or notice submitted under

subparagraph (A) copies of all comments received under subparagraph (B).''

To comply with this statutory change, the proposed rule will create a new § 158.24 that requires public agencies to provide reasonable notice and an opportunity for public comment. Public agencies must comply with this notice requirement before filing with the FAA an application to collect a PFC or a notice of intent to impose or use a PFC under the non-hub pilot program. The goal of this requirement is to provide notice and the opportunity to comment to the public of the potential existence of a PFC that may affect them. The public will have the opportunity to provide comments based on a detailed notice, before the public agency files a PFC application or a non-hub pilot program notice of intent with the FAA.

In determining what constituted a reasonable notice, the FAA looked at the information that public agencies must provide in the consultation notice and at the air carrier consultation meeting. Information on any proposed excluded class of carriers was deemed unnecessary for the public comment process.

A requirement that the public agency provide information on the class of carriers it proposes to exclude was not included among the requirements of the public comment notice. In the FAA's 2002 examination of the PFC program, the FAA found there were no comments filed during the air carrier consultation about a proposed excluded class of carriers. Similarly, there were no comments filed in response to the FAA's **Federal Register** notice about a proposed excluded class of carriers.

Based on the existing consultation process requirements, the FAA is proposing that a reasonable public notice must contain the following items:

(1) A description of each project the public agency proposes to fund with the PFC. The FAA expects that this description could be as brief as, for example, ''extend taxiway A 500 feet to the north''. However, the description must be more than, for example, ''airfield pavements.'' It must clearly identify the proposed work;

(2) A brief justification for each project the public agency proposes to fund with the PFC. The public agency must make available a more detailed justification or justification documents upon request of the public. A more detailed project justification is not included in the public comment process for two reasons. First, a discussion of a project's justification may be complex in nature, requiring information that could far exceed the intended scope of the public comment notice. Second, most proposed projects are also in the public agency's airport master plan and/or environmental documents and the public has an opportunity to comment on these projects through other means. The FAA believes that reasonable public notice should not require that the public agency duplicate other processes. Thus, the proposed rule does not include a requirement to provide detailed project justification in the public comment notice.

(3) The PFC level for each project;

(4) The estimated amount of PFC revenue the public agency will use for each project;

(5) The proposed charge effective date for the application or notice of intent;

(6) The estimated charge expiration date for the application or notice of intent;

(7) The estimated total PFC revenue the public agency will collect for the application or notice of intent; and,

(8) The name of and contact information for the person within the public agency to whom comments should be sent.

The public agency must make the notice available to interested parties through one or more of the following methods:

(1) Publication in a local newspaper,

(2) Publication in other local media,

(3) Posting on the public agency's Web site, or

(4) Some other method acceptable to the FAA.

The FAA added the fourth option, ''other methods acceptable to the FAA,'' to those in Vision 100 to increase the flexibility available to the public agencies. The FAA advises that if a public agency wishes to use an alternative method, it must first discuss the method with the FAA to make sure the method is acceptable. In general, the FAA will expect the public agency to use a method of publication that is readily available to most of the local community. The public agency may also wish to provide this notice to air carriers who do not meet the definition of a significant business interest under § 158.23. This could be accomplished by posting the notice with fixed base operators or similar common areas on the airport or in national trade publications.

To comply with Vision 100, the proposed rule also directs the public agency to establish a comment period of between 30 and 45 days. This comment period starts on the day after the date of publication of the notice.

Finally, as noted above, this public comment period is required for both general PFC applications and for those participating in the non-hub airport pilot program. The discussion of proposed § 158.30 contains further details on the non-hub pilot program.

Section 158.37 Amendment of Approved PFC

There is no statutory provision controlling amendments, even after the enactment of Vision 100. The PFC amendment process is controlled solely by FAA regulation, under § 158.37, based on the FAA's discretion. This allows for flexibility in the public agency's management of its PFC program.

Under existing § 158.37, there are two different procedures used by public agencies to amend PFC decisions. The first method applies when the public agency seeks to:

(1) Decrease the total amount of PFC revenue approved for collection,

(2) Decrease the PFC level to be collected from each passenger, or

(3) Increase the amount being collected by 15 percent or less of the total approved for collection.

This method allows the change to go into effect without the consultation or approval of the FAA. However, FAA policy is to issue a letter acknowledging the changes. The FAA usually issues this letter between 30 and 60 days of the date of the public agency's notice. The public agency also does not have to consult with air carriers before implementing changes under this method of amendment process. However, the public agency must notify the collecting air carriers and the FAA of a change due to this amendment process.

The second method applies when the public agency seeks to:

(1) Increase the PFC level to be collected from each passenger,

(2) Materially alter the scope of an approved project,

(3) Increase the total approved PFC revenue by more than 15 percent, or

(4) Establish or amend a class of carriers which is to be excluded from the requirement to collect the PFC.

This method requires the public agency to apply to the FAA for approval of the amendment request. This method also requires the public agency to undertake consultation with the air carriers before filing the amendment application. The FAA will process an amendment filed under the second method in one of two ways.

First, if there is no carrier disagreement to the proposed amendment actions, the FAA will evaluate the amendment application and issue its decision within 30 days of receipt of the application.

Alternatively, if there is carrier disagreement to one or more of the proposed amendment actions, the FAA will evaluate the amendment application as well as any disagreements presented during the consultation process. Under these procedures, the FAA has the option of publishing a **Federal Register** notice seeking public comment on the proposed amendment actions. If there is a notice, the FAA will include any comments received because of the notice in its analysis of the amendment request. The FAA will issue its decision within 120 days of receipt of the amendment application.

In part because of the statutory streamlining changes contained in Vision 100, the FAA has decided to change the amendment procedures because they should not be more complicated than the initial application rules.

Furthermore, the FAA's experience with the current regulation leads to the conclusion that several of the current amendment procedures are confusing to public agencies. The areas of confusion mostly center on:

(1) When a public agency must conduct additional consultation;

(2) What constitutes a material change in the scope of the project; and

(3) How to determine if a request to increase PFC revenue is above the 15 percent threshold.

In addition, the FAA has identified a concern that a public agency could make a major increase in the PFC's dedication to one project while at the same time decreasing the PFC's on another project. A public agency could thus avoid the requirement for further air carrier consultation. The FAA believes actions of this type undermine the intent of the air carrier consultation provision.

The proposed rule will revise this section to streamline the PFC amendment procedures. The revisions to § 158.37 will create only one procedure for public agencies to use when seeking to amend PFC decisions. It will also assure that the FAA processes non-controversial amendments promptly. The proposed revisions to the amendment rules will continue to provide flexibility to the public agencies by allowing them to change approved projects, increase or decrease the PFC level, and otherwise respond quickly when financial or technical changes in a project are necessary.

Section 158.37(a) discusses the types of actions for which an amendment is allowed and those for which one is not allowed. Allowable actions will include:

(1) Increasing or decreasing the PFC level to be charged to a passenger;

(2) Changing the scope of a project;

(3) Increasing or decreasing the amount of PFC revenue to be used on a project; and

(4) Establishing or amending an excluded class of carriers.

The new language deletes the term ''materially alter the scope of an approved project'' as a basis for an amendment since this term has caused much of the confusion. A public agency may still alter a project description, which will now be called a change of scope. The amendment rules limit the changes that a public agency can make. Changing the scope of a project by amendment must remain true to the nature and structure of the approved project. Changing approved projects to a different type of project, adding new unrelated work elements, or constructing the same type of project for a different purpose than a project previously approved by the FAA, are new projects. These types of modifications require processing as a new application, rather than as an amendment.

Examples of changing the scope include:

(1) Trying to amend an approved taxiway construction project to include extending a runway; and

(2) Trying to amend an approved facility construction project to include the same type of facility but at a different location. For example, a request to amend a taxiway construction project approved for one side of the airfield to add taxiway construction on the opposite side of the airfield will be unacceptable.

Another change to the rule is that increases and decreases of PFC revenue will be calculated on a project-by-project basis, rather than as a change in the total amount approved for an application. In addition, the FAA is proposing that an increase of more than 25 percent above the original approved amount for a project be the threshold to determine if the opportunity for additional consultation and public comment is needed. These changes should address the cause for some of the public agencies' confusion as well as addressing the FAA's concern about significant funding changes.

Under the new § 158.37(b), any public agency requesting an amendment must receive approval from the FAA. The amendment application will include a description of the proposed amendment. The public agency must provide justification for the amendment if it includes a change in the scope of the project or an increase in the total approved PFC revenue for a project. In addition, public agencies of large and medium hub airports must provide a discussion on how the project meets the significant contribution requirement of § 158.17(b), for any project in the amendment seeking to increase the PFC level above $3.00.

The public agency must follow the air carrier consultation and public comment requirements of §§ 158.23 and 158.24 if the amendment request is to:

(1) Increase the original PFC amount for any project by more than 25 percent;

(2) Change the scope of a project; or

(3) Increase the PFC level.

The public agency must also include copies of any comments received during the carrier consultation and public comment processes in its amendment request. This requirement ensures that all interested parties have the opportunity to provide comments on significant changes to the approved PFC program.

Section 158.37(c) provides the FAA's decision-making procedures for amendments. The FAA must either approve, partially approve or disapprove each amendment request within 30 days of the FAA's receipt of the request. In deciding, the FAA will consider whether the amendment is within the structure of the approved project and whether the project costs are reasonable and necessary for accomplishing the approved project. The FAA will also consider any comments filed during the consultation and public comment processes before reaching a decision.

Finally, to assure proper PFC collections, § 158.37(d) requires the public agency to notify the carriers of any change to the approved PFC resulting from an amendment. In addition, the effective date of any new PFC level must be no earlier than the first day of a month that is at least 30 days from the date the public agency notifies the carriers.

As noted above, the proposed PFC amendment procedures apply to both general PFC applications and non-hub airport pilot program notices of intent.

Section 158.25 Applications

The proposed rule makes several changes to this section. Most of these changes are necessary to conform to the changes in other sections of part 158 called for by Vision 100 and as discussed above. The other changes to this section streamline procedures in keeping with the intent of Vision 100.

The modifications proposed in §§ 158.25(a), 158.25(c)(1)(i), 158.25(c)(1)(ii) and 158.25(c)(2)(ii)(A)–(C) specify that a public agency must

use FAA Form 5500–1 (latest edition) and all applicable Attachments when filing a PFC application under this section. When Part 158 was issued in 1991, the FAA had not developed PFC application forms. Rather than delay implementing the program while waiting for forms to be developed and approved for use, the regulation stated that public agencies should file a PFC application in a manner and form prescribed by the Administrator. Since then, the FAA has developed an application form that the Office of Management and Budget has approved for use. This current version of the application form has been in use, with minor modifications, since 2000.

The proposed rule will change § 158.25(b)(11) to be consistent with the change to § 158.23 limiting consultation to only those carriers with a significant business interest at the airport. This proposed rule will also change § 158.25(b)(11) to include the requirement for a public comment period under new § 158.24. This new language will require public agencies to treat comments received from the public in a manner similar to the way they treat comments from air carriers under the existing rules.

The proposed rule will also create a new § 158.25(b)(14) to incorporate the requirement in Vision 100 that public agencies include a copy of all comments received during the air carrier consultation and public comment processes in the PFC application. Section 123(a)(1) of Vision 100 amends 49 U.S.C. 40117(c) by adding the following to the end of paragraph (2):

> (E) The agency must include in its application or notice submitted under subparagraph (A) copies of all certifications of agreement or disagreement received under subparagraph (D).

The FAA notes that many public agencies already voluntarily include copies of the certifications of agreement and disagreement filed by the air carriers during the consultation process.

The proposed rule will also change §§ 158.25(c)(1)(i) and 158.25(c)(2)(i). These paragraphs set forth the requirements for applications seeking authority to use PFC revenue. Currently, such applications require much of the same information that public agencies previously filed with their applications for authority to impose the PFC. This is the case even if that information has not changed. The proposed changes will allow public agencies to incorporate much of the prior information by reference if nothing has changed since the FAA approved the impose authority application. These changes will streamline this process and remove duplicative information.

Finally, the last sentence in § 158.25(a) will be changed. It currently states that an application that will be ''* * * in a manner and form prescribed by the Administrator.'' The new sentence will refer to the actual application. Based on this change, all other sentences in § 158.25 with the old application reference will change to the new application reference under the proposed rule.

Section 158.27 Review of Applications

Before enactment of Vision 100, 49 U.S.C. 40117(c)(3) and current § 158.27(c)(2) required the FAA to publish a notice in the **Federal Register** of its intent to rule on an application. This notice invites public comment about the pending application and sets forth specific information about the proposed PFC.

Section 123(a)(4) of Vision 100 amends 49 U.S.C. 40117(c)(4) (redesignated from 49 U.S.C. 40117(c)(3)) by striking ''shall'' and inserting ''may.'' This statutory change allows the FAA the option of publishing a notice in the **Federal Register** rather than requiring the notice. To comply with the statute, the proposed rule changes §§ 158.27(c)(2), 158.27(c)(3) and 158.25(c)(4) to incorporate this statutory change by making the **Federal Register** notice optional.

The FAA expects that it will publish a notice in the **Federal Register** only for those applications with significant issues or public controversy. The FAA generally views intermodal ground transportation access projects as significant because they connect to off-airport transit systems and because they can be quite costly. In addition, when a terminal project involves airline competition or leasing, the FAA is also likely to consider it significant. The FAA has found that terminal projects involving competition or leasing may be perceived as benefiting one carrier over another and, thus, require more Federal scrutiny. In addition, terminal projects are often financed with significant amounts of PFC revenue. Finally, the FAA will analyze comments received as a result of both the airline consultation and the public comment processes and may publish a **Federal Register** notice if there are issues raised during these processes that are controversial. This change will enable the FAA to issue non-controversial decisions in as few as 45 to 60 days rather than the current standard of 75 to 120 days.

Section 158.29 The Administrator's Decision

The proposed rule will change § 158.29(c)(2) to include a reference to the new § 158.24 (public comment). If the FAA has disapproved an application or a project, § 158.29(c)(2) sets forth the requirements to reapply for PFC approval. The regulation currently requires that the public agency comply with the air carrier consultation requirements of § 158.23 before resubmitting an application. The FAA has determined that compliance with § 158.24 should also be a requirement for any action under § 158.29(c)(2).

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there is no current new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Economic Assessment, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency propose or adopt a regulation only upon a determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs,

benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by private sector, of $100 million or more annually (adjusted for inflation).

In conducting these analyses, FAA has determined this rule (1) has benefits that justify its costs, is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (2) will not have a significant economic impact on a substantial number of small entities; (3) will have a neutral trade impact; and (4) does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. These analyses, available in the docket, are summarized below.

Total Costs and Benefits of This Rulemaking

The estimated net cost saving of this proposed rule is estimated at $3,550,000 or $2,544,850, discounted. Although the pilot program would terminate after 3 years, the other proposed provisions would continue. Airports are estimated to have net cost savings over a 10-year period of $3,075,000 or $2,211,250, discounted. The FAA is estimated to have net cost savings of $475,000 over a 10-year period or $333,600, discounted. Air carriers would incur only minimal costs in adjusting to the proposed changes to Part 158.

Who Is Potentially Affected by This Rulemaking

Commercial airports, air carriers servicing these airports and the traveling public using these airports.

Our Cost Assumptions and Sources of Information

- Discount rate—7%.
- Period of analysis—2005–2007 for savings associated with the pilot program and 2005–2014 for proposed regulatory changes.
- Monetary values expressed in 2003 dollars.

Costs (per individual action):

Airport cost to notify and consult with an air carrier regarding a PFC application	$175
Airport cost to solicit and include public comment on PFC application	$600
Airport cost (non-hub airports) to file a PFC application	$5,000
Airport cost-savings for PFC use application	$5,000
Airport cost-savings for PFC amendment	$1,667
FAA cost of Federal Register notice	$500

These cost figures are based on the results of a study conducted by the FAA, the FAA's experience with the administration of the PFC program, and as part of figures determined for paperwork reduction analysis.

Alternatives We Considered

The FAA hired a consultant to review past PFC records of decisions and other related materials to assess whether certain PFC procedures could be streamlined. On the basis of the study, the FAA put forward several ideas for streamlining the PFC process as part of the Administration's Reauthorization proposal. Many of these proposals were incorporated into the Vision 100 law.

Benefits of This Rulemaking

The FAA estimates that the net effect of the proposed changes would be a decrease in cost for airports and have a neutral effect on air carriers and airline passengers.

Cost of This Rulemaking

Airports would realize net cost savings over a 10-year period of $3,075,000 or $2,211,300, discounted.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) directs the FAA to fit regulatory requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation. We are required to determine whether a proposed or final action will have a ''significant economic impact on a substantial number of small entities'' as they are defined in the Act. If we find that the action will have a significant impact, we must do a ''regulatory flexibility analysis.''

The FAA has determined that this proposed rule will not impose costs on small commercial service airports. Rather, costs associated with this proposed rule will be limited to only what is authorized by statute. Moreover, actual PFC collection authority is not affected by the proposal and all costs are fully recoverable through the PFC, if necessary, by small adjustments in the period of PFC collection. The FAA estimates that a small airport will realize net cost-savings of approximately $9,400 annually under the proposed rule.

The FAA conducted the required review of this proposed rule and determined that it will not have a significant economic impact. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FAA certifies that this proposed rule will not have a significant impact on a substantial number of small entities. The FAA seeks public comments regarding this finding and requests that all comments be accompanied with detailed supporting data.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and has determined that, to the extent it imposes any costs affecting international entities, it will impose the same costs on domestic and international entities for comparable services, and thus has a neutral trade impact.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

This proposed rule does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action 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, and therefore would not have federalism implications.

Plain English

Executive Order 12866 (58 FR 51735, Oct. 4, 1993) requires each agency to write regulations that are simple and

easy to understand. We invite your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain unnecessary technical language or jargon that interferes with their clarity?
- Would the regulations be easier to understand if they were divided into more (but shorter) sections?
- Is the description in the preamble helpful in understanding the proposed regulations?

Please send your comments to the address specified in the **ADDRESSES** section.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 14 CFR Part 158

Air carriers, Airports, Passenger facility charge, Public agencies, Collection compensation.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 158 of title 14, Code of Federal Regulations, as follows:

PART 158—PASSENGER FACILITY CHARGES (PFC'S)

1. The authority citation for part 158 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40116–40117, 47106, 47111, 47114–47116, 47524, 47526.

2. Amend § 158.3 to add the following definitions:

§ 158.3 Definitions.

* * * * *

Non-hub airport means a commercial service airport (as defined in 49 U.S.C. 47102) that has less than 0.05 percent of the passenger boardings in the U.S. in the prior calendar year on an aircraft in service in air commerce.

* * * * *

Significant business interest means an air carrier or foreign air carrier that:

(1) Had no less than 1.0 percent of passenger boardings at that airport in the prior calendar year,

(2) Had at least 25,000 passenger boardings at the airport in that prior calendar year, or

(3) Provides scheduled service at that airport.

* * * * *

3. Amend § 158.23 by revising paragraph (a) introductory text to read as follows:

§ 158.23 Consultation with air carriers and foreign air carriers.

(a) *Notice by public agency.* A public agency must provide written notice to air carriers and foreign air carriers having a significant business interest at the airport where the PFC is proposed. A public agency must provide this notice before the public agency files an application with the FAA for authority to impose a PFC under § 158.25(b). In addition, public agencies must provide this notice before filing an application with the FAA for project approval under § 158.25(c). Public agencies must also provide this notice before filing a notice of intent to impose and/or use a PFC under § 158.30. Finally, a public agency must provide this notice before filing a request to amend a previously approved PFC as discussed in § 158.37(b)(1). The notice shall include:

* * * * *

4. Add § 158.24 to read as follows:

§ 158.24 Notice and opportunity for public comment.

(a) *Notice by public agency.* (1) A public agency must provide written notice and an opportunity for public comment before:

(i) Filing an application with the FAA for authority to impose a PFC under § 158.25(b);

(ii) Filing an application with the FAA for project approval under § 158.25(c);

(iii) Filing a notice of intent to impose and/or use a PFC under § 158.30; and

(iv) Filing a request to amend a previously approved PFC as discussed in § 158.37(b)(1).

(2) The notice must allow the public to file comments for at least 30 days, but no more than 45 days, after the date of publication of the notice or posting on the public agency's Web site, as applicable.

(b) *Notice contents.* (1) The notice required by § 158.24(a) must include:

(i) A description of the project(s) the public agency is considering for funding by PFC's;

(ii) A brief justification for each project the public agency is considering for funding by PFC's;

(iii) The PFC level for each project;

(iv) The estimated total PFC revenue the public agency will use for each project;

(v) The proposed charge effective date for the application or notice of intent;

(vi) The estimated charge expiration date for the application or notice of intent;

(vii) The estimated total PFC revenue the public agency will collect for the application or notice of intent; and

(viii) The name of and contact information for the person within the public agency to whom comments should be sent.

(2) The public agency must make available a more detailed project justification or the justification documents to the public upon request.

(c) *Distribution of notice.* The public agency must make the notice available to the public and interested agencies through one or more of the following methods:

(1) Publication in local newspapers of general circulation;

(2) Publication in other local media;

(3) Posting the notice on the public agency's Internet website; or

(4) Any other method acceptable to the Administrator.

5. Revise § 158.25 to read as follows:

§ 158.25 Applications.

(a) *General.* This section specifies the information the public agency must file when applying for authority to impose a PFC and for authority to use PFC revenue on a project. A public agency may apply for such authority at any commercial service airport it controls. The public agency must use the proposed PFC to finance airport-related projects at that airport or at any existing or proposed airport that the public agency controls. A public agency may apply for authority to impose a PFC before or concurrent with an application to use PFC revenue. The public agency may file an application. If a public agency chooses to apply, it must do so by using FAA Form 5500–1, PFC Application (latest edition) and all applicable Attachments. The public agency must provide the information required under paragraphs (b) or (c), or both, of this section.

(b) *Application for authority to impose a PFC.* This paragraph sets forth

the information to be submitted by all public agencies seeking authority to impose a PFC. A separate application shall be submitted for each airport at which a PFC is to be imposed. The application shall be signed by an authorized official of the public agency, and, unless otherwise authorized by the Administrator, must include the following:

(1) The name and address of the public agency.

(2) The name and telephone number of the official submitting the application on behalf of the public agency.

(3) The official name of the airport at which the PFC is to be imposed.

(4) The official name of the airport at which a project is proposed.

(5) A copy of the airport capital plan or other documentation of planned improvements for each airport at which a PFC financed project is proposed.

(6) A description of each project proposed.

(7) The project justification, including the extent to which the project achieves one or more of the objectives set forth in § 158.15(a) and (if a PFC level above $3 is requested) the requirements of § 158.17. In addition—

(i) For any project for terminal development, including gates and related areas, the public agency shall discuss any existing conditions that limit competition between and among air carriers and foreign air carriers at the airport, any initiatives it proposes to foster opportunities for enhanced competition between and among such carriers, and the excepted results of such initiatives; or

(ii) For any terminal development project at a covered airport, the public agency shall submit a competition plan in accordance with § 158.19.

(8) The charge to be imposed for each project.

(9) The proposed charge effective date.

(10) The estimated charge expiration date.

(11) Information on the consultation with air carriers and foreign air carriers having a significant business interest at the airport and the public comment process, including:

(i) A list of such carriers and those notified;

(ii) A list of carriers that acknowledged receipt of the notice provided § 158.23(a);

(iii) Lists of carriers that certified agreement and that certified disagreement with the project;

(iv) Information on which method under § 158.24(b) the public agency used to meet the public notice requirement; and

(v) A summary of substantive comments by carriers contained in any certifications of disagreement with each project and disagreements with each project provided by the public, and the public agency's reasons for continuing despite such disagreements.

(12) If the public agency is also filing a request under § 158.11—

(i) The request;

(ii) A copy of the information provided to the carriers under § 158.23(a)(3);

(iii) A copy of the carriers' comments with respect to such information;

(iv) A list of any class or classes of carriers that would not be required to collect a PFC if the request is approved; and

(v) The public agency's reasons for submitting the request in the face of opposing comments.

(13) A copy of information regarding the financing of the project presented to the carriers and foreign air carriers under § 158.23 of this part and as revised during the consultation.

(14) A copy of all comments received as a result of the carrier consultation and public comment processes.

(15) For an application not accompanied by a concurrent application for authority to use PFC revenue:

(i) A description of any alternative methods being considered by the public agency to accomplish the objectives of the project;

(ii) A description of alternative uses of the PFC revenue to ensure such revenue will be used only on eligible projects in the event the proposed project is not approved;

(iii) A timetable with projected dates for completion of project formulation activities and submission of an application to use PFC revenue; and

(iv) A projected date of project implementation and completion.

(16) A signed statement certifying that the public agency will comply with the assurances set forth in Appendix A to this Part.

(17) Such additional information as the Administrator may require.

(c) *Application for authority to use PFC revenue.* A public agency may use PFC revenue only for projects approved under this paragraph. This paragraph sets forth the information that a public agency shall submit, unless otherwise authorized by the Administrator, when applying for the authority to use PFC revenue to finance specific projects.

(1) An application submitted concurrently with an application for the authority to impose a PFC, must include:

(i) FAA Form 5500–1 without attachments except as required below;

(ii) For any projects where there have been no changes since the FAA approved authority to impose a PFC for those projects, a list of projects included in this application for use authority. The FAA will consider the information on these projects, filed with the impose authority application, incorporated by reference;

(iii) For any project that has changed since receiving impose authority, the public agency must file an Attachment B for that project clearly describing the changes to the project; and

(iv) An FAA Form 5500–1, Attachment G, Airport Layout Plan, Airspace, and Environmental Findings (latest edition) providing the following information:

(A) For projects required to be shown on an ALP, the ALP depicting the project has been approved by the FAA and the date of such approval;

(B) All environmental reviews required by the National Environmental Policy Act (NEPA) of 1969 have been completed and a copy of the final FAA environmental determination with respect to the project has been approved, and the date of such approval, if such determination is required; and

(C) The final FAA airspace determination with respect to the project has been completed, and the date of such determination, if an airspace study is required.

(v) The information required by §§ 158.25(b)(16) and 158.25(b)(17).

(2) An application where the authority to impose a PFC has been previously approved:

(i) Must not be filed until the public agency conducts further consultation with air carriers and foreign air carriers under § 158.23. However, the meeting required under § 158.23(a)(4) is optional if there are no changes to the projects after approval of the impose authority and further opportunity for public comment under § 158.24; and

(ii) Must include a summary of further air carrier consultation and the public agency's response to any disagreements submitted under the air carrier consultation and public comment processes conducted under paragraph (c)(2)(i) of this section;

(iii) Must include the following, updated and changed where appropriate:

(A) The information required under (c)(1)(i) of this section;

(B) The information required under (c)(1)(ii) of this section; and

(C) The information required by §§ 158.25(b)(16) and 158.25(b)(17).

6. Amend § 158.27 by revising paragraphs (c)(2), (c)(3) introductory text, and (c)(4) to read as follows:

§ 158.27 Review of applications.

* * * * *

(c) * * *

(2) The Administrator may opt to publish a notice in the **Federal Register** advising that the Administrator intends to rule on the application and inviting public comment, as set forth in paragraph (e) of this section. If the Administrator publishes a notice, the Administrator will provide a copy of the notice to the public agency.

(3) If the Administrator publishes a notice, the public agency—

* * * * *

(4) After reviewing the application and any public comments received from a **Federal Register** notice, the Administrator issues a final decision approving or disapproving the application, in whole or in part, before 120 days after the FAA Airports office received the application.

* * * * *

7. Amend § 158.29 by revising paragraph (c)(2) to read as follows:

§ 158.29 The Administrator's decision.

* * * * *

(c) * * *

(2) A public agency reapplying for approval to impose or use a PFC must comply with §§ 158.23, 158.24, and 158.25 of this part.

* * * * *

8. Add § 158.30 to subpart A to read as follows:

§ 158.30 Pilot Program for PFC Authorization at Non-Hub Airports.

(a) *General.* This section specifies the procedures a public agency controlling a non-hub airport must follow when notifying the FAA of its intent to impose a PFC and to use PFC revenue on a project under this section. In addition, this section describes the FAA's rules for reviewing and acknowledging a notice of intent filed under this section. A public agency may notify the FAA of its intent to impose a PFC before or concurrent with a notice of intent to use PFC revenue. A public agency must file a notice of intent in the manner and form prescribed by the Administrator and must include the information required under paragraphs (b), (c), or both, of this section.

(b) *Notice of intent to impose a PFC.* This paragraph sets forth the information a public agency must file to notify the FAA of its intent to impose a PFC under this section. The public agency must file a separate notice of intent for each airport at which the public agency plans on imposing a PFC. An authorized official of the public agency must sign the notice of intent and, unless authorized by the Administrator, must include:

(1) A completed FAA Form 5500–1, PFC Application (latest edition) without attachments except as required below;

(2) Project information (in the form and manner prescribed by the FAA) including the project title, PFC funds sought, PFC level sought, and, if an existing Airport Improvement Program (AIP) grant already covers this project, the grant agreement number.

(3) If an existing AIP grant does not cover this project, the notice of intent must include the information in paragraph (b)(2) of this section as well as the following:

(i) Additional information describing the proposed schedule for the project,

(ii) A description of how this project meets one of the PFC objectives in § 158.15(a), and

(iii) A description of how this project meets the adequate justification requirement in § 158.15(c).

(4) A copy of any comments received by the public agency during the air carrier consultation and public comment processes (§ 158.23 and § 158.24) and the public agency's response to any disagreements.

(5) If applicable, a request to exclude a class of carriers from the requirement to collect the PFC (§ 158.11).

(6) A signed statement certifying that the public agency will comply with the assurances set forth in Appendix A to this Part.

(7) Any additional information the Administrator may require.

(c) *Notice of intent to use PFC revenue.* A public agency may use PFC revenue only for projects included in notices filed under this paragraph or approved under § 158.29. This paragraph sets forth the information that a public agency must file, unless otherwise authorized by the Administrator, in its notice of intent to use PFC revenue to finance specific projects under this section.

(1) A notice of intent to use PFC revenue filed concurrently with a notice of intent to impose a PFC must include:

(i) The information required under paragraphs (b)(1) through (7) of this section;

(ii) A completed FAA Form 5500–1, Attachment G, Airport Layout Plan, Airspace, and Environmental Findings (latest edition) for all projects not included in an existing Federal airport grant program grant.

(2) A notice of intent to use PFC revenue where the FAA has previously acknowledged a notice of intent to impose a PFC must:

(i) Be preceded by further consultation with air carriers and the opportunity for public comment under § 158.23 and § 158.24 of this part. However, a meeting with the air carriers is optional if all information is the same as that provided with the impose authority notice;

(ii) Include a copy of any comments received by the public agency during the air carrier consultation and public comment processes (§ 158.23 and § 158.24) and the public agency's response to any disagreements or negative comments; and

(iii) Include any updated and changed information:

(A) Required by paragraphs (b)(1), (2), (5), (6), and (7) of this section; and

(B) Required by paragraph (c)(1)(ii) of this section.

(d) *FAA review of notices of intent.* The FAA will review the notice of intent to determine that:

(1) The amount and duration of the PFC will not result in revenue that exceeds the amount necessary to finance the project(s);

(2) Each proposed project meets the requirements of § 158.15;

(3) Each project proposed at a PFC level above $3 meets the requirements of § 158.17(a)(2) and (3);

(4) All applicable airport layout plan, airspace, and environmental requirements have been met for each project;

(5) Any request by the public agency to exclude a class of carriers from the requirement to collect the PFC is reasonable, not arbitrary, nondiscriminatory, and otherwise complies with the law; and

(6) The consultation and public comment processes complied with § 158.23 and § 158.24.

The FAA will also make a determination regarding the public agency's compliance with 49 U.S.C. 47524 and 47526 governing airport noise and access restrictions and 49 U.S.C. 47107(b) governing the use of airport revenue. Finally, the FAA will review all comments filed during the air carrier consultation and public comment processes.

(e) *FAA acknowledgment of notices of intent.* Within 30 days of receipt of the public agency's notice of intent about its PFC program, the FAA will issue a written acknowledgment of the public agency's notice. The FAA's acknowledgment may concur with all proposed projects, may object to some or all proposed projects, or may object to the notice of intent in its entirety. The

FAA's acknowledgment will include the reason(s) for any objection(s).

(f) *Public agency actions following issuance of FAA acknowledgment letter.* If the FAA does not object to either a project or the notice of intent in its entirety, the public agency may implement its PFC program. The public agency's implementation must follow the information specified in its notice of intent. If the FAA objects to a project, the public agency may not collect or use PFC revenue on that project. If the FAA objects to the notice of intent in its entirety, the public agency may not implement the PFC program proposed in that notice. When implementing a PFC under this section, except for § 158.25, a public agency must comply with all sections of Part 158.

(g) *Acknowledgment not an order.* An FAA acknowledgment issued under this section is not considered an order issued by the Secretary for purposes of 49 U.S.C. 46110 (Judicial Review).

(h) *Sunset provision.* This section will expire 3 years after the date of enactment of the final rule.

9. Revise § 158.37 to read as follows:

§ 158.37 Amendment of approved PFC.

(a)(1) A public agency may amend an approved PFC to:

(i) Increase or decrease the level of PFC the public agency wants to collect from each passenger,

(ii) Increase or decrease the total approved PFC revenue,

(iii) Change the scope of an approved project,

(iv) Delete an approved project, or

(v) Establish a new class of carriers under § 158.11 or amend any such class previously approved.

(2) A public agency may not amend an approved PFC to add projects, change an approved project to a different facility type, or alter an approved project to accomplish a different purpose.

(b) The public agency must file a request to the Administrator to amend an approved PFC decision. The request must include or demonstrate:

(1)(i) Further consultation with the air carriers and foreign air carriers and seek public comment in accordance with §§ 158.23 and 158.24 when applying for those requests to:

(A) Amend the approved PFC amount for a project by more than 25 percent of the original approved amount,

(B) Change the scope of a project, or

(C) Increase the PFC level.

(ii) No further consultation with air carriers and foreign air carriers or public comment is required by a public agency in accordance with §§ 158.23 and 158.24 when applying for an amendment in the following situations:

(A) To institute a decrease in the level of PFC to be collected from each passenger; or

(B) To institute a decrease in the total PFC revenue; or

(C) To institute an increase of 25 percent or less for any approved PFC project; or

(D) To establish a new class of carriers under § 158.11 or amend any such class previously approved.

(2) A copy of any comments received from the processes in paragraph (b)(1)(i) of this section for the carrier consultation and the opportunity for public comment in accordance with §§ 158.23 and 158.24;

(3) The public agency's reasons for continuing despite any objections;

(4) A description of the proposed amendment;

(5) Justification, if the amendment involves a change in the PFC amount for a project by more than 25 percent of the original approved amount, a change of the approved project scope, or an increase in total approved PFC revenue for the project;

(6) A description of how each project meets the requirements of § 158.17(b), for each project proposed for an increase of the PFC level above $3.00 at a medium or large hub airport;

(7) A signed statement certifying that the public agency has met the requirements of § 158.19 if applicable, for any amendment proposing to increase the PFC level above $3.00 at a medium or large hub airport; and

(8) Any other information the Administrator may require.

(c) The Administrator will approve, partially approve or disapprove the amendment request and notify the public agency of the decision within 30 days of receipt of the request. If a PFC level of more than $3 is approved, the Administrator must find the project meets the conditions of § 158.17 and § 158.19 if applicable, before the public agency can implement the new PFC level.

(d) The public agency must notify the carriers of any change to the approved PFC resulting from an amendment. The effective date of any new PFC level must be no earlier than the first day of a month which is at least 30 days from the date the public agency notifies the carriers.

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

Dennis E. Roberts,

Director, Office of Airport Planning and Programming.

[FR Doc. 04–13050 Filed 6–4–04; 4:29 pm]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA149–5076b; FRL–7671–5]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; VOC Emission Standards for Solvent Metal Cleaning Operations in the Metropolitan Washington, DC Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia establishing regulations for the control of volatile organic compound (VOC) emissions from solvent metal cleaning operations in the Northern Virginia portion of the Metropolitan Washington, DC ozone nonattainment area (Northern Virginia Area). In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the State submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by July 9, 2004.

ADDRESSES: Submit your comments, identified by VA149–5076 by one of the following methods:

A. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. E-mail: *morris.makeba@epa.gov.*

C. Mail: Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. VA149–5076. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action pertaining to Virginia's solvent metal cleaning operations regulation, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: May 27, 2004.

James W. Newsom,

Acting Regional Administrator, Region III.

[FR Doc. 04–12927 Filed 6–8–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 594

[Docket No. NHTSA 2004–17987; Notice 1]

RIN 2127–AJ34

Schedule of Fees Authorized by 49 U.S.C. 30141

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes fees for Fiscal Year 2005 and until further notice, as authorized by 49 U.S.C. 30141, relating to the registration of importers and the importation of motor vehicles not certified as conforming to the Federal motor vehicle safety standards (FMVSS). These fees are needed to maintain the registered importer (RI) program.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than July 26, 2004.

ADDRESSES: You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590.

Alternatively, you may submit your comments electronically by logging onto the Docket Management System (DMS) Web site at *http://dms.dot.gov.* Click on ''Help & Information'' of ''Help/Info'' to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket and notice number of this document. You can find the number at the beginning of this document.

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 (202–366–5291). For legal issues, you may call Michael Goode, Office of Chief Counsel, NHTSA (202–366–5263). You may call Docket Management at 202–366–9324. You may visit the Docket in person from 9 a.m. to 5 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION:

Introduction

On June 24, 1996, at 61 FR 32411, we published a notice that discussed in full the rulemaking history of 49 CFR part 594 and the fees authorized by the Imported Vehicle Safety Compliance Act of 1988, Public Law 100–562, since recodified as 49 U.S.C. 30141–47. The reader is referred to that notice for background information relating to this rulemaking action. Certain fees were initially established to become effective January 31, 1990, and have been in effect and occasionally modified since then.

The fees applicable in any fiscal year are to be established before the beginning of such year. We are proposing fees that would become effective on October 1, 2004, the beginning of FY 2005. The statute authorizes fees to cover the costs of the importer registration program, to cover the cost of making import eligibility determinations, and to cover the cost of processing the bonds furnished to the Department of Homeland Security (Customs). We last amended the fee schedule in 2002. See final rule published on September 26, 2002 at 67 FR 60596 (corrected on October 9, 2002 at 67 FR 62897). Those fees apply to Fiscal Years 2003 and 2004.

The proposed fees are based on actual time and costs associated with the tasks for which the fees are assessed and reflect the slight increase in hourly costs in the past two fiscal years attributable to the approximately 4.27 and 4.42 percent raises (including the locality adjustment for Washington, DC) in salaries of employees on the General Schedule that became effective on January 1, 2003, and on January 1, 2004, respectively.

Requirements of the Fee Regulation

Section 594.6—Annual Fee for Administration of the Importer Registration Program

Section 30141(a)(3) of title 49, U.S. Code provides that RIs must pay the annual fee the Secretary of Transportation establishes ''* * * to

pay for the costs of carrying out the registration program for importers. * * *'' This fee is payable both by new applicants and by existing RIs. To maintain its registration, each RI, at the time it submits its annual fee, must also file a statement affirming that the information it furnished in its registration application (or in later submissions amending that information) remains correct (49 CFR 592.5(e)).

In compliance with the statutory directive, we reviewed the existing fees and their bases in an attempt to establish fees that would be sufficient to recover the costs of carrying out the registration program for importers for at least the next two fiscal years. The initial component of the Registration Program Fee is the fee attributable to processing and acting upon registration applications. We have tentatively determined that this fee should be decreased from $395 to $293 for new applications. We have also tentatively determined that the fee for the review of the annual statement should be increased from $195 to $208. The proposed adjustments reflect our time expenditures in reviewing both new applications and annual statements with accompanying documentation, as well as the inflation factor attributable to Federal salary increases and locality adjustments in the two years since the regulation was last amended.

We must also recover costs attributable to maintenance of the registration program that arise from the need for us to review a registrant's annual statement and to verify the continuing validity of information already submitted. These costs also include anticipated costs attributable to the possible revocation or suspension of registrations and reflect the amount of time that we have devoted to those matters in the past two years.

Based upon our review of these costs, the portion of the fee attributable to the maintenance of the registration program is approximately $537 for each RI, an increase of $277. When this $537 is added to the $293 representing the registration application component, the cost to an applicant comes to $830, which is the fee we propose. This represents an increase of $186 over the existing fee. When the $537 is added to the $208 representing the annual statement component, the total cost to the RI comes to $745, which represents an increase of $290.

Section 594.6(h) enumerates indirect costs associated with processing the annual renewal of RI registrations. The provision states that these costs represent a pro rata allocation of the average salary and benefits of employees who process the annual statements and perform related functions, and ''a pro rata allocation of the costs attributable to maintaining the office space, and the computer or word processor.'' For the purpose of establishing the fees that are currently in existence, indirect costs were calculated at $14.85 per man-hour. We are proposing to increase this figure by $5.22, to $20.07. Although this represents a substantial increase, it is necessitated by significantly greater expenditures for computer-related functions that are anticipated within the Department of Transportation over the next two fiscal years, and a significant reduction in the number of full time equivalent positions within the Department as a result of the transfer of the Coast Guard and the Transportation Security Administration to the Department of Homeland Security.

Sections 594.7, 594.8—Fees To Cover Agency Costs in Making Importation Eligibility Determinations

Section 30141(a)(3) also requires registered importers to pay other fees the Secretary of Transportation establishes to cover the costs of ''* * * (B) making the decisions under this subchapter.'' This includes decisions on whether the vehicle sought to be imported is substantially similar to a motor vehicle that was originally manufactured for importation into and sale in the United States and certified by its original manufacturer as complying with all applicable FMVSS, and whether the vehicle is capable of being readily altered to meet those standards. Alternatively, where there is no substantially similar U.S. certified motor vehicle, the decision is whether the safety features of the vehicle comply with or are capable of being altered to comply with the FMVSS based on destructive test information or such other evidence NHTSA deems to be adequate. These decisions are made in response to petitions submitted by RIs or manufacturers, or on the Administrator's own initiative.

The fee for a vehicle imported under an eligibility decision made in response to a petition is payable in part by the petitioner and in part by other importers. The fee to be charged for each vehicle is the estimated pro rata share of the costs in making all the eligibility determinations in a fiscal year.

Inflation and General Schedule raises must also be taken into account in the computation of costs. We have reduced processing costs through issuing a single Federal Register notice to announce import eligibility decisions made on multiple vehicles and achieved other efficiencies through improved computerization methods. Despite the cost savings that have accrued from these practices, we have had to devote an increasing share of staff time in the past two years to the review and processing of import eligibility petitions owing to a proportionately greater number of comments being submitted in response to these petitions, as well as complications that result when the petitioner or one or more commenters request confidentiality for information they submit to the agency. Additional staff time is also needed to analyze the petitions and any comments received owing to new requirements being adopted in the FMVSS. Despite the additional resources that are needed to review import eligibility petitions, we are not proposing to increase the current fee of $175 that covers the initial processing of a ''substantially similar'' petition. Instead, as discussed below, we are proposing to address these additional costs by increasing the pro-rata share of petition costs that are assessed against the importer of each vehicle covered by the decision to grant import eligibility. Likewise, we are also proposing to maintain the existing fee of $800 to cover the initial costs for processing petitions for vehicles that have no substantially similar U.S.-certified counterpart.

In the event that a petitioner requests an inspection of a vehicle, the fee for such an inspection will increase to $827 from $550 for vehicles that are the subject of either type of petition. This $277 increase reflects current per diem and airfare costs.

Importers of vehicles determined to be eligible for importation pay, upon the importation of those vehicles, a pro rata share of the total cost for making the eligibility decision. The importation fee varies depending upon the basis on which the vehicle is determined to be eligible. For vehicles covered by an eligibility decision on the agency's own initiative (other than vehicles imported from Canada that are covered by VSA Nos. 80–83, for which no eligibility decision fee is assessed), the fee will remain $125. NHTSA determined that the costs associated with previous eligibility determinations on the agency's own initiative were fully recovered by October 1, 2000. We apply the fee of $125 per vehicle only to vehicles covered by determinations made by the agency on its own initiative on or after October 1, 2000.

The agency's costs for making an import eligibility decision pursuant to a petition are borne in part by the petitioner and in part by the importers of vehicles imported under the petition.

In 2003, the most recent year for which complete data exists, the agency expended over $99,000 in making import eligibility decisions based on petitions. The petitioners paid nearly $9,000 of that amount in the processing fees that accompanied the filing of their petitions, leaving the remaining $90,000 to be recovered from the importers of the nearly 600 vehicles imported that year pursuant to petition-based import eligibility decisions. Dividing $90,000 by 600 yields a pro-rata fee of $150 for each vehicle imported pursuant to an eligibility decision that resulted from the granting of a petition. The agency is proposing this as the pro rata fee to be paid by the importer of each such vehicle. The same $150 fee would be paid regardless of whether the vehicle was petitioned under 49 CFR 593.6(a), based on the substantial similarity of the vehicle to a U.S. certified model, or was petitioned under 49 CFR 593.6(b), based on the safety features of the vehicle complying with, or being capable of being modified to comply with all applicable FMVSS. This would represent an increase of $45 over the $105 that is currently paid by the importers of vehicles determined eligible based on their substantial similarity to a U.S. certified vehicle, and an increase of $25 over the $125 that is currently paid by the importers of vehicles determined eligible based on their capability of being modified to comply.

Section 594.9—Fee To Recover the Costs of Processing the Bond

Section 30141(a)(3) also requires a registered importer to pay any other fees the Secretary of Transportation establishes ''* * * to pay for the costs of—(A) processing bonds provided to the Secretary of the Treasury * * *'' upon the importation of a nonconforming vehicle to ensure that the vehicle will be brought into compliance within a reasonable time, or if it is not brought into compliance within such time, that it be exported, without cost to the United States, or abandoned to the United States.

The Department of Homeland Security (Customs) now exercises the functions associated with the processing of these bonds. The statute contemplates that we will make a reasonable determination of the cost that Department incurs in processing the bonds. In essence, the cost to Customs is based upon an estimate of the time that a GS–9, Step 5 employee spends on each entry, which Customs has judged to be 20 minutes.

Based on General Schedule salary and locality raises that were effective in January 2003 and 2004 and the inclusion of costs for benefits that were previously omitted, we are proposing that the processing fee be increased by $3.10, from $6.20 per bond to $9.30. This fee would more closely reflect the direct and indirect costs that are actually associated with processing the bonds.

Section 594.10—Fee for Review and Processing of Conformity Certificate

Each RI is currently required to pay $18 per vehicle to cover the costs the agency incurs in reviewing a certificate of conformity. We have found that these costs continue to average $18 per vehicle for vehicles for which a paper entry and fee payment is made, and we therefore are not proposing to change this fee. However, if a RI enters a vehicle through the Automated Broker Interface (ABI) system, has an e-mail address to receive communications from NHTSA, and pays the fee by credit card, the cost savings that we realize allow us to significantly reduce the fee to $6.00. We propose to maintain the fee of $6.00 per vehicle if all the information in the ABI entry is correct. Errors in ABI entries not only eliminate any time savings, but also require additional staff time to be expended in reconciling the erroneous ABI entry information to the conformity data that is ultimately submitted. Recent experience with these errors has shown that staff members must examine records, make time-consuming long distance telephone calls, and often consult supervisory personnel to resolve the conflicts in the data. We have calculated this staff and supervisory time, as well the telephone charges, to amount to approximately $42 for each erroneous ABI entry. Adding this to the $6 fee for the review of conformity packages on automated entries yields a total of $48, representing a $30 increase over the fee that is currently charged when there are errors to resolve in the entry or in the statement of conformity. We are proposing this fee to review each conformity package for which there are one or more errors in the ABI entry or in the statement of conformity.

Effective Date

The proposed effective date of the final rule is October 1, 2004.

Rulemaking Analyses

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking is not significant. Accordingly, the Office of Management and Budget has not reviewed this rulemaking document under Executive Order 12886. Further, NHTSA has determined that the rulemaking is not significant under Department of Transportation's regulatory policies and procedures. Based on the level of the fees and the volume of affected vehicles, NHTSA currently anticipates that the costs of the final rule will be so minimal as not to warrant preparation of a full regulatory evaluation. The action does not involve any substantial public interest or controversy. There will be no substantial effect upon State and local governments. There will be no substantial impact upon a major transportation safety program. A regulatory evaluation analyzing the economic impact of the final rule establishing the registered importer program, adopted on September 29, 1989, was prepared, and is available for review in the docket.

B. Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that this action will not have a significant economic impact upon a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. 605(b)). The proposed amendment would primarily affect entities that currently modify nonconforming vehicles and which are small businesses within the meaning of the Regulatory Flexibility Act; however, the agency has no reason to believe that these companies will be unable to pay the fees proposed by this action. In most instances, these fees would be only modestly increased (and in some instances decreased) from the fees now being paid by these entities. Moreover, consistent with prevailing industry practices, these fees should be passed through to the ultimate purchasers of the vehicles that are altered and, in most instances, sold by the affected registered importers. The cost to owners or purchasers of nonconforming vehicles that are altered to conform to the FMVSS may be expected to increase (or decrease) to the extent necessary to reimburse the registered importer for the fees payable to the agency for the cost of carrying out the registration program and making eligibility decisions, and to compensate Customs for its bond processing costs.

Governmental jurisdictions will not be affected at all since they are generally

neither importers nor purchasers of nonconforming motor vehicles.

C. Executive Order 13132 (Federalism)

Executive Order 13132 on ''Federalism'' requires NHTSA 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.'' Executive Order 13132 defines the term ''policies that have federalism implications'' 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.'' Under Executive Order 13132, NHTSA may not issue a regulation that has federalism implication, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

The proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rulemaking action.

D. National Environmental Policy Act

NHTSA has analyzed this action for purposes of the National Environmental Policy Act. The action will not have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported through registered importers will not vary significantly from that existing before promulgation of the rule.

E. Executive Order 12778 (Civil Justice Reform)

This proposed rule would not have any retroactive or preemptive effect. Judicial review of a rule based on this proposal may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with the base year of 1995). Because a final rule based on this proposal would not require the expenditure of resources beyond $100 million annually, no Unfunded Mandates assessment has been prepared.

G. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the proposed rule clearly stated?
—Does the proposed rule contain technical language or jargon that is unclear?
—Would a different format (grouping and order of sections, use of heading, paragraphing) make the rule 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 rule easier to understand?

If you have any responses to these questions, please include them in your comments on this document.

H. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This proposal would require no information collections.

I. Executive Order 13045

Executive Order 13045 applies to any rule that (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned rule is preferable to other potentially effective and reasonably feasible alternatives considered by us. This rulemaking is not economically significant.

J. Comments

How Do I Prepare and Submit Comments?

Your comments must be written in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the beginning of this document, under **ADDRESSES.**

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given at the beginning of this document under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation, 49 CFR part 512.

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment

closing date indicated at the beginning of this notice under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule, we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address and times given near the beginning of this document under **ADDRESSES.**

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the heading of this document. Example: If the docket number were ''NHTSA–2000–1234,'' you would type ''1234.''

(4) After typing the docket number, click on ''search.''

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see. You may download the comments. Although the comments are imaged documents, instead of the word processing documents, the ''pdf'' versions of the documents are word searchable. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

K. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN that appears in the heading on the first page of this document to find this action in the Unified Agenda.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 594 as follows:

List of Subjects in 49 CFR Part 594

Imports, Motor vehicle safety, Motor vehicles.

PART 594—SCHEDULE OF FEES AUTHORIZED BY 49 U.S.C. 30141

1. The authority citation for part 594 would continue to read as follows:

Authority: 49 U.S.C. 30141, 31 U.S.C. 9701; delegation of authority at 49 CFR 1.50.

2. Section 594.6 would be amended by;

(a) Revising the introductory text of paragraph (a),

(b) Revising paragraphs (b) and (c),

(c) Revising the year ''2002'' in paragraph (d) to read ''2004,''

(d) Revising the final sentence of paragraph (h); and

(e) Revising paragraph (i) to read as follows:

§ 594.6 Annual fee for administration of the registration program.

(a) Each person filing an application to be granted the status of a Registered Importer pursuant to part 592 of this chapter on or after October 1, 2004, must pay an annual fee of $830, as calculated in this section based upon the direct and indirect costs attributable to:

* * * * *

(b) That portion of the initial annual fee attributable to the processing of the application for applications filed on and after October 1, 2004, is $537. The sum of $537, representing this portion, shall not be refundable if the application is denied or withdrawn.

(c) That portion of the initial annual fee attributable to the remaining activities of administering the registration program on and after October 1, 2004, is set forth in paragraph (i) of this section. This portion shall be refundable if the application is denied, or withdrawn before final action upon it.

* * * * *

(h) * * * This cost is $20.07 per man-hour for the period beginning October 1, 2004.

(i) Based upon the elements and indirect costs of paragraphs (f), (g), and (h) of this section, the component of the initial annual fee attributable to administration of the registration program, covering the period beginning October 1, 2004, is $537. When added to the costs of registration of $293, as set forth in paragraph (b) of this section, the costs per applicant to be recovered through the annual fee are $830. The annual renewal registration fee for the period beginning October 1, 2004, is $745.

3. Section 594.7 would be amended by revising paragraph (e) to read as follows:

§ 594.7 Fee for filing petitions for a determination whether a vehicle is eligible for importation.

* * * * *

(e) For petitions filed on and after October 1, 2004, the fee payable for seeking a determination under paragraph (a)(1) of this section is $175. The fee payable for a petition seeking a determination under paragraph (a)(2) of this section is $800. If the petitioner requests an inspection of a vehicle, the sum of $827 shall be added to such fee. No portion of this fee is refundable if the petition is withdrawn or denied.

* * * * *

4. Section 594.8 would be amended by revising paragraph (b) and the first sentence of paragraph (c) to read as follows:

§ 594.8 Fee for importing a vehicle pursuant to a determination by the Administrator.

* * * * *

(b) If a determination has been made pursuant to a petition, the fee for each vehicle is $150. The direct and indirect costs that determine the fee are those set forth in § 594.7(b), (c), and (d).

(c) If a determination has been made on or after October 1, 2004, pursuant to the Administrator's initiative, the fee for each vehicle is $125. * * *

5. Section 594.9 would be amended by revising paragraph (c) to read as follows:

§ 594.9 Fee for reimbursement of bond processing costs.

* * * * *

(c) The bond processing fee for each vehicle imported on and after October 1, 2004, for which a certificate of conformity is furnished, is $9.30.

5. Section 594.10 would be amended by revising paragraph (d) to read as follows:

§ 594.10 Fee for review and processing of conformity certificate.

* * * * *

(d) The review and processing fee for each certificate of conformity submitted on and after October 1, 2004 is $18. However, if the vehicle covered by the certificate has been entered electronically with the U.S. Department of Homeland Security through the Automated Broker Interface and the registered importer submitting the certificate has an e-mail address, the fee for the certificate is $6, provided that the fee is paid by a credit card issued to the registered importer. If NHTSA finds that the information in the entry or the certificate is incorrect, requiring

further processing, the processing fee shall be $48.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

[FR Doc. 04–12722 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 69, No. 111

Wednesday, June 9, 2004

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Announcement of Rural Cooperative Development Grant Application Deadlines and Funding Levels

AGENCY: Rural Cooperative-Business Service, USDA.

ACTION: Notice of solicitation of applications.

SUMMARY: The Rural Business-Cooperative Service (RBS) announces the availability of approximately $5.0 million in competing Rural Cooperative Development Grant (RCDG) funds for fiscal year (FY) 2004. Of this amount, up to $1.5 million will be reserved for applications that focus on assistance to small, minority producers through their cooperative businesses. This action will comply with legislation which authorizes grants for establishing and operating centers for rural cooperative development. The intended effect of this notice is to solicit applications for FY 2004 and award grants before September 30, 2004. The maximum award per grant is $300,000 and matching funds are required.

DATES: You may submit completed applications for grants on paper or electronically by 4 p.m. eastern time on July 26, 2004.

ADDRESSES: You may obtain application materials for a Rural Cooperative Development Grant via the Internet at the following Web address: *http://www.rurdev.usda.gov/rbs/coops/rcdg.htm* or by contacting the Agency Contact for your State listed in section VII of this notice.

Submit completed paper applications to Marc Warman, USDA–RBS–CS, 1400 Independence Avenue, SW., Stop 3250, Washington, DC 20250. The room number for overnight deliveries is 4016-South.

Submit electronic grant applications to the following e-mail address: *cpgrants@usda.gov*.

FOR FURTHER INFORMATION CONTACT: The Agency contact for your State listed in section VII of this notice.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Business-Cooperative Service (RBS).

Funding Opportunity Title: Rural Cooperative Development Grant.

Announcement Type: Initial announcement.

Catalog of Federal Domestic Assistance Number: 10.771.

Dates: Application Deadline: July 26, 2004.

I. Funding Opportunity Description

Rural Cooperative Development Grants (RCDG) are authorized by section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)). Regulations are contained in 7 CFR part 4284, subparts A and F. The primary objective of the RCDG program is to improve the economic condition of rural areas through cooperative development. RCDG grants are used to facilitate the creation or retention of jobs in rural areas through the development of new rural cooperatives, value-added processing and other rural businesses. The program is administered through USDA Rural Development State Offices acting on behalf of RBS.

Section 310B(e) of the Consolidated Farm and Rural Development Act was amended by the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) (Mar. 13, 2002) to modify the matching requirement required of RCDG grant applicants that are ''1994 Institutions'' (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Pub. L. 103–382)). (The final rule implementing this amendment was published in the April 29, 2004, **Federal Register**. *See* 69 FR 23418–23436.) 1994 Institutions are not required to provide non-Federal financial support (matching funds) greater than 5 percent of the grant awarded. In the case of all applicants, preference points will be awarded where applicants commit to providing greater than the minimum 25 percent matching contribution. A current list of 1994 Institutions may be obtained from RBS.

Definitions

Agency—Rural Business-Cooperative Service (RBS), an agency of the United States Department of Agriculture (USDA), or a successor agency.

Center—The entity established or operated by the grantee for rural cooperative development. It may or may not be an independent legal entity separate from the grantee.

Cooperative Development—The startup, expansion or operational improvement of a cooperative to promote development in rural areas of services, products, and processes that can be used in the marketing of products, or enterprises that create Value-Added farm products through processing or marketing activities. Development activities may include, but are not limited to, technical assistance, research services, educational services and advisory services. Operational improvement includes making the cooperative more efficient or better managed.

Cooperative Services—The office within RBS, and its successor organization, that administers programs authorized by the Cooperative Marketing Act of 1926 (7 U.S.C. 451 *et seq*.) and such other programs so identified in USDA regulations.

1994 Institution—means a college identified as such for purposes of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 *note*). Contact the Agency for a list of currently eligible colleges.

Matching Funds—Cash or confirmed funding commitments from non-Federal sources unless otherwise provided by law. Unless otherwise provided, matching funds must be at least equal to the grant amount. Unless otherwise provided, in-kind contributions that conform to the provisions of 7 CFR 3015.50 and 7 CFR 3019.23, as applicable, can be used as matching funds. Examples of in-kind contributions include volunteer services furnished by professional and technical personnel, donated supplies and equipment, and donated office space. Matching funds must be provided in advance of grant funding, such that for every dollar of grant that is advanced, not less than an equal amount of match funds shall have been funded prior to submitting the request for reimbursement. Matching funds are subject to the same use restrictions as

grant funds. Funds used for an ineligible purpose will not be considered matching funds.

National Office—USDA RBS headquarters in Washington, DC.

Nonprofit Institution—Any organization or institution, including an accredited institution of higher education, no part of the net earnings of which may inure to the benefit of any private shareholder or individual.

Project—A planned undertaking by a Center that utilizes the funds provided to it to promote economic development in rural areas through the creation and enhancement of cooperatives.

Rural and Rural Area—includes all the territory of a state that is not within the outer boundary of any city or town having a population of 50,000 or more and the urbanized area contiguous and adjacent to such city or town, as defined by the U.S. Bureau of the Census using the latest decennial census of the United States.

Rural Development—A mission area within the USDA consisting of the Office of Under Secretary for Rural Development, Office of Community Development, Rural Business-Cooperative Service, Rural Housing Service and Rural Utilities Service and their successors.

State—includes each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, as may be determined by the Secretary to be feasible, appropriate and lawful, the Freely Associated States and the Federated States of Micronesia.

State Office—USDA Rural Development offices located in each State.

Value-Added—The incremental value that is realized by the producer from an agricultural commodity or product as the result of a change in its physical state, differentiated production or marketing, as demonstrated in a business plan, or Product segregation. Also, the economic benefit realized from the production of farm or ranch-based renewable energy. Incremental value may be realized by the producer as a result of either an increase in value to buyers or the expansion of the overall market for the product. Examples include milling wheat into flour, slaughtering livestock or poultry, making strawberries into jam, the marketing of organic products, an identity-preserved marketing system, wind or hydro power produced on land that is farmed and collecting and converting methane from animal waste to generate energy. Identity-preserved marketing systems include labeling that identifies how the product was produced and by whom.

II. Award Information

Type of Award: Grant.

Fiscal Year Funds: FY 2004.

Approximate Total Funding: $5.0 million (up to $1.5 million reserved for small, minority producers).

Approximate Number of Awards: 20.

Approximate Average Award: $250,000.

Floor of Award Range: None.

Ceiling of Award Range: $300,000.

Anticipated Award Date: 30 September 2004.

Budget Period Length: 12 months.

Project Period Length: 12 months.

III. Eligibility Information

1. Eligible Applicants: Grants may be made to non-profit corporations and institutions of higher education. Grants may not be made to Public bodies.

2. Cost Sharing or Matching: Matching funds are required. Applicants must verify in their applications that matching funds are available for the time period of the grant. The matching fund requirement is a 25 percent matching contribution (5 percent in the case of 1994 Institutions) with private funds and in-kind contributions. Preference points will be awarded where applicants commit to providing greater than the minimum 25 percent matching contribution (5 percent in the case of 1994 Institutions). Unless provided by other authorizing legislation, other Federal grant funds cannot be used as matching funds. However, matching funds contributed by the applicant may include a loan from another Federal source. Matching funds must be spent at a rate equal to or greater than the rate at which grant funds are expended. Matching funds must be provided by either the applicant in the form of cash or by a third party in the form of cash or in-kind contributions. Matching funds must be spent on eligible expenses must be from eligible sources if they are in-kind contributions.

3. Other Eligibility Requirements:

Grant Period Eligibility: Applications should have a timeframe of no more than 365 days with the time period beginning no later than 90 days after the anticipated award date.

Applications without sufficient information to determine eligibility will not be considered for funding. Applications that are non-responsive to the submission requirements detailed in Section IV of this notice will not be considered for funding. Applications that are missing any required elements (in whole or in part) will not be considered for funding.

IV. Application and Submission Information

1. Address to Request Application Package: You can obtain the application package for this funding opportunity at the following internet address: *http://www.rurdev.usda.gov/rbs/coops/rcdg.htm*. If you do not have access to the internet, or if you have difficulty accessing the forms online, you may contact the Rural Development State Office in your State from the list in section VII. Application forms can be mailed to you.

2. Content and Form of Submission: You may submit your application in paper or in an electronic format. If you submit your application in paper form, you must submit a signed original and one copy of your complete application. The application must be in the following format:

Font size: 12 point unreduced.

Paper size: 8.5 by 11 inches.

Page margin size: 1 inch on the top, bottom, left, and right.

Printed on only one side of each page.

Held together only by rubber bands or metal or plastic clips; not bound in any other way.

Language: English, avoid jargon.

The submission must include all pages of the application.

It is recommended that the application be in black and white, and not color. Paper applications may be scanned electronically for further review upon receipt by the Agency and the scanned images will all be in black and white. Those evaluating scanned versions of the application will only receive black and white images.

If you submit your application electronically, you only need to submit one copy. The application must be in the following format:

File format: pdf format, using Adobe Acrobat version 5.0 or higher.

Font size: 12 point unreduced.

Paper size: 8.5 by 11 inches.

Page margin size: 1 inch on the top, bottom, left, and right.

Language: English, avoid jargon.

The submission must contain all application pages (including the signed forms) in one file.

It is recommended that the application be in black and white, and not color. Those evaluating the application will only receive black and white images.

Multiple submissions or electronic files for the same application will be accepted at the discretion of the Agency. All applicants will receive a notice, either electronically or by mail that their application has been received. This notice only indicates that the

application has been received—it does not convey any determination on the part of the Agency that the application is eligible or has been evaluated. Applicants will not be notified of their eligibility or ranking until all applications have been completely evaluated and the Agency has announced the award determinations.

An application must contain all of the following elements. Any application that is missing any element or contains an incomplete element will not be considered for funding.

1. Form SF–424, ''Application for Federal Assistance.'' In order for this form to be considered complete, it must contain the legal name of the applicant, the applicant's DUNS number, the applicant's complete mailing address, the name and telephone number of a contact person, the employer identification number, the start and end dates of the project, the Federal funds requested, other funds that will be used as matching funds, an answer to the question, ''Is applicant delinquent on any Federal debt?,'' and the name and signature of an authorized representative.

You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant from RBS. 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 (866) 705–5711. For more information, see the RCDG Web site at: *http://www.rurdev.usda.gov/rbs/coops/rcdg.htm* or contact the State Office in your State from the list in section VII.

2. Form SF–424A, ''Budget Information—Non-Construction Programs.'' In order for this form to be considered complete, the applicant must fill out sections A, B, C, and D. The applicant must include both Federal and matching funds.

3. Form SF–424B, ''Assurances—Non-Construction Programs.'' In order for this form to be considered complete, the form must be signed by an authorized official.

4. Survey on Ensuring Equal Opportunity for Applicants. RBS is required to give this survey to all non-profit applicants. This survey is voluntary. If the applicant does not wish to participate in the survey, the applicant still must return the blank survey form with a statement indicating that the applicant does not wish to provide the information requested in order for their application to be considered complete.

5. *Proposal*. Each proposal must contain the following elements.

(i) Title Page. The Title Page should include the title of the project as well as any other relevant identifying information. The length should not exceed one page.

(ii) Table of Contents. For ease of locating information, each proposal must contain a detailed Table of Contents (TOC) immediately following the Title Page. The TOC should include page numbers for each component of the proposal. Pagination should begin immediately following the TOC. In order for this element to be considered complete, the TOC should include page numbers for the Executive Summary, the Eligibility Discussion, the Proposal Narrative and its 11 subcomponents, Verification of Matching Funds, and Certification of Matching Funds.

(iii) Executive Summary. Summarize the project in three (3) pages or less. Pages over the three-page limit will not be considered. This summary must briefly describe the Center, including goals and tasks to be completed, the amount requested, how the work will be performed, and whether organizational staff, consultants, or contractors will be used. It should also include the title of the project, the names of the primary project contacts, and a list of the main goals. The project summary should immediately follow the TOC.

(iv) Eligibility. Describe in detail how the applicant meets the eligibility requirements. This discussion is limited to two (2) pages. Pages over the two-page limit will not be considered.

(v) Proposal Narrative. The proposal narrative is limited to a total of 50 pages. Pages over the 50-page limit will not be considered. The narrative portion of the proposal must include, but is not limited to, the following:

(a) Project Title. The title of the proposed project must be brief, not to exceed 75 characters, yet describe the essentials of the project.

(b) Information Sheet. A separate one-page information sheet which lists each of the eight evaluation criteria followed by the page numbers of all relevant material and documentation contained in the application which supports that criteria.

(c) Goals of the Project. This section must include the following:

(1) A provision that substantiates that the Center will effectively serve rural areas in the United States;

(2) A provision that the primary objective of the Center will be to improve the economic condition of rural areas through cooperative development;

(3) A description of the contributions that the proposed activities are likely to make to the improvement of the economic conditions of the rural areas for which the Center will provide services; and

(4) Provisions that the Center, in carrying out the activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal government, and State and local governments.

(d) Work Plan. Applicants must discuss the specific tasks to be completed using grant and matching funds. The work plan should show how customers will be identified, key personnel to be involved, and the evaluation methods to be used to determine the success of specific tasks and overall objectives of Center operations. The budget must present a breakdown of the estimated costs associated with cooperative development activities as well as the operation of the Center and allocate these costs to each of the tasks to be undertaken. Matching funds as well as grant funds must be accounted for in the budget.

(e) Performance Evaluation Criteria. Performance criteria suggested by the applicant for incorporation in the grant award in the event the proposal receives grant funding under this subpart. These suggested criteria are not binding on USDA.

(f) Undertakings. The applicant must expressly undertake to do the following:

(1) Take all practicable steps to develop continuing sources of financial support for the Center, particularly from sources in the private sectors;

(2) Make arrangements for the activities by the nonprofit institution, including institutions of higher education, operating the Center to be monitored and evaluated; and

(3) Provide an accounting for the money received by the grantee under this subpart.

(g) Delivery of cooperative development assistance. The applicant must describe its previous accomplishments and outcomes in Cooperative development activities and/or its potential for effective delivery of Cooperative development services to rural areas. Applicants who have received funding under the Rural Cooperative Development Grant program in Fiscal Years 2002 or 2003 must provide a summation of progress and results for all projects funded fully or partially by the RCDG program in those years. This summary should include the status of cooperative businesses organized and all eligible grant purpose activities. The applicant

should also describe the type(s) of assistance to be provided, the expected impacts of that assistance, the sustainability of cooperative organizations receiving the assistance, and the transferability of its Cooperative development strategy and focus to other areas of the U.S.

(h) Qualifications of Personnel. Applicants must describe the qualifications of personnel expected to perform key center tasks, and whether these personnel are to be full/part-time Center employees or contract personnel. Those personnel having a track record of positive solutions for complex cooperative development or marketing problems, or those with a record of conducting feasibility studies that later proved to be accurate, business planning, marketing analysis, or other activities relevant to the Center's success should be highlighted.

(i) Support and commitments. Applicants must describe the level of support and commitment in the community for the proposed Center and the services it would provide. This support can be from industry groups, commodity groups, and potential customers of the Center. Plans for coordinating with other developmental organizations in the proposed service area, or with State and local government institutions should be included. Letters supporting cooperation and coordination from potential local customers should be provided. Letters from industry groups, commodity groups, local and State government, and similar organizations should be referenced, but not included in the application package. When referencing these support letters, provide the name of the organization, date of the letter, the nature of the support (cash, technical assistance, moral), and the name and title of the person signing the letter.

(j) Future support. Applicants should describe their vision for Center operations beyond the first year, including issues such as sources and uses of alternative funding; reliance on Federal, State, and local grants; and the use of in-house personnel for providing services versus contracting out for that expertise. To the extent possible, applicants should document future funding sources that will help achieve long-term sustainability of the Center.

(k) Evaluation Criteria. Each of the evaluation criteria referenced in section V.1. must be specifically and individually addressed in narrative form.

The proposal narrative is limited to a maximum of 50 pages. Any pages over the 50-page limit will not be considered.

(6) Verification of Matching Funds. All proposed matching funds must be specifically documented in the application. Matching funds may be cash or third-party in-kind contributions. If matching funds are to be provided by the applicant in cash, there must be a statement that cash will be available, the amount of the cash, and the source of the cash. If the matching funds are to be provided by a third party in cash, the application must include a signed letter from that third party verifying how much cash will be donated and when it will be donated. Verification for funds donated outside the proposed time period of the grant will not be accepted. If the matching funds are to be provided by a third party in-kind donation, the application must include a signed letter from the third party verifying the goods or services to be donated, when the goods and services will be donated, and the value of the goods or services. Verification for in-kind contributions donated outside the proposed time period of the grant will not be accepted. Verification for in-kind contributions that are over-valued will not be accepted.

If matching funds are in cash, they must be spent on goods and services that are eligible expenditures for this grant program. If matching funds are in-kind contributions, the donated goods or services must be considered eligible expenditures for this grant program as well as be used for eligible purposes. The matching funds must be spent or donated during the grant period and the funds must be expended at a rate equal to or greater than the rate grant funds are expended. Some examples of unacceptable matching funds are donations of fixed equipment and buildings, and the preparation of your RCDG application package.

If acceptable verification for all proposed matching funds is missing from the application, the application will be determined to be incomplete and will not be considered for funding.

(7) Certification of Matching Funds. Applicants must certify that matching funds will be available at the same time grant funds are anticipated to be spent and that matching funds will be spent at a rate equal to or greater than the rate grant funds are spent throughout the duration of the grant period. If this certification is missing from the application, the application will be determined to be incomplete and will not be considered for funding.

3. Submission Dates and Times:

Application Deadline Date: July 26, 2004.

Explanation of Deadlines: Applications must be received by Marc Warman, USDA-RBS-CS, 1400 Independence Avenue, SW., Room 4016-South, Stop 3250, Washington, DC 20250 by 4 p.m. eastern time on the deadline date. If you send your application by the United States Postal Service or commercial delivery service, you must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If your application does not meet the deadline above, it will not be considered for funding. You will be notified that your application did not meet the submission requirements. You will also be notified by mail or by e-mail if your application is received on time.

4. Intergovernmental Review of Applications: Executive Order 12372 does apply to this program.

5. Funding Restrictions: Funding restrictions apply to both grant funds and matching funds. Grant funds may be used to pay up to 75 percent (95 percent where the grantee is a 1994 Institution) of the cost of establishing and operating centers for rural cooperative development. Unless provided by other authorizing legislation, other Federal grant funds cannot be used as matching funds. However, matching funds contributed by the applicant may include a loan from another Federal source.

In general, grant and matching funds can be used to assist farmers and ranchers in organizing new or improving existing agriculture cooperatives, including those involved in value-added activities. Grant and matching funds can also be used to help rural residents form other cooperatively operated businesses such as housing cooperatives, including the conversion of properties administered under the section 515 program administered by the Rural Housing Service to housing cooperatives. Finally, grant and matching funds can be used to help rural residents form shared-services businesses to support their individually owned rural businesses.

Grant funds and matching funds may be used for, but are not limited to, providing the following to individuals, cooperatives, small businesses and other similar entities in rural areas served by the Center:

(a) Applied research, feasibility, environmental and other studies that may be useful for the purpose of cooperative development.

(b) Collection, interpretation and dissemination of principles, facts, technical knowledge, or other information for the purpose of cooperative development.

(c) Providing training and instruction for the purpose of cooperative development.

(d) Providing loans and grants for the purpose of cooperative development in accordance with the subpart.

(e) Providing technical assistance, research services and advisory services for the purpose of cooperative development.

No funds made available under this solicitation shall be used to do any of the following activities:

Duplicate current services or replace or substitute support previously provided. If the current service is inadequate, however, grant funds may be used to expand the level of effort or services beyond what is currently being provided;

Paying the costs of preparing the application package for funding under this program;

Pay costs of the project incurred to prior to the date of grant approval;

Fund political activities;

Pay for assistance to any private business enterprise which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

Pay any judgment or debt owed to the United States;

Plan, repair, rehabilitate, acquire, or construct a building or facility, including a processing facility;

Purchase, rent, or install fixed equipment;

Pay for the repair of privately owned vehicles;

Fund research and development; or

Fund any activities prohibited by 7 CFR parts 3015 and 3019.

6. Other Submission Requirements: Applications must be received by Marc Warman, USDA–RBS–CS, 1400 Independence Avenue, SW., Room 4016-South, Stop 3250, Washington, DC 20250 by 4 p.m. eastern time on the deadline date. Each application submission must contain all required documents in one envelope, if by mail or express delivery service, or all required documents must be in one electronic pdf file if the submission is by e-mail.

V. Application Review Information

1. Criteria: All eligible and complete applications will be evaluated based on the following criteria. Failure to address any one of the following criteria will result in a determination of incomplete and the application will not be considered for funding.

The criteria listed in this section will be used to evaluate grants under this subpart. Preference will be given to items in paragraphs (a) through (k). Up to five points will be awarded to each of the 11 criteria. Each criterion will receive equal weight.

For information and documentation that appear in other sections of this funding announcement that already address the following criteria, the applicant may reference that information and documentation by section number and page number. The applicant does not have to repeat information and documentation in section V.1. if it is presented elsewhere. However, the applicant must correctly reference this information and documentation. Reviewers will not be required to search for information and documentation that is incorrectly referenced.

(a) *Administrative capabilities.* (1–5 points) The application will be evaluated to determine whether the subject Center has a track record of administering a nationally coordinated, regional or State-wide operated project. Centers that have capable financial systems and audit controls, personnel and program administration performance measures and clear rules of governance will receive more points than those not evidencing this capacity.

(b) *Technical assistance and other services.* (1–5 points) The Agency will evaluate the applicant's demonstrated expertise in providing technical assistance in rural areas. This includes conducting feasibility studies, developing marketing plans, developing business plans, and doing those other activities necessary for a group of individuals to form a cooperative.

(c) *Economic development.* (1–5 points) The Agency will evaluate the applicant's demonstrated ability to assist in the retention of businesses, facilitate the establishment of cooperatives and new cooperative approaches and generate employment opportunities that will improve the economic conditions of rural areas.

(d) *Linkages.* (1–5 points) The Agency will evaluate the applicant's demonstrated ability to create horizontal linkages among businesses within and among various sectors in rural areas of the United States and vertical linkages to domestic and international markets. These linkages must be among cooperatives, not development organizations.

(e) *Commitment.* (1–5 points) The Agency will evaluate the applicant's commitment to providing technical assistance and other services to underserved and economically distressed areas in rural areas of the United States.

(f) *Matching Funds.* (1–5 points) All applicants must demonstrate Matching Funds equal to at least 25 percent (5 percent for 1994 Institutions) of the grant amount requested. Applications exceeding these minimum commitment levels will receive more points.

(g) *Delivery.* (1–5 points) The Agency will evaluate whether the Center has a track record in providing technical assistance in rural areas and accomplishing effective outcomes in cooperative development. The Center's potential for delivering effective cooperative development assistance, the expected effects of that assistance, the sustainability of cooperative organizations receiving the assistance, and the transferability of the Center's cooperative development strategy and focus to other States will also be assessed.

(h) *Work Plan/Budget.* (1–5 points) The work plan will be reviewed for detailed actions and an accompanying timetable for implementing the proposal. Clear, logical, realistic and efficient plans will result in a higher score. Budgets will be reviewed for completeness and the quality of non-Federal funding commitments.

(i) *Qualifications of those Performing the Tasks.* (1–5 points) The application will be evaluated to determine if the personnel expected to perform key center tasks have a track record of positive solutions for complex Cooperative development or marketing problems, or a successful record of conducting accurate feasibility studies, business plans, marketing analysis, or other activities relevant to Cooperative development center success.

(j) *Local support.* (5 points) Applications will be reviewed for previous and expected local support for the Center, plans for coordinating with other developmental organizations in the proposed service area, and coordination with State and local institutions. Support documentation should include recognition of rural values that balance employment opportunities with environmental stewardship and other positive rural amenities. Other than support from potential customers, just reference the support letters and documentation and do not actually submit documents. Centers that demonstrate strong support from potential beneficiaries and formal evidence of the Center's intent to coordinate with other developmental organizations will receive more points than those not evidencing such support and formal intent.

(k) *Future support.* (1–5 points) Applications that demonstrate their vision for funding center operations for

future years, including diversification of funding sources and building in-house technical assistance capacity, will receive more points for this criterion.

2. Review and Selection Process: The Agency will conduct an initial screening of all proposals to determine whether the applicant is eligible, complete, and sufficiently responsive to the requirements set forth in this funding announcement so as to allow for an informed review. Incomplete or non-responsive applications will not be evaluated further. Applicants may revise their applications and re-submit them prior to the published deadline if there is sufficient time to do so. However, given the tight timeline this year, this probably will not be possible. Reviewers appointed by the Agency will evaluate applications.

3. Anticipated Announcement and Award Dates:

Award Date: The announcement of award selections is expected to occur on or about September 30, 2004.

VI. Award Administration Information

1. Award Notices: Successful applicants will receive a notification of tentative selection for funding from Rural Development. Applicants must comply with all applicable statutes and regulations before the grant award will be approved. Unsuccessful applicants will receive notification by mail.

2. Administrative and National Policy Requirements: 7 CFR parts 3015, 3019, and 4284.

To view these regulations, please see the following internet address: *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1.*

The following additional requirements apply to grantees selected for this program:

Grant Agreement.

Letter of Conditions.

Form RD 1940–1, ''Request for Obligation of Funds.''

Form RD 1942–46, ''Letter of Intent to Meet Conditions.''

Certification of Ownership and Uniform Federal Assistance Regulations.

Resolution Authorizing Execution of Letter of Intent to Meet Conditions and Resolution Authorizing Execution of Request for Obligation of Funds.

Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions.''

Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions.''

Form AD–1049, ''Certification Regarding Drug-Free Workplace Requirements (Grants).''

Form RD 400–1, ''Equal Opportunity Agreement.''

Form RD 400–4, ''Assurance Agreement.''

RD Instruction 1940–Q, Exhibit A–1, ''Certification for Contracts, Grants & Loans.''

Additional information on these requirements can be found on the RBS Web site at the following Internet address: *http://www.rurdev.usda.gov/rbs/coops/rcdg.htm.*

Reporting Requirements: You must provide Rural Development with an original hard copy of the following reports. RBS is currently developing an online reporting system. Once the system is developed, you may be required to submit some or all of your reports online instead of in hard copy. The hard copies of your reports should be submitted to the Rural Development State Office of the state in which the Center is located. Failure to submit satisfactory reports on time may result in suspension or termination of your grant.

(1) A ''Financial Status Report'' listing expenditures according to agreed upon budget categories, on a semi-annual basis. Reporting periods end each March 31 and September 30. Reports are due 30 days after the reporting period ends.

(2) Semi-annual performance reports that compare accomplishments to the objectives stated in the proposal. Identify all tasks completed to date and provide documentation supporting the reported results. If the original schedule provided in the work plan is not being met, the report should discuss the problems or delays that may affect completion of the project. Objectives for the next reporting period should be listed. Compliance with any special condition on the use of award funds should be discussed. Reports are due as provided in paragraph (1) of this section. The supporting documentation for completed tasks include, but are not limited to, feasibility studies, marketing plans, business plans, articles of incorporation and bylaws and an accounting of how outreach, training, and other ''soft'' funds were spent.

(3) Final project performance reports, including supporting documentation are due within 90 days of the completion of the project.

VII. Agency Contacts

For general questions about this announcement and for program technical assistance, please contact the State Office for the State in which the Applicant is based. If you are unable to contact your State Office, please contact a nearby State Office or you may contact the RBS National Office at Mail Stop 3250, 1400 Independence Avenue, SW., Washington, DC 20250–3250, telephone: (202) 720–7558, e-mail: *cpgrants@usda.gov.*

List of Rural Development State Offices

Note: Telephone numbers shown are not toll free.

Alabama

State Director, USDA Rural Development, Sterling Center, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106–3683. (334) 279–3400. *steve.pelham@al.usda.gov.*

Alaska

State Director, USDA Rural Development, 800 West Evergreen, Suite 201, Palmer, AK 99645. (907) 761–7705. *nhayes@rdmail.rural.usda.gov.*

Arizona

State Director, USDA Rural Development, 3003 North Central Avenue, Suite 900, Phoenix, AZ 85012. (602) 280–8700. *eddie.browning@az.usda.gov.*

Arkansas

State Director, USDA Rural Development, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201–3225. (501) 301–3200. *john.allen@ar.usda.gov.*

California

State Director, USDA Rural Development, 430 G Street, Agency 4169, Davis, CA 95616. (530) 792–5800. *paul.venosdel@ca.usda.gov.*

Colorado

State Director, USDA Rural Development, 655 Parfet Street, Lakewood, CO 80215. (720) 544–2903. *gigi.dennis@co.usda.gov.*

Delaware-Maryland

State Director, USDA Rural Development, 4607 South DuPont Highway, Camden, DE 19934. (302) 697–4300. *marlene.elliott@de.usda.gov.*

Florida/Virgin Islands

State Director, USDA Rural Development, 4440 NW. 25th Place, Gainesville, FL 32606. (352) 338–3400. *charles.clemons@fl.usda.gov.*

Georgia

State Director, USDA Rural Development, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601. (706) 546–2162. *stone.workman@ga.usda.gov.*

Hawaii

State Director, USDA Rural Development, Federal Building, Room

311, 154 Waianuenue Avenue, Hilo, HI 96720. (808) 933–8380. *lorraine.shin@hi.usda.gov.*

Idaho

State Director, USDA Rural Development, 9173 West Barnes Drive, Suite A1, Boise, ID 83709. (208) 378–5600. *mike.field@id.usda.gov.*

Illinois

State Director, USDA Rural Development, 2118 West Park Court, Suite A, Champaign, IL 61821. (217) 403–6200. *Douglas.wilson@il.usda.gov.*

Indiana

State Director, USDA Rural Development, 5975 Lakeside Boulevard, Indianapolis, IN 46278. (317) 290–3100. *Robert.white@in.usda.gov.*

Iowa

State Director, USDA Rural Development, Federal Building, Room 873, 210 Walnut Street, Des Moines, IA 50309. (515) 284–4663. *nancy.orth@ia.usda.gov.*

Kansas

State Director, USDA Rural Development, 1303 SW. First American Place, Suite 100, Topeka, KS 66604. (785) 271–2700. *chuck.banks@ks.usda.gov.*

Kentucky

State Director, USDA Rural Development, 771 Corporate Drive, Suite 200, Lexington, KY 40503. (859) 224–7300. *ken.slone@ky.usda.gov.*

Louisiana

State Director, USDA Rural Development, 3727 Government Street, Alexandria, LA 71302. (318) 473–7920. *Michael.taylor@la.usda.gov.*

Maine

State Director, USDA Rural Development, 967 Illinois Avenue, Suite 4, Bangor, ME 04402. (207) 990–9106. *m.aube@me.usda.gov.*

Massachusetts/Rhode Island/ Connecticut

State Director, USDA Rural Development, 451 West Street, Suite 2, Amherst, MA 01002. (413) 253–4300. *david.tutle@ma.usda.gov.*

Michigan

State Director, USDA Rural Development, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823. (517) 324–5200. *Harry.brumer@mi.usda.gov.*

Minnesota

State Director, USDA Rural Development, 375 Jackson Street, Suite 410, St. Paul, MN 55101–1853. (651) 602–7800. *steve.wenzel@mn.usda.gov.*

Mississippi

State Director, USDA Rural Development, Federal Building, Suite 831, 100 West Capitol Street, Jackson, MS 39269. (601) 965–4316. *nick.walters@ms.usda.gov.*

Missouri

State Director, USDA Rural Development, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203. (573) 876–0976. *greg.branum@mo.usda.gov.*

Montana

State Director, USDA Rural Development, 900 Technology Blvd., Suite B, Bozeman, MT 59718. (406) 585–2580. *tim.ryan@mt.usda.gov.*

Nebraska

State Director, USDA Rural Development, Federal Building, Room 152, 100 Centennial Mall N, Lincoln, NE 68508. (402) 437–5551. *jim.barr@ne.usda.gov.*

Nevada

State Director, USDA Rural Development, 1390 South Curry Street, Carson City, NV 89703. (775) 887–1222. *larry.smith@nv.usda.gov.*

New Jersey

State Director, USDA Rural Development, 5th Floor North Tower, Suite 500, 8000 Midlantic Drive, Mount Laurel, NJ 08054. (856) 787–7700. *Andrew.law@nj.usda.gov.*

New Mexico

State Director, USDA Rural Development, 6200 Jefferson Street, NE., Room 255, Albuquerque, NM 87109. (505) 761–4950. *jeff.condrey@nm.usda.gov.*

New York

State Director, USDA Rural Development, The Galleries of Syracuse, 441 South Salina Street, Suite 357, Syracuse, NY 13202. (315) 477–6400. *Patrick.brennan@ny.usda.gov.*

North Carolina

State Director, USDA Rural Development State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609. (919) 873–2000. *john.cooper@nc.usda.gov.*

North Dakota

State Director, USDA Rural Development, Federal Building, Room 208, 220 East Rosser Avenue, Bismarck, ND 58502–1737. (701) 530–2037. *jane.grant@nd.usda.gov.*

Ohio

State Director, USDA Rural Development, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215. (614) 255–2400. *randall.hunt@oh.usda.gov.*

Oklahoma

State Director, USDA Rural Development, 100 USDA, Suite 108, Stillwater, OK 74074. (405) 742–1000. *brent.kisling@ok.usda.gov.*

Oregon

State Director, USDA Rural Development, 101 SW Main Street, Suite 1410, Portland, OR 97204. (503) 414–3300. *lynn.schoessler@or.usda.gov.*

Pennsylvania

State Director, USDA Rural Development, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996. (717) 237–2299. *byron.ross@pa.usda.gov.*

Puerto Rico

State Director, USDA Rural Development State Office, 654 Munoz Rivera Avenue, IBM Plaza, Suite 601, Hato Rey, Puerto Rico 00918. (787) 766–5095. *jose.otero@pr.usda.gov.*

South Carolina

State Director, USDA Rural Development State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Suite 1007, Columbia, SC 29201. (803) 765–5163. *charles.sparks@sc.usda.gov.*

South Dakota

State Director, USDA Rural Development, Federal Building, Room 210, 200 4th Street, SW., Huron, SD 57350. (605) 352–1100. *lynn.jensen@sd.usda.gov.*

Tennessee

State Director, USDA Rural Development, 3322 West End Avenue, Suite 300, Nashville, TN 37203. (615) 783–1300. *peggy.rose@tn.usda.gov.*

Texas

State Director, USDA Rural Development, Federal Building, Suite 102, 101 South Main, Temple, TX 76501. (254) 742–9700. *bryan.daniel@tx.usda.gov.*

Utah

State Director, USDA Rural Development, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, Salt Lake City, UT 84138. (801) 524–4320. *jack.cox@ut.usda.gov.*

Vermont/New Hampshire

State Director, USDA Rural Development, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602. (802) 828–6000. *marie.ferris@vt.usda.gov.*

Virginia

State Director, USDA Rural Development, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229. (804) 287–1550. *joe.newbill@va.usda.gov.*

Washington

State Director, USDA Rural Development, 1835 Black Lake Blvd., SW., Suite B, Olympia, WA 98512. (360) 704–7740. *misha.divens@wa.usda.gov.*

West Virginia

State Director, USDA Rural Development, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505. (304) 284–4860. *jenny.phillips@wv.usda.gov.*

Wisconsin

State Director, USDA Rural Development, 4949 Kirschling Court, Stevens Point, WI 54481. (715) 345–7600. *frank.frassetto@wi.usda.gov.*

Wyoming

State Director, USDA Rural Development, 100 East B Street, Room 1005, Casper, WY 82601. (307) 261–6300. *john.cochran@wy.usda.gov.*

Dated: June 3, 2004.

John Rosso,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 04–13012 Filed 6–8–04; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 060204E]

Marine Mammals; Permit Nos. 782–1438–08, 782–1446–07, and 774–1437–07

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

ACTION: Receipt of applications for amendment.

SUMMARY: Notice is hereby given that the following Permit Holders have requested that the Permits listed above be extended until June 30, 2005.

782–1438–08 and 782–1446–07—The National Marine Mammal Laboratory, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070, [Dr. Robyn Angliss, Principal Investigator]; and

774–1437–07—The National Marine Fisheries Service, Southwest Fisheries Science Center, P.O. Box 271, La Jolla, CA 92038, (Dr. Steve Reilly, Principal Investigator).

DATES: Written, telefaxed, or e-mail comments must be received on or before July 9, 2004.

ADDRESSES: The amendment request 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)713–0376.

Written comments or requests for a public hearing on this request should be submitted 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 amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, 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 email comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: Permit Nos. 782–1438–08, 782–1446–07, and 774–1437–07

FOR FURTHER INFORMATION CONTACT: Ruth Johnson (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendments to Permit Nos. 782–1438–08, 782–1446–07, and 774–1437–07 are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No.782–1438–08 authorizes the permit holder to take various cetacean species by harassment during aerial/vessel surveys, biopsy sampling, capture/release to estimate species abundance; determine species distribution and stock structure; and collect data from beluga whales on seasonal distribution, surfacing intervals, movements relative to ice cover and human activities, genetic population structure, contaminant levels, and food preference. Activities occur in the North Pacific.

Permit No. 782–1446–07 authorizes the permit holder to take pinnipeds by harassment during aerial/ground/vessel surveys for stock assessment, capture, tag, and brand animals for long term identification of individuals and information on reproductive success, survival and longevity. Activities occur in California, Washington and Oregon.

Permit No. 774–1437–07 authorizes the permit holder to take pinnipeds and cetaceans by harassment during aerial/ground/vessel surveys and photogrammetry, biopsy sampling and photo-id studies to estimate abundance and determine population structure in U.S. territorial and international waters.

Dated: June 3, 2004.

Patrick Opay,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–13035 Filed 6–8–04; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities; Notice of Intent To Renew Collection 3038–0025, Practice by Former Members and Employees of the Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to practice before the Commission by former members and employees of the Commission.

DATES: Comments must be submitted on or before August 9, 2004.

ADDRESSES: Comments may be mailed to John P. Dolan, Office of the General Counsel, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: John P. Dolan at (202) 418–5220; FAX: (202) 418–5524; e-mail: *jdolan@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

Practice by former members and employees of the Commission, OMB control number 3038–0025—Extension.

Commission Rule 140.735–6 governs the practice before the Commission of former members and employees of the Commission and is intended to ensure that the Commission is aware of any existing conflict of interest. The rule generally requires former members and employees who are employed or retained to represent any person before the Commission within two years of the termination of their CFTC employment to file a brief written statement with the Commission's Office of General Counsel. The proposed rule was promulgated pursuant to the Commission's rulemaking authority contained in Section 8a(5) of the Commodity Exchange Act, 7 U.S.C. 12a(5) (1994). The intervening years since the last extension have not indicated a change in the burden.

The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

17 CFR section	Annual number of respondents	Frequency of response	Total annual responses	Hours per response	Total hours
17 CFR 140.735–6	3	1.5	4.5	.10	0.45

There are no capital costs or operating and maintenance costs associated with this collection.

This estimate is based on the number of responses received over the last three years.

Dated: June 2, 2004.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–13028 Filed 6–8–04; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

The Governance of Self-Regulatory Organizations

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for comments.

SUMMARY: This Request for Comments continues the Commodity Futures Trading Commission's (''CFTC or Commission'') ongoing review of self-regulatory organizations (''SROs''). The request discusses recent changes in the U.S. futures industry and the Commission's governance requirements prior to and after passage of the Commodity Futures Modernization Act (''CFMA''). Based on this discussion, the request seeks answers from industry participants and other interested persons to a series of questions on SRO governance and self-regulation.

DATES: Responses must be received by July 26, 2004.

ADDRESSES: Written responses should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581. Responses may also be submitted via e-mail at *secretary@cftc.gov.* ''SRO Governance'' must be in the subject field of responses submitted via e-mail, and clearly indicated in written submissions. This document is also available for comment at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen Braverman, Deputy Director, (202) 418–5487; Rachel Berdansky, Special Counsel, (202) 418–5429; or Sebastian Pujol Schott, Attorney-Advisor, (202) 418–5641. Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commodity Exchange Act (''Act''),[1] among other things, seeks to enhance regulatory efficiency in the futures industry through self-regulation by exchanges, clearinghouses, and other organizations registered with or designated by the Commission.[2] Simultaneously, the Act recognizes the public interest inherent in transactions executed on U.S. futures exchanges and provides for oversight by the Commission.[3] As the primary industry regulator, the Commission strives for transparent, competitive, and financially sound futures markets that operate free from manipulation, and to protect market participants from fraud and other abusive practices.

Acknowledging both the importance of industry self-regulation and its own obligation to foster and maintain market integrity, CFTC Chairman James E.

[1] 7 U.S.C. 1, *et seq.* (2000).

[2] SROs include designated contract markets (''DCMs'' or ''exchanges''), derivatives transaction execution facilities, registered futures associations, and derivatives clearing organizations (''DCOs'').

[3] 7 U.S.C. 5.

Newsome announced in May of 2003 that the Commission would review ''the roles, responsibilities, and capabilities of SROs in the context of market changes'' [4] To that end, Commission staff has undertaken a comprehensive study of self-regulation in the futures industry (''SRO Study'').

The Commission's review of self-regulation has progressed against a backdrop of rapid transformation in the futures industry; both the competitive environment and the industry's business models are evolving rapidly. For example, in November of 2000, the Chicago Mercantile Exchange became the first U.S.-based futures exchange to transform from a not-for profit mutual organization to a demutualized publicly traded for-profit entity. The New York Mercantile Exchange has also demutualized, although it is not publicly traded. Other exchanges are considering demutualization, or are simply entering the market as for-profit, non-mutualized entities. These structural changes have coincided with increased competition in futures trading; a dramatic rise in the volume of trading, both open outcry and electronic; the entrance of new participants; and expanding roles for others. Each of these developments may have implications for SROs in the performance of their regulatory functions.

Since the initiation of the SRO Study, Commission staff has interviewed more than 100 individuals representing futures commission merchants (''FCMs''), DCMs, DCOs and futures industry associations. Staff also has interviewed industry executives, academics, consultants, and individuals associated with securities-side entities. The interviews covered a broad range of issues relevant to self-regulation in the futures industry, and constituted an important component of the ongoing SRO Study.

Based on these interviews, the Commission identified two issues for immediate attention: (1) Ensuring the confidentiality of certain information obtained by SROs in the course of their self-regulatory activities; and (2) examining the cooperative regulatory agreement by which SROs coordinate compliance examinations of FCMs (''DSRO System''). Interim measures with respect to both issues were announced in a February 2004 press release.[5] First, the Commission encouraged every SRO to reexamine its policies, procedures, and practices to confirm that it has adequate safeguards to prevent the inappropriate use of confidential information obtained during audits, investigations, and other self-regulatory activities. SROs also were encouraged to publicize their safeguards. Second, the Commission announced a review of the DSRO System, including its cooperative agreements and programs. As a part of that review, the Commission subsequently issued a Request for Comment on proposed amendments to the cooperative agreement by which various SROs allocate certain supervisory responsibilities among themselves so that each FCM has a single designated self-regulatory organization (''DSRO'').[6]

The February press release also reaffirmed that governance is a central focus of the SRO Study,noting that SRO governance can substantially impact key aspects of self-regulation and the increased national attention given to SRO governance issues. Accordingly, the Commission announced that it would issue this Request for Comments on the topic of SRO governance.

II. Regulatory Background

On December 21, 2000, Congress adopted the CFMA, which, among other things, replaced ''one-size-fits-all'' regulations for futures markets with flexible core principles and granted the Commission explicit authority over DCOs.[7] Prior to the adoption of the CFMA, SRO governance was addressed primarily through Section 5a of the Act, as amended by the Futures Trading Practices Act of 1992 (''FTPA''). The FTPA required greater diversity of representation on SRO boards and disciplinary committees, imposed fitness standards for service on boards and disciplinary and oversight committees, and required SROs to adopt procedures to avoid conflicts of interest in deliberations by persons serving on such bodies. As directed by Congress, the Commission promulgated regulations to enact the FTPA's governance provisions. First, Regulation 1.64 addressed composition requirements for SRO boards and disciplinary committees.[8] Second, Regulation 1.69 established specific factors to be considered with respect to barring a person serving on a board, disciplinary or oversight committee from voting on a decision if the person had a potential financial or personal interest. Third, Regulation 1.63, which already established fitness standards for members of SRO boards and disciplinary committees, was amended to include individuals serving on SRO oversight panels.

The CFMA struck former Section 5a of the Act and adopted new statutory provisions with respect to exchange governance. The CFMA enumerates 18 core principles applicable to DCMs, three of which directly relate to exchange governance: Core Principle 14- Governance Fitness Standards; Core Principle 15- Conflicts of Interest; and Core Principle 16- Composition of Boards Mutually Owned Contract Markets.[9]

The Commission adopted Part 38 of its regulations to implement those core principles applicable to DCMs.[10] Appendix B to Part 38 provides ''application guidance'' for the 18 core

[4] *See* Address by Commission Chairman James E. Newsome at the Futures Industry Association Law and Compliance Luncheon (May 28, 2003), available at *http://www.cftc.gov/opa/speeces03/opanewsm-40.htm.*

[5] *See* CFTC Progresses with Study of Self-Regulation, CFTC Press Release No. 4890–04 (Feb. 6, 2004), available at *http://www.cftc.gov/opa/press04/opa4890–04.htm*

[6] *See* CFTC Seeks Comment on How Self-Regulatory Exams of futures Firms Are Coordinated, CFTC Press Release no. 4910–04 (Apr. 7, 2004), available at *http://www.cftc.gov/opa/press04/opa4890–04.htm*

[7] Commodity Futures Modernization Act of 2000, Public Law 106–554, 114 Stat. 2763 (Dec. 21, 2000).

[8] Commission Regulation 1.64 required that each exchange establish meaningful representation for (1) FCMs; (2) floor traders; (3) floor brokers; (4) commercial interests; (5) participants in a variety of pits or principal groups of commodities traded on the exchange; and (6) other market users such as banks and pension funds. The regulation further required that at least ten percent of each exchange board consist of commercials and that at least 20 percent of the board include non-members. With respect to composition of disciplinary committees, each exchange was required to ensure that the composition of each major disciplinary committee included sufficient different membership interests. In this connection, the regulation required that a majority of each disciplinary committee and hearing panels of those committees include persons that represented membership interests other than that of the subject respondent. If a matter involved a member of the exchange governing board or a member of a disciplinary committee, or involved manipulation or conduct that caused direct financial harm to non-member, the exchange was required to include at least one non-member on the committee or panel considering the case.

[9] Core Principle 14 states that a ''board of trade shall establish and enforce appropriate fitness standards for directors, members of any disciplinary committee, members of the contract market, and any other persons with direct access to the facility (including any persons affiliated with any of the persons in this paragraph).'' Core Principle 15 states that a ''board of trade shall establish and enforce rules to minimize conflicts of interest in the decision making process of the contract market and establish a process for resolving such conflicts of interest.'' Core Principle 16 states, ''in the case of a mutually owned contract market, the board of trade shall ensure that the composition of the governing board reflects market participants.'' Sections 5(d)(14), (15), and (16) of the Act.

[10] Pursuant to section 38.2, DCMs are exempt from regulations 1.63,with the exception of 1.63(c); 1.64; and 1.69. *See* note 13 for an explanation guidance to demonstrate core principle compliance.

principles.[11] The guidance for Core Principle 14 provides that a DCM should have appropriate fitness standards for various categories of individuals. With respect to members who have voting privileges and individuals who exercise governing or disciplinary authority, at a minimum,these fitness standards should include those bases for refusal to register a person that are enumerated under section 8a(2) of the Act.[12] the fitness standards also should require that individuals with governing authority not have a significant history of disciplinary violations, such as the disqualifications listed under Commission Regulation 1.63.[13]

The guidance for Core Principle 15 provides that a DCM should have procedures to identify and resolve conflicts of interest in decision-making. A DCM also should have appropriate limitations regarding the use or disclosure of material non-public information gained through the performance of official duties by board members, committee members, and exchange employees or gained through an exchange ownership interest. Finally, the guidance for Core Principle 16 provides that the board composition of a mutually-owned DCM should fairly represent the diversity of interests of the DCM's market participants.[14]

III. Questions

The Commission has formulated the following questions based on its research, the views expressed by interview participants, and industry developments. Responses from interested parties will advance the Commission's understanding of issues relevant to SRO governance. Each enumerated question should be addressed individually; parties also may address any other topics they believe are relevant to SRO governance.

Possible conflicts of interest, such as those that may exist between an SRO's regulatory functions and its business functions, or between an SRO's members, are central to many of the questions articulated below. Where appropriate, parties should identify the specific conflict addressed in their response, and how their proposal resolves that conflict.

A. Board Composition

1. What is the appropriate composition of SRO boards to best protect the public interest and serve SROs' needs? If you believe that SRO boards should consist of market participants, what participant communities should be represented and how should representation be allocated among those communities (*e.g.,* quotas, volume-based)? Should the composition of SRO boards be different for the various types of SROs (*e.g.,* DCM or DCO)?

2. How and by whom should SRO boards be nominated and elected? If directors should represent particular communities, should each community nominate and/or elect its representatives to the board? If the board consists of independent directors, what nomination and election procedures are necessary to ensure independence?

3. Should SRO boards include independent directors and, if so, what level of representation should they have? What are appropriate definitions of ''independent director'' and ''public director?'' Should all independent directors be public directors? Please address whether SRO members can be considered independent. Also, please address whether the New York Stock Exchange's definition of independent—the requirements include independence from the exchange's management, members, and member organizations—is an appropriate model for the futures industry.[15]

B. Regulatory Structure

4. Are the governance standards applicable to listed companies sufficient for futures exchanges or their listed parent companies? Or, given that futures exchanges are not typical corporations in that they bear self-regulatory responsibilities, should they adopt higher governance standards, particularly with respect to self-regulatory activities? Please explain.

5. Should SRO's regulatory functions be overseen by a body that is internal to the SRO, but independent of management, members, and business functions? If so, what specific functions should fall within its purview (*e.g.,* regulatory budget; personnel decisions; compensation of regulatory staff; compliance and disciplinary programs; other aspects of self-regulation)?

6. Please address whether any rule enforcement, disciplinary, or other functions currently performed by exchanges should be performed instead by an independent regulatory services provider.

C. Forms of Ownership

7. What impact do varying business models have on SRO's self-regulatory behavior? Consider for-profit/not-for profit, member-owned/shareholder owned, and publicly traded/privately held business models.

8. More specifically, is an SRO subject to new influences in the performance of its self-regulatory functions when it converts from a member-owned, not-for-profit organization to a publicly traded, for-profit company? Might a for-profit, publicly traded SRO attempt to attract volume or increase its profits through lax self-regulation? Or, is ti more likely that the SRO will seek to protects its brand and add value through effective self-regulation?

D. Disciplinary Committees

9. How should SRO disciplinary committees be structured so as to ensure both expertise and impartiality?

10. Please address whether SRO discplinary committees should have independent, non-SRO member chairs and/or committee membership. Should the level of representation for independent, non-SRO members vary

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[11] A DCM may use the application guidance to demonstrate core principle compliance.

[12] Section 8a(2) permits the Commission to refuse to register any person under any of eight enumerated conditions. For example, the Commission may refuse to register persons (1) whose registration under suspension or has been revoked; (2) whose registration has been refused within the preceding five years dud to violations of the Act or regulations thereunder; (3) who are permanently or temporarily enjoined from holding certain positions in the futures or securities industries; or (4) who have been convicted within the previous 10 years of certain felonies.

[13] Regulation 1.63(c) prohibits a person from serving on an SRO disciplinary committee, arbitration panel, oversight panel, or governing board if the person is subject to any one of six enumerated conditions. For example, a person may not serve on an exchange disciplinary committee if he or she was found within the prior three years by a final decision of an SRO, administrative law judge, court, or the Commission to have committed a ''disciplinary offense.'' A disciplinary offense generally includes any violation of the rules of a SRO other than those rules relating to decorum or attire, financial requirements, or reporting or recordkeeping unless the reporting or recordkeeping violations resulted in fines totaling more than $5,000 within any calendar year.

[14] Appendix B also lists ''acceptable practices'' for several of the core principles; however, the Commission has not adopted acceptable practices for Core Principles 14, 15, or 16.

[15] Article IV, Section 2, of the New York Stock Exchange's Constitution states that: The directors elected by the members shall be independent of management of the Exchange, the members, and issuers of securities listed on the Exchange and shall include directors who will enable the Exchange to comply with the requirements of Section 6(b)(3) of the Act. Among other things, no director elected by the members shall be (a) a member, allied member, lessor member or approved person; (b) an officer of employee of the Exchange; (c) a person employed by an affiliated, directly or indirectly, with a member organization, or with a broker or dealer that engages in a business involving substantial direct contact with securities customers; or (d) an executive officer of an issuer of securities that are listed on the Exchange. In addition, no director shall qualify as independent unless the Board affirmatively determines that the director has no material relationship with the Exchange.

according to the type of discplinary case?

11. How and by whom should SRO disciplinary committes be appointed? Should the terms of committee members be limited? Please explain.

E. Other Issues

12. What additional information, if any, should SROs make available to the public to increase transparency with respect to their governance and regulatory structures (*e.g.*, board member affiliations; regulatory staffing and budget; disciplinary committee membership and affiliations, etc.)?

13. Would additional core principles for SROs help to clarify their responsibilities with respect to governance, or would regulatory guidance be more appropriate.

14. What steps should be taken to manage or eliminate conflicts of interest involving SRO board and disciplinary committee members?

15. Should registered futures associations that are functioning as SROs also be subject to governance standards?

Issued in Washington, DC, on June 2, 2004, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–13027 Filed 6–8–04; 8:45 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information; Comment Request—Safety Standard for Bicycle Helmets

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed extension of approval of a collection of information from manufacturers and importers of bicycle helmets. The collection of information is in regulations implementing the Safety Standard for Bicycle Helmets. 16 CFR part 1203. These regulations establish testing and recordkeeping requirements for manufacturers and importers of bicycle helmets subject to the standard. The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than August 9, 2004.

ADDRESSES: Written comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland, 20814. Alternatively, comments may be filed by telefacsimile to (301) 504–0127 or by e-mail to *cpsc-os@cpsc.gov.* Comments should be captioned ''Bicycle Helmets.''

FOR FURTHER INFORMATION CONTACT: For information about the proposed extension of approval of the collection of information, or to obtain a copy of 16 CFR part 1203, call or write Linda L. Glatz, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7671, or by e-mail to *lglatz@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

In 1994, Congress passed the ''Child Safety Protection Act,'' which, among other things, included the ''Children's Bicycle Helmet Safety Act of 1994'' Pub. L. 103–267, 108 Stat. 726. This law directed the Commission to issue a final standard applicable to bicycle helmets that would replace several existing voluntary standards with a single uniform standard that would include provisions to protect against the risk of helmets coming off the heads of bicycle riders, address the risk of injury to children, and cover other issues as appropriate. The Commission issued the final bicycle helmet standard in 1998. It is codified at 16 CFR part 1203.

The standard requires all bicycle helmets manufactured after March 10, 1999, to meet impact-attenuation and other requirements. The standard also contains testing and recordkeeping requirements to ensure that bicycle helmets meet the standard's requirements. Certification regulations implementing the standard require manufacturers, importers, and private labelers of bicycle helmets subject to the standard to (1) perform tests to demonstrate that those products meet the requirements of the standard, (2) maintain records of those tests, and (3) affix permanent labels to the helmets stating that the helmet complies with the applicable standard. The certification regulations are codified at 16 CFR part 1203, subpart B.

The Commission uses the information compiled and maintained by manufacturers, importers, and private labelers of bicycle helmets subject to the standard to help protect the public from risks of injury or death associated with head injury associated with bicycle riding. More specifically, this information helps the Commission determine whether bicycle helmets subject to the standard comply with all applicable requirements. The Commission also uses this information to obtain corrective actions if bicycle helmets fail to comply with the standard in a manner that creates a substantial risk of injury to the public.

The Office of Management and Budget (OMB) approved the collection of information in the certification regulations under control number 3041–0127. The Commission now proposes to request an extension of approval without change for the collection of information in the certification regulations.

Estimated Burden

The Commission staff estimates that approximately 30 firms manufacture or import bicycle helmets subject to the standard. There are an estimated 200 different models of bicycle helmets currently marketed in the U.S. The Commission staff estimates that the time required to comply with the collection of information requirements is approximately 100 to 150 hours per model per year. The total amount of time estimated for compliance with these requirements will be 20,000 to 30,000 hours per year (200 models × 100–150 hours/model = 20,000–30,000 hours). The annualized cost to respondents for the hour burden for collection of information is $489,600–$734,400 based on 20,000–30,000 hours times $24.48/hour (based on total compensation of all civilian workers in the U.S., September 2003, Bureau of Labor Statistics).

Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological

collection techniques, or other forms of information technology.

Dated: June 2, 2004.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 04–12960 Filed 6–8–04; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Public Field Hearing Concerning Swimming Pool Safety

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice of public field hearing.

SUMMARY: The U.S. Consumer Product Safety Commission (''CPSC'' or ''Commission'') will conduct a public field hearing in Phoenix, Arizona, on Tuesday, July 27, 2004 to obtain information and views from the public concerning swimming pool safety. This will be the second field hearing the Commission is having on swimming pool safety. The hearing will focus on drownings of children under 5 years old in residential swimming pools and spas, as well as entrapments and entanglements in suction outlets in swimming pools and spas. The hearing will address the following general questions: What has worked to prevent swimming pool drownings of young children—and why? What has not worked to prevent these drownings—and why? What can CPSC do to reduce drownings of young children in residential swimming pools? What strategies are most effective in addressing suction entrapment and entanglement incidents? What can CPSC do to prevent these incidents?

The Commission requests members of the public to participate in this hearing. The Commission is particularly interested in participation from city/county/State code officials, injury prevention specialists, industry representatives, fire department/EMS officials, medical personnel, legislative officials, and parents/caregivers of children who were victims of drowning or near-drowning.

DATES: The hearing will be held on Tuesday, July 27, 2004, from 9 a.m. to 6 p.m. The Commission will recess for lunch around 12 noon. Requests to make an oral presentation, and 10 copies of the text of the presentation, must be received by the Office of the Secretary no later than July 13, 2004. Persons making presentations at the meeting should provide an additional 10 copies for dissemination on the date of the meeting. In addition, requests for audiovisual equipment (*e.g.*, Powerpoint) for presentations must be made to the Office of the Secretary by July 13, 2004. Oral presentations should run no more than 5 minutes. The Commission reserves the right to limit the number of persons who make presentations and the duration of their presentations. To prevent similar presentations, groups may be directed to designate a spokesperson. Written submissions in addition to, or instead of, oral presentations may be sent to the address listed below and will be accepted until August 27, 2004.

ADDRESSES: The meeting will be held at Phoenix City Council Chambers, 200 West Jefferson Street, Phoenix, Arizona 85003. Requests to make oral presentations, and texts of oral presentations should be captioned ''Swimming Pool Hearing; Phoenix'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office: Room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Requests and texts of oral presentations also may be submitted by facsimile to (301) 504–0127 or by e-mail to *cpsc-os@cpsc.gov.*

FOR FURTHER INFORMATION CONTACT: For information about the purpose or subject matter of this meeting, contact Deborah Tinsworth, Project Manager, Directorate for Epidemiology, U.S. Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–7307; e-mail: *dtinsworth@cpsc.gov.* For more information about the schedule for submission of requests to make oral presentations and submission of texts of oral presentations, contact Rockelle Hammond, Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–6833; fax (301) 504–0127; or e-mail *rhammond@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Swimming pools can be dangerous to young children. In 1999 and 2000, an average of about 250 children under 5 years old drowned in swimming pools each year. In 2002, approximately 1,600 children under 5 years old were treated in U.S. hospital emergency rooms for near-drowning injuries related to swimming pools. About 58 percent of these children were hospitalized. Approximately 67 percent of the near-drowning injuries were reported to have occurred in home settings. Societal costs associated with these drownings and near-drownings are almost $2 billion each year. In addition, these tragedies result in severe emotional impacts on the families of the victims. From 1990 through October 2003, CPSC has reports of 126 suction entrapment incidents, including 25 deaths. These incidents occurred in both swimming pools and spas.

CPSC has been actively involved for many years in injury prevention activities addressing swimming pool safety. In the late 1980s, CPSC conducted an extensive study of submersion incidents involving children under age 5 in residential swimming pools in eight counties in California, Arizona, and Florida. The results of this study indicated that most of the victims were boys between 1 and 3 years old. Nearly half of the victims were last seen in the house before being found in the pool. In addition, 23 percent of the victims were last seen on the porch or patio or in the yard. This means that fully 69 percent of the children who became victims were not expected to be in or at the pool, but were found in the water. Sixty-five percent of the incidents occurred in a pool owned by the victims' immediate family, and 33 percent occurred in pools owned by relatives or friends. Fewer than 2 percent of the incidents were the result of children trespassing on property where they did not belong. Seventy-seven percent of the victims had been missing for 5 minutes or less when they were found.

The speed with which swimming pool drownings and submersions can occur is a special concern. Toddlers are inquisitive and impulsive and lack a sense of danger. In addition, the incidents are silent; it is unlikely that splashing or screaming will occur to alert a parent or caregiver that a child is in trouble.

From this information as well as information on child development and behavior, CPSC staff concluded that the best way to reduce child drownings in residential pools is for pool owners to construct and maintain barriers that prevent young children from gaining access to pools. CPSC staff believes that barriers increase the time for adults to intervene and prevent submersion incidents. In 1994, CPSC published *Safety Barrier Guidelines for Home Pools* (available on CPSC's Web site at *www.cpsc.gov*). Since that time, CPSC has continued to stress the importance of a primary barrier in addition to other layers of protection and has stressed the need for close supervision of young children in and around the water. CPSC staff has studied pool alarms and worked on voluntary standards for fencing, pool and spa safety covers, door

alarms, and pool alarms. CPSC has conducted annual public outreach on child drowning prevention.

In 1998, CPSC published *Guidelines for Entrapment Hazards: Making Pools and Spas Safer* (available at *www.cpsc.gov*). These Guidelines provide safety information that will help identify and address potential entrapment hazards in swimming pools, wading pools, spas, and hot tubs. They address the hazards of evisceration/disembowelment, body entrapment, and hair entrapment/entanglement. The CPSC has recently circulated a draft revision to these Guidelines and is responding to comments. These Guidelines emphasize layers of protection. In addition, CPSC staff has worked to develop or revise voluntary standards for suction fittings and Safety Vacuum Release Systems (''SVRS''). CPSC has also provided the public with information about suction entrapments and how to prevent them.

In 2003, CPSC set a new strategic goal to reduce the rate of swimming pool and other at-home drownings of children under 5 years old by 10 percent by the year 2013 from the 1999–2000 annual average of 250. The information that we gather at this public hearing will help CPSC develop plans for further work in the area of swimming pool safety.

B. The Public Hearing

The purpose of the public hearing is to provide a forum for oral presentations concerning swimming pool safety, specifically drownings of children under 5 years old in residential swimming pools and suction entrapment and entanglement deaths and injuries. The Commission is holding another public field hearing on swimming pool safety in Tampa, Florida on Monday, June 21, 2004. A notice concerning that hearing was previously published in the **Federal Register** on May 4, 2004. 69 FR 24587.

The Commission requests comments from interested stakeholders and citizens on the following specific areas of interest:

1. Data on drowning and near-drowning in residential swimming pools and spas.

• In your locale, how many child drowning and near-drowning incidents do you see on an annual basis? How many suction entrapments and entanglements?

• What were the circumstances involved in these incidents?

• What trends in drowning and entrapment incidents have you seen in recent years?

• Have you seen any correlation between drowning intervention activities (for example, new barrier requirements, safety campaigns, etc.) and changes in the number of incidents and deaths?

• Are there ways in which the incident reporting process could be improved?

• In general, is the available incident information adequate for a thorough and accurate evaluation of the hazard scenarios involved?

• What data needs still exist?

2. Regional/local pool barrier codes, laws, and regulations.

• What law or guideline has been adopted in your region/locale?

• What does it require?

• When was it enacted?

• What was the source building code?

• Which agency has jurisdiction?

• What enforcement exists?

3. Effectiveness of pool barriers and other protective products.

• What evidence can you provide to demonstrate the effectiveness of protective products such as pool fencing, pool and/or door alarms, pool covers, etc?

• Which protective products do you think are the most effective?

• What factors do you think contribute to consumers using or not using these products?

• What research, if any, do you think needs to be done in this area?

4. Educational approaches.

• In your locale, what public information approaches have been used to address pool drowning hazards?

• To whom were these approaches targeted?

• What tasks were involved in carrying out these efforts?

• Which approaches worked, and which did not?

• What dollar resources were involved?

5. Role for CPSC

• What role should CPSC take to help address child drownings and entrapment and entanglement injuries?

Participation in the hearing is open. See the **DATES** section of this notice for information on making requests to give oral presentations at the hearing.

Dated: June 2, 2004.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 04–12959 Filed 6–8–04; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), 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 requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed application entitled: Next Generation Grant Application Instructions. Copies of the proposed information collection request may be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Comments on this notice must be received by August 9, 2004, to be assured of consideration.

ADDRESSES: You may submit written input to the Corporation by any of the following methods:

(1) Electronically through the Corporation's e-mail address system to Kimberly Spring at *KSpring@cns.gov*.

(2) By fax to 202–565–2785, Attention Ms. Kimberly Spring.

(3) By mail sent to: Corporation for National and Community Service, Department of Research and Policy Development, 8th Floor, Attn: Ms. Kimberly Spring, 1201 New York Avenue NW., Washington, DC 20525.

(4) By hand delivery or by courier to the Corporation's mailroom at Room 6010 at the mail address given in paragraph (3) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kimberly Spring at (202) 606–5000, ext. 543, by e-mail at *ngg@cns.gov*.

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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;

• Propose ways to enhance the quality, utility and clarity of the information to be collected; and

• Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Background: The Corporation publishes application guidelines and notices of funding availability that include information about the funding and requirements. The application instructions provide the information, instructions, and forms that potential applicants need to complete an application to the Corporation for funding by utilizing the new eGrants system developed by the Corporation.

Current Action: The Corporation seeks public comment on the forms, the instructions for the forms, and the instructions for the narrative portion of these application instructions.

Type of Review: Revision of a currently approved collection.

Agency: Corporation for National and Community Service.

Title: Next Generation Grant Application Instructions.

OMB Number: 3045–0087.

Agency Number: None.

Affected Public: Eligible applicants for funding with the Corporation.

Total Respondents: 400.

Frequency: Annually.

Average Time Per Response: 10 hours.

Estimated Total Burden Hours: 4000.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 3, 2004.

Robert T. Grimm, Jr.,

Acting Director, Research and Policy Development.

[FR Doc. 04–13013 Filed 6–8–04; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Liberty State Park Ecosystem Restoration Project, Jersey City, Hudson County, NJ

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps), New York District, is preparing a Draft Environmental Impact Statement (EIS) to ascertain compliance with the National Environmental Policy Act (NEPA), which will lead to the production of a NEPA document in accordance with the President's Council on Environmental Quality (CEQ) Rules and Regulations, as defined and amended in 40 CFR parts 1500–1508, Corps principles and guidelines as defined in Engineering Regulation (ER) 1105–2–100, and other applicable Federal and State environmental laws, for the proposed Ecosystem Restoration Project at Liberty State Park, Jersey City, Hudson County, NJ. The study area includes Liberty State Park, the immediately adjacent environs of Jersey City and the surrounding proximal waters of Upper New York Bay.

FOR FURTHER INFORMATION CONTACT: Robert Will, Project Biologist, U.S. Army Corps of Engineers, New York District, Planning Division, Environmental Analysis Branch, 26 Federal Plaza, room 2151, New York, NY 10278–0090 at (212) 264–2165 or at *Robert.J.Will@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. This study was authorized in a resolution of the Committee on Transportation and Infrastructure of the U.S. House of Representatives, dated April 15, 1999, Docket 2596.

2. A Public Scoping Meeting was held on July 17, 2003 and the results collected in a Public Scoping Document. These results are available for review and additional scoping comments. All results from public and agency scoping coordination will be addressed in the DEIS. Parties interested in receiving the Public Scoping Document should contact Mr. Will at the above address.

3. A DEIS is due for completion by July 2004.

4. Federal agencies interested in participating as a Cooperating Agency are requested to submit a letter of intent to COL John B. O'Dowd, District Engineer, at the above address.

Leonard Houston,

Chief, Environmental Analysis Branch.

[FR Doc. 04–13015 Filed 6–8–04; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Supplemental Environmental Impact Statement for the Sacramento River Deep Water Ship Channel, California

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, the U.S. Army Corps of Engineers, San Francisco District (Corps) in coordination with the Port of Sacramento intends to prepare a joint Supplemental Environmental Impact Statement (SEIS)/Supplemental Environmental Impact Report (SEIR) to evaluate the action of resuming construction of navigational improvements to the Sacramento River Deep Water Ship Channel (SRDWSC). This congressionally authorized project would deepen the existing Federal navigation channel from 30 feet to 35 feet (mean lower low water) and widen portions of the channel to improve navigational efficiency and safety. Deepening of the existing ship channel is anticipated to provide transportation cost savings as a result of movement of cargo via larger deeper draft vessels and movement of project-induced tonnage.

DATES: Written comments regarding the scope of the draft SEIS/SEIR must be submitted no later than 7 days after the scoping meeting date. See **SUPPLEMENTARY INFORMATION** section regarding the date of the scoping meeting.

ADDRESSES: Mail written comments to: Mr. David Patterson, U.S. Army Corps of Engineers, San Francisco District, 333 Market St. 822F, San Francisco, CA 94150–2197. See **SUPPLEMENTARY INFORMATION** section regarding the location of the scoping meeting.

FOR FURTHER INFORMATION CONTACT: Mr. David Patterson, (415) 977–8707.

SUPPLEMENTARY INFORMATION: The SRDWSC is located in the Sacramento-San Joaquin Delta region of northern California. The 46.5-mile long ship channel lies within Contra Costa, Solano, Sacramento, and Yolo Counties

and serves the marine terminal facilities at the Port of Sacramento. The SRDWSC joins the existing 35-feet deep channel at New York Slough, thereby affording the Port of Sacramento access to San Francisco Bay Area harbors and the Pacific Ocean. This navigational improvement project was analyzed in the Feasibility Report and Final Environmental Impact Statement (1980), the General Design Memorandum and Final Supplemental Environmental Impact Statement (1986), and Environmental Assessments (1988, 1991, 1992). Navigational improvements to the SRDWSC were authorized in the Supplemental Appropriations of 1985 (Pub. L. 99–88). Construction to deepen the existing channel to 35 feet was initiated in 1989, but work was suspended in 1990 at the request of the Port of Sacramento. Two of six construction contracts, from River Mile 43 to 35, have been completed to date. The Corps has been directed by Congress to reevaluate the project and to recommend whether to resume construction.

The SEIS/SEIR will update the 1980 EIS and the 1986 SEIS and will evaluate changes to project conditions. The SEIS/SEIR will determine if there are significant new issues, information, or environmental concerns bearing on the proposed project and alternatives. The SEIS/SEIR will reexamine water and air quality issues, fish and wildlife impacts, and effects to endangered or threatened species. The impact of deepening on salinity intrusion and its effect on water quality in the Delta will be reexamined. Effects to water and air quality and fish and wildlife from dredging and disposal of dredged material at upland disposal sites will be reexamined. Additionally, the economic benefits of the proposed project and alternatives will be reexamined.

1. *Proposed Action.* The proposed project would complete the deepening and widening of the navigation channel to its authorized depth of 35 feet. Other features of the authorized plan, include the establishment of wetland/riparian habitat on prospect Island and lower Sherman Island to mitigate for project impacts and restore wetland habitat. These plan features will be reexamined for their feasibility and appropriateness for construction.

2. *Alternatives.* Alternative methods of moving goods trough the Port of Sacramento were studied in the original EIS and found to be less economically beneficial. These alternatives included No Action; increased use of LASH (Lighter Aboard Ship) barges; and increased use of intermodal transportation. The SEIS/SEIR will reanalyze the previously evaluated alternatives and may also evaluate whether a project depth shallower than the authorized 35 feet depth would be an acceptable project alternative.

3. *Public Involvement.* The Corps will hold a public environmental scoping meeting to discuss the scope of the draft SEIS/SEIR. The public scoping meeting location, date and time will be advertised in advance in local newspapers, and meeting announcement letters will be sent to interested parties. The draft SEIS/SEIR is expected to be available for a 45-day public review and comment period in December 2004. The Corps will announce availability of the draft in the **Federal Register** and other media, and will provide the public, organizations, and agencies with an opportunity to submit comments, which will be addressed in the final SEIS/SEIR. the final SEIS/SEIR is expected to be available for a 30-day review period in August 2005.

Michael McCormick,

Lieutenant Colonel, U.S. Army, District Engineer.

[FR Doc. 04–13014 Filed 6–8–04; 8:45 am]

BILLING CODE 3710–19–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Fernald

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Fernald. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, June 29, 2004; 6:15 p.m.–9 p.m.

ADDRESSES: Fernald Closure Project Site, 7400 Willey Road, Trailer 214, Hamilton, OH 45013–9402.

FOR FURTHER INFORMATION CONTACT: Doug Sarno, The Perspectives Group, Inc., 1055 North Fairfax Street, Suite 204, Alexandria, VA 22314, at (703) 837–1197, or e-mail; *djsarno@theperspectivesgroup.com.*

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:

6:15 p.m.—Call to Order

6:15–6:30 p.m.—Chairs Remarks, Ex Officio Announcements and Updates

6:30–7:30 p.m—Silos Projects

Project Status

Update on Dispute with State of Nevada

Input from Critical Analysis Team

7:30–8 p.m.—Status of the Fernald Citizen Advisory Board Recommendations

8–8:30 p.m.—Update on Stewardship Committee Activities

8:30–8:45 p.m.—Preparation for August Meeting and September Retreat

8:45–9 p.m.—Public Comment

9 p.m.–Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Board chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Board chair at the address or telephone number listed below. 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, Gary Stegner, Public Affairs Office, Ohio Field Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the 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 the Fernald Citizens' Advisory Board, c/o Phoenix Environmental Corporation, MS–76, Post Office Box 538704, Cincinnati, OH 43253–8704, or by calling the Advisory Board at (513) 648–6478.

Issued at Washington, DC, on June 2, 2004.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 04–13025 Filed 6–8–04; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. TS04–261–000 et al.]

Alcoa Power Generating Inc. et al.; Notice of Filing

June 2, 2004.

In the matter of: TS04–76–000, TS04–51–000, TS04–230–000, TS04–103–000, TS04–255–000, TS04–242–000, TS04–172–000, TS04–236–000, TS04–6–000, TS04–73–000, TS04–5–000, TS04–262–000, TS04–257–000, TS04–4–000, TS04–2–000, TS04–249–000, TS04–256–000, TS04–266–000, TS04–259–000, TS04–167–000, TS04–176–000, TS04–45–000, TS04–46–000, TS04–62–000, TS04–258–000, TS04–3–000, TS04–252–000, TS04–7–000, 001, TS04–263–000, TS04–231–000, TS04–152–000, TS04–222–000, TS04–253–000, TS04–97–000, TS04–17–000, TS04–1–000, TS04–213–000, TS04–183–000, TS04–260–000, TS04–397–000, and TS04–125–000; American Transmission Company, LLC, Bear Creek Storage Company, Black Marlin Pipeline Company, B–R Pipeline Company, Cross-Sound Cable Company LLC, Dauphin Island Gathering Partners, Discovery Gas Transmission LLC, Distrigas of Massachusetts LLC, Distrigas of Massachusetts LLC, Gulf South Pipeline Company, LP, Hampshire Gas Company, High Island Offshore System, LLC, Honeoye Storage Corporation and Keyspan LNG, KB Pipeline Company and Northwest Natural Gas Company, KB Pipeline Company and Northwest Natural Gas Company, Kinder Morgan Pipelines, MIGC, Inc., MIGC, Inc., Missouri Interstate Gas LLC, National Fuel Gas Distribution Corporation, National Fuel Gas Supply Corporation, National Grid, National Grid, NewCorp Resources Electric Cooperative, Inc., Nornew Energy Supply, Inc., Northwestern Energy, Ohio Valley Electric Corporation and Kentucky Electric Corporation, ONEOK, Inc., Petal Gas Storage, LLC, Questar Pipeline Company, Overthrust Pipeline Company and Southern Trails Pipeline Company, Saltville Gas Storage Company, LLC, Southwest Gas Transmission, LLC, Texas Gas Transmission, LLC, Total Peaking Services LLP, Transcontinental Gas Pipe Line Corporation, Trans-Union Interstate Pipelines, L.P., Tuscarora Gas Transmission Company, USG Pipeline Company, Williston Basin Interstate Pipeline Company, Wisconsin Public Service Corporation, and Upper Peninsula Power Company; Notice of Filing.

Between January 7, 2004, and May 20, 2004, the above-referenced Transmission Providers filed motions that requested a full or partial waiver or exemption from the requirements of Order No. 2004. FERC Stats. & Regs. ¶ 31,355 (2003). Interested parties may file a petition to intervene in each individual docket.

Any person desiring to intervene or to protest each filing should file 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 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 motion to intervene in each individual proceeding. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. These filings 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 (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. 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.

Comment Date: June 16, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1278 Filed 6–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–345–000]

Cheyenne Plains Gas Pipeline Company, L.L.C.; Notice of Application

June 2, 2004.

Take notice that on May 24, 2004, Cheyenne Plains Gas Pipeline Company, L.L.C. (Cheyenne Plains), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP04–345–000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations for an order granting a certificate of public convenience to construct and operate compression facilities to provide additional firm transportation all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659.

Specifically, Cheyenne Plains seeks authority to install a 10,310 horsepower compressor unit as its Cheyenne Plains Compressor Station in Weld County, Colorado to provide up to 170,000 Dth per day of new firm transportation capacity. Cheyenne Plains estimates that the proposed facilities will cost $7,818,500. Cheyenne Plains intends to place the proposed facilities in service by December 2005.

Any questions regarding the application should be directed to Robert T. Tomlinson, Director, Regulatory Affairs, Cheyenne Plains Gas Pipeline Company, L.L.C., P.O. Box 1087, Colorado Springs, Colorado 80944, at (719) 520–3788 or fax (719) 667–7534.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Persons who wish to comment only on the environmental review of this project, or in support of or in opposition to this project, should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of

filed documents on all other parties. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the applicant. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: June 23, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1279 Filed 6–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–241–011]

El Paso Natural Gas Company; Notice of Compliance Filing

June 2, 2004.

Take notice that on May 27, 2004, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, with an effective date of July 1, 2004:

Twelfth Revised Sheet No. 202B
Fourth Revised Sheet No. 218
Fourth Revised Sheet No. 219
Original Sheet Nos. 219M–219P

EPNG states that the tariff sheets implement the *pro forma* tariff sheets approved by the Commission, as modified, that were included as part of the Western Energy Settlement filed in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. 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 proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1281 Filed 6–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–336–029]

El Paso Natural Gas Company; Notice of Compliance Filing

June 2, 2004.

Take notice that on May 27, 2004, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1A, the following tariff sheets with an effective date of May 1, 2004.

Fourth Revised Sheet No. 113D
Second Revised Sheet No. 113E
1st Revised Third Revised Sheet No. 119
Fourth Revised Sheet No. 120
First Revised Sheet No. 121
Ninth Revised Sheet No. 214

El Paso states that the tariff sheets remove the provisions applicable to the reserved capacity pool.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with § 154.210 of the Commission's regulations. 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 proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the eFiling link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1282 Filed 6–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–12–004]

Florida Gas Transmission Company; Notice of Extension of Time

June 2, 2004.

On May 20, 2004, Florida Gas Transmission Company (FGT) filed a motion for an extension of time to file revised tariff language relating to a transportation pipeline as required by the Commission's Order on Rehearing, Clarification Compliance Filing, and Technical Conference issued April 20, 2004, in the above-docketed proceeding. In its motion, FGT requests an extension of time so that it can comply with this filing requirement in certain tariff language to be filed as part of a settlement agreement that parties to proceeding have agreed to in principle and that resolves all the issues in this proceeding.

Upon consideration, notice is hereby given that, as requested, FGT is granted an extension of time to file its revised tariff language to and including the date FGT files the settlement agreement in this proceeding.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1284 Filed 6–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–307–000]

Gas Transmission Northwest Corporation; Notice of Tariff Filing

June 2, 2004.

Take notice that on May 26, 2004, Gas Transmission Northwest Corporation (GTN) tendered for filing to be part of

its FERC Gas Tariff, Third Revised Volume No. 1–A, Second Revised Sheet No. 6, to become effective July 1, 2004.

GTN states that the purpose of this filing is to comply with Paragraph 37 of the General Terms and Conditions of its Tariff, ''Adjustment Mechanism for Fuel, Line Loss, and Other Unaccounted For Gas Percentages.'' GNT notes that pursuant to this paragraph, GTN's fuel and line loss surcharge percentage will change from −0.0002% per Dth per pipeline-mile to 0.0000% per Dth per pipeline-mile for the six-month period beginning July 1, 2004. GNT further states that, as required by Paragraph 37, it is also filing workpapers showing the derivation of the current fuel and line loss percentages in effect for each month of the six-month period ending April 2004.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested State regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. 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 proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1285 Filed 6–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–309–000]

Gulf South Pipeline Company, LP; Notice of Cash-Out Report

June 2, 2004.

Take notice that on May 27, 2004, Gulf South Pipeline Company, LP (Gulf South) tendered for filing its report of the net revenues attributable to the operation of its cash-in/cash-out program for an annual period beginning April 1, 2003, and ending March 31, 2004.

Gulf South states that this filing reflects its annual report of the activities attributable to the operation of its cash-in/cash out program. The report shows a negative cumulative position that will continue to be carried forward and applied to the next cash-in/cash-out reporting period as provided in Gulf South's tariff, section 20.1(E)(i) of the General Terms and Conditions.

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 be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before the date as indicated below. 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 proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Intervention and Protest Date: June 9, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1287 Filed 6–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–361–030]

Gulfstream Natural Gas System, L.L.C.; Notice of Compliance Filing

June 2, 2004.

Take notice that on May 27, 2004, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Original Sheet No. 8Z, reflecting an effective date of June 1, 2004.

Gulfstream states that this filing is being made in connection with a negotiated rate transaction, under Rate Schedule PALS, pursuant to section 31 of the General Terms and Conditions of Gulfstream's FERC Gas Tariff. Gulfstream states that Original Sheet No. 8Z identifies and describes the negotiated rate transaction, including the exact legal name of the relevant shipper, the negotiated rate, the rate schedule, the contract terms, and the contract quantity. Gulfstream also states that Original Sheet No. 8Z includes footnotes where necessary to provide further details on the transaction listed thereon.

Gulfstream states that copies of its filing have been mailed to all affected customers and interested State commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with § 154.210 of the Commission's regulations. 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 proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at

FERCOnlineSupport@ferc.gov or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the eFiling link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1283 Filed 6–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–310–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

June 2, 2004.

Take notice that on May 28, 2004, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Sixty Fourth Revised Sheet No. 9, to become effective June 1, 2004.

National states that: (1) Article II, sections 1 and 2 of the settlement provide that National will recalculate the maximum Interruptible Gathering (''IG'') rate semi-annually and monthly; (2) section 2 of Article II provides that the IG rate will be the recalculated monthly rate, commencing on the first day of the following month, if the result is an IG rate more than 2 cents above or below the IG rate as calculated under section 1 of Article II; (3) the recalculation produced an IG rate of $0.56 per dth; and (4) Article III, section 1 states that any overruns of the Firm Gathering service provided by National shall be priced at the maximum IG rate.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. 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 proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1288 Filed 6–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–308–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff and Filing of Non-Conforming Service Agreement

June 2, 2004.

Take notice that on May 26, 2004, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Fourth Revised Sheet No. 371, to be effective June 26, 2004. Northwest also tendered for filing a Rate Schedule TF–1 non-conforming service agreement.

Northwest states that the purpose of this filing is to submit a Rate Schedule TF–1 service agreement containing provisions that do not conform to the Rate Schedule TF–1 form of service agreement contained in Northwest's tariff, and to add this agreement to the list of non-conforming service agreements in Northwest's tariff.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested State regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. 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 proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1286 Filed 6–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC04–114–000, et al.]

Duke Energy North America, LLC, et al.; Electric Rate and Corporate Filings

June 1, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Duke Energy North America, LLC, on behalf of Duke Energy Arlington Valley, LLC, Duke Energy Enterprise, LLC, Duke Energy Fayette, LLC, Duke Energy Grays Harbor, LLC, Duke Energy Hanging Rock, LLC, Duke Energy Hinds, LLC, Duke Energy Hot Spring, LLC, Duke Energy Lee, LLC, Duke Energy Marshall County, LLC, Duke Energy Murray, LLC, Duke Energy Moapa, LLC, Duke Energy New Albany, LLC, Duke Energy St, Francis, LLC, Duke Energy Sandersville, LLC, Duke Energy Southaven, LLC, Duke Energy Washington, LLC, Duke Energy Mohave, LLC, Griffith Energy LLC, Duke Energy Vermillion LLC, Casco Bay Energy Company LLC, Duke Energy Oakland LLC, Duke Energy Morro Bay LLC, Duke Energy Moss Landing LLC, Duke Energy South Bay LLC, Bridgeport Energy, LLC, Duke Energy Marketing America, LLC

[Docket No. EC04–114–000]

Take notice that on May 27, 2004, Duke Energy North America, LLC, on behalf of certain of its public utility affiliates as listed in the above caption (the Applicants) filed with the Commission an application pursuant to section 203 of the Federal Power Act for authorization of an intracorporate

reorganization among certain of Duke Energy Corporation's subsidiaries that own indirect interests in the Applicants.

Comment Date: June 17, 2004.

2. R.E. Ginna Nuclear Power Plant, LLC

[Docket No. EG04–73–000]

Take notice that on May 26, 2004, R.E. Ginna Nuclear Power Plant, LLC (Ginna LLC) filed with the Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Comment Date: June 16, 2004.

3. Sunoco Power Generation LLC

[Docket No. EG04–74–000]

Take notice that on May 27, 2004, Sunoco Power Generation LLC (Sunoco Power) filed an application for determination of exempt wholesale generator pursuant to part 365 of the Commission's regulations. Sunoco Power states that it will operate and sell the output at wholesale of a natural gas-fired cogeneration facility located in Westville, New Jersey, with a nameplate capacity of approximately 225 MW and a maximum operating capacity of approximately 200 MW.

Sunoco Power states that a copy of this application is being served on the Secretary of the Securities and Exchange Commission and the New Jersey Board of Public Utilities.

Comment Date: June 17, 2004.

4. PJM Interconnection, L.L.C.

[Docket No. ER03–1101–004]

Take notice that on May 26, 2004, PJM Interconnection, L.L.C. (PJM), filed responses to the Commission's May 5, 2004, information requests in Docket Nos. ER03–1101–001, 002 and 003.

PJM states that copies of its filing were served upon all persons on the Commission's service list for this proceeding.

Comment Date: June 16, 2004.

5. Montana Megawatts I, LLC, NorthWestern Energy Division of NorthWestern Corporation

[Docket Nos. ER03–1223–003]

Take notice that on May 25, 2004, Montana Megawatts I, LLC (Montana Megawatts) and NorthWestern Energy Division of NorthWestern Corporation (NEW), submitted a compliance filing pursuant to the Commission's order issued May 10, 2004, in Docket Nos. ER03–1223–001 and 002, 107 FERC ¶ 61,140 (2004).

Montana Megawatts states that copies of the filing were served upon parties appearing in the official service list for this docket.

Comment Date: June 15, 2004.

6. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER04–106–002]

Take notice that on May 26, 2004, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted a compliance filing pursuant to the Commission's Order issued March 25, 2004, Order, Midwest Independent Transmission System Operator, Inc., 106 FERC ¶ 61,288 (2004). Midwest ISO requested an effective date of October 31, 2003.

Midwest ISO states that it has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all state commissions within the region. Midwest ISO further states that the filing has been electronically posted on the Midwest ISO's Web site at *http://www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO indicates that it will provide hard copies to any interested parties upon request.

Comment Date: June 16, 2004.

7. California Independent System Operator Corporation

[Docket No. ER04–855–000]

On May 26, 2004, the California Independent System Operator Corporation (ISO) tendered for filing Amendment No. 2 to the Interconnected Control Area Operating Agreement (ICAOA) between the ISO and Nevada Power Company (NEVP). The ISO requests that the agreement be made effective as of May 14, 2004.

ISO states that the non-privileged elements of this filing have been served on NEVP, the California Public Utilities Commission, and all entities on the official service lists for the original ICAOA in Docket No. ER00–2292–000 and Amendment No. 1 to the ICAOA in Docket No. ER01–1995–000.

Comment Date: June 16, 2004.

8. Virginia Electric and Power Company

[Docket No. ER04–862–000]

Take notice that on May 24, 2004, Virginia Electric and Power Company, doing business as Dominion Virginia Power, submitted an executed Generator Interconnection and Operating Agreement (Interconnection Agreement) with Tenaska Virginia Partners, L.P. (Tenaska) substituting an executed final letter allowing for the energization of Tenaska's generating facility in parallel operation with Dominion Virginia Power's transmission system for the form letter contained in Appendix E of the Interconnection Agreement. Dominion Virginia Power has requested that the effective date of the Interconnection Agreement remain as November 9, 2001.

Dominion Virginia Power states that copies of the filing were served upon Tenaska and the Virginia State Corporation Commission.

Comment Date: June 14, 2004.

9. Consolidated Edison Company of New York, Inc.

[Docket No. ER04–863–000]

Take notice that on May 24, 2004, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a Supplement to its Rate Schedule FERC No. 117, an agreement to provide interconnection and transmission service to LIPA. ConEdison states that the Supplement provides for an increase in the annual fixed rate carrying charges. Con Edison has requested an effective date of of June 1, 2003.

Con Edison states that a copy of this filing has been served by mail upon LIPA.

Comment Date: June 14, 2004.

10. Consolidated Edison Company of New York

[Docket No. ER04–864–000]

Take notice that on May 24, 2004, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a Supplement to its Rate Schedule, Consolidated Edison Company of New York, Inc. Rate Schedule FERC No. 2, a facilities agreement with Central Hudson Gas and Electric Corporation (CH). ConEdison states that the supplement provides for a decrease in the monthly carrying charges. Con Edison has requested that this decrease take effect as of September 1, 2003.

Con Edison states that a copy of this filing has been served by mail upon CH.

Comment Date: June 14, 2004.

11. Consolidated Edison Company of New York, Inc.

[Docket No. ER04–865–000]

Take notice that on May 24, 2004, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing supplements to its Rate Schedule, Consolidated Edison Company of New York, Inc. Rate Schedule FERC No. 129, a facilities agreement with Orange and Rockland Utilities, Inc. Con Edison states that the supplement provides for

an increase in the carrying charges under the facilities agreement.

Con Edison states that a copy of this filing has been served upon Orange and Rockland Utilities, Inc.

Comment Date: June 14, 2004.

12. Consolidated Edison Company of New York, Inc.

[Docket No. ER04–866–000]

Take notice that on May 24, 2004, Consolidated Edison Company of New York, Inc. (Con Edison), submitted a filing amending its Tariff for the Wholesale Sale of Electricity at Market-Based Rates to include the Market Behavior Rules promulgated by the Commission. Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations, 105 FERC ¶ 61,218 (2003). Con Edison requested an effective date of May 25, 2004.

Comment Date: June 14, 2004.

13. American Electric Power Service Corporation

[Docket No. ER04–867–000]

Take notice that on May 24, 2004, the American Electric Power Service Corporation (AEPSC) tendered for filing a Network Integration Transmission Service Agreement (NITSA) for HoosierEnergy Electric Cooperative, Inc. (Hoosier). This agreement is pursuant to the AEP Companies' Open Access Transmission Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Third Revised Volume No. 6. AEPSC requests waiver of notice to permit an effective date of May 1, 2004.

AEPSC states that a copy of the filing was served upon the Parties and the state utility regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment Date: June 14, 2004.

14. Oncor Electric Delivery Company

[Docket No. ER04–868–000]

Take notice that on May 24, 2004, Oncor Electric Delivery Company (Oncor) tendered for filing Second Revised Sheet Nos. 37–39 for its FERC Electric Tariff, Eighth Revised Volume No. 1, Tariff for Transmission Service To, From and Over Certain Interconnections to modify its rates for transmission service.

Oncor states that this filing has been served upon each customer taking service under the tariff and the Public Utility Commission of Texas.

Comment Date: June 14, 2004.

15. Pacific Gas and Electric Company

[Docket No. ER04–869–000]

Take notice that on May 24, 2004, Pacific Gas and Electric Company (PG&E) tendered for filing revisions to its Transmission Owner Tariff (TO Tariff). PG&E states that the filing is related to the California Independent System Operator's (ISO) filing allocating minimum load cost to PG&E as a Participating Transmission Owner. PG&E states that copies of this filing have been served upon the ISO, Scheduling Coordinators registered with the ISO, the California Public Utilities Commission and other parties to the official service lists in the TO Tariff rate case, FERC Docket Nos. ER04–109–000 and EL04–37–000.

Comment Date: June 14, 2004.

17. Oncor Electric Delivery Company

[Docket No. ER04 –870–000]

Take notice that on May 24, 2004, Oncor Electric Delivery Company (Oncor) tendered for filing Second Revised Sheet No. 34 for its FERC Electric Tariff, Third Revised Volume No. 2, Tariff for Transmission Service For Tex-La Electric Cooperative of Texas (''Tex-La'') to modify its rates for transmission service.

Oncor states that this filing has been served upon Tex-La and the Public Utility Commission of Texas.

Comment Date: June 14, 2004.

18. American Electric Power Service Corporation

[Docket No. ER04–871–000]

Take notice that on May 24, 2004, the American Electric Power Service Corporation (AEPSC) tendered for filing pursuant to section 35.15 of the Commission's regulations, 18 CFR section 35.15, a Notice of Termination of an executed, amended Interconnection and Operation Agreement between Appalachian Power Company and Duke Energy Wythe, L.L.C., designated as Substitute Second Service Agreement No. 405 under American Electric Power's Open Access Transmission Tariff. AEP requests an effective date of May 21, 2004.

AEPSC states that a copy of the filing was served upon Duke Energy Wythe, L.L.C. and the Virginia State Corporation Commission.

Comment Date: June 14, 2004.

19. MultiFuels Marketing Company New York, Inc.

[Docket No. ER04–872–000]

Take notice that on May 25, 2004, MultiFuels Marketing Company filed a Notice of Cancellation of its market-based rate authority.

Comment Date: June 15, 2004.

20. San Diego Gas & Electric Company

[Docket No. ER04–873–000]

Take notice that on May 25, 2004, San Diego Gas & Electric Company (SDG&E) tendered for filing for review and approval of SDG&E's 2003 costs and accruals for Post-Employment Benefits Other Than Pensions (PBOBs), as recorded in FERC Account No. 926 (Employee Pensions and Benefits). SDG&E states that this filing was made pursuant to its transmission rate formula, which contemplates that SDG&E's transmission rate will be revised annually on the basis of certain recorded and estimated costs. SDG&E further states that the transmission formula contemplates that prior to making annual transmission revenue requirement and rate revisions relating to PBOPs pursuant to the formula, SDG&E would file with the Commission under section 205 of the Federal Power Act any changes to PBOP expense levels inform in the levels reflected in the existing rate.

SDG&E states that copies of the filing were served on the California Public Utilities Commission, the California Independent System Operator (the ISO), and participating transmission owners including PG&E and SCE, and all other parties in Docket No. ER03–601–000.

Comment Date: June 15, 2004.

21. New England Power Pool

[Docket No. ER04–875–000]

Take notice that on May 26, 2004, the New England Power Pool (NEPOOL) Participants Committee filed the One Hundred Fifth Agreement Amending New England Power Pool Agreement (the 105th Agreement) that proposes to refine the calculation of the credit insurance coverage required under section V of the restated Financial Assurance Policy for NEPOOL Members, which is Attachment L to the NEPOOL Tariff. NEPOOL requests that this refinement become effective on the same effective date of the weekly billing arrangements proposed in the One Hundred Third Agreement Amending New England Power Pool Agreement (the 103rd Agreement) which is currently pending before the Commission in Docket No. ER04–697–000 with a requested effective date of June 1, 2004.

NEPOOL Participants Committee states that copies of these materials were sent to the NEPOOL Participants and the New England State governors and regulatory commissions.

Comment Date: June 16, 2004.

22. Southern California Edison Company

[Docket No. ER04–876–000]

Take notice that on May 24, 2004, Southern California Edison Company (SCE) tendered for filing an Interconnection Facilities Agreement between SCE and Eurus Energy America Corporation (Eurus Energy). SCE requests an effective date of May 27, 2004.

SCE states that copies of this filing were served upon the Public Utilities Commission of the State of California and Eurus Energy.

Comment Date: June 14, 2004.

23. Connecticut Municipal Electric Energy Cooperative

[Docket No. ER04–887–000]

Take notice that on May 25, 2004, Connecticut Municipal Electric Energy Cooperative (CMEEC) submitted for filing on an informational basis: (1) Agreement for Supplemental Installed Capacity Southwest Connecticut (LRP Resources) (6MW); (2) Agreement For Supplemental Installed Capacity Southwest Connecticut (LRP Resources) (8 MW); and (3) Agreement For Supplemental Installed Capacity Southwest Connecticut (LRP Resources) (12 MW) (collectively, the Agreements). Each of the Agreements is between CMEEC and ISO New England Inc. CMEEC states that the submission of the Agreements is in compliance with CMEEC's obligations under Article 2.1 of each Agreement.

CMEEC states that a copy of this filing has been serve upon ISO New England, Inc.

Comment Date: June 15, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file 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 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 motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. 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. E4–1290 Filed 6–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–314–000]

Algonquin Gas Transmission Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed I–8 Uprate Project and Request for Comments on Environmental Issues

June 2, 2004.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the I–8 Uprate Project involving construction and operation of facilities by Algonquin Gas Transmission Company (Algonquin) in Norfolk County, Massachusetts.[1] These facilities would consist of an uprate of about 2 miles of existing 16-inch-diameter pipeline, hydrostatic testing of these facilities, and installation of various remote control valves and regulator valves. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Algonquin provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*www.ferc.gov*).

[1] Algonquin's application was filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

Summary of the Proposed Project

Algonquin is requesting authorization to increase the maximum allowable operating pressure on about 2 miles of its existing 16-inch-diameter I–8 pipeline system located in Norfolk County, Massachusetts. The majority of the work would occur within the existing right-of-way and no new right-of-way would be required for the project. Algonquin seeks authority to:

- Conduct hydrostatic testing of the existing 16-inch-diameter I–8 pipeline (approximately two miles) between the existing Potter Street Meter Station and the East Braintree Meter Station located in Braintree, MA;
- Potter Street Meter Station—conduct hydrostatic testing of station piping, install temporary launcher/receiver assembly, and stage fractionalization tanks (frac tanks), in Braintree, MA for hydrostatic testing of the I–8 System. The frac tanks would be used during the discharge of hydrostatic test water to hold testwater prior to disposal;
- East Braintree Meter Station—install temporary launcher/receiver assembly and stage frac tanks in Braintree, MA for hydrostatic testing of the I–8 System. The frac tanks would be used during the discharge of hydrostatic test water to hold testwater prior to disposal;
- Q15 Valve Site—install a new regulator run, block valve, and related instrument control devices. Install one fiberglass shelter and expand the existing station fencing in Canton, MA; and
- I–11A Valve Site—install new regulator run, replace block valve, and install one fiberglass shelter and expand the existing station fencing in Dover, MA.

The location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

The project would require a total of about 0.95 acre to construct. The majority of the work and facility modifications would occur on lands owned or leased by Algonquin within the existing property boundaries at the aboveground facilities or within existing rights-of-way.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than appendix 1 (maps), are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA we[3] will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Soils;
- Land use;
- Groundwater;
- Cultural resources;
- Vegetation and wildlife;
- Public safety.

We will not discuss impacts to the following resource areas since they are not present in the project area, or would not be affected by the proposed facilities.

- Surface water, fisheries, and wetlands;
- Geology;
- Air quality and noise;
- Endangered and threatened species;
- Hazardous waste.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, State, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Algonquin. This preliminary list of issues may be changed based on your comments and our analysis.

- Two residences are located within 50 feet of the project area.
- About 0.95 acre of ground disturbance during construction.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA/EIS and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Branch 2.
- Reference Docket No. CP04–314–000.
- Mail your comments so that they will be received in Washington, DC on or before (July 2).

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created on-line.

We may mail the EA for comment. If you are interested in receiving it, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (*see* appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

[4] Interventions may also be filed electronically via the Internet in lieu of paper. *See* the previous discussion on filing comments electronically.

assistance with eLibrary, the eLibrary helpline can be reached at 1–866–208–3676, TTY (202) 502-8659, or at *FERCOnlineSupport@ferc.gov*. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm*.

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1289 Filed 6–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

June 1, 2004.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license.

b. *Project No:* 1494–268.

c. *Date Filed:* January 29, 2004.

d. *Applicant:* Grand River Dam Authority, Oklahoma.

e. *Name of Project:* Pensacola Project.

f. *Location:* The project is located on the Grand River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Robert W. Sullivan, Jr., Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Eric Gross at (202) 502–6213, or e-mail address: *eric.gross@ferc.gov*.

j. *Deadline for filing comments and/or motions:* July 2, 2004.

k. *Description of Request:* The Grand River Dam Authority (GRDA) has filed an application to amend Article 401 of the project license. Article 401 defines the rule curve for the Pensacola Project, which requires the Grand Lake O' the Cherokees (Grand Lake) to meet seasonal target elevations between 741 feet Pensacola Datum (PD) and 744 feet PD. The proposed revision would allow GRDA to maintain Grand Lake at a target elevation of 744 feet PD year round. In their application GRDA states that this revision will enhance recreational use and safety, improve water quality, and promote development of wildlife habitat along the reservoir shoreline. GRDA also states that the revision will not affect the flood control operation of the project.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*: Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. 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 at *http://www.ferc.gov* under the ''e-Filing'' link. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1280 Filed 6–8–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Custom Products and Transmission Arrangements, Central Valley Project

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of date extensions for customer action.

SUMMARY: The Western Area Power Administration (Western), a Federal power marketing administration of the Department of Energy (DOE), published Notice of the final 2004 Power Marketing Plan (Marketing Plan) in the **Federal Register** for the Sierra Nevada Customer Service Region (SNR). This notice extends the dates by which customers are required to act under the Marketing Plan and associated contracts.

DATES: Western is extending until August 13, 2004, the deadline by which customers must execute a Custom Product Contract to receive Full Load, Variable Resource, and/or Scheduling Coordinator Services from Western beginning January 1, 2005. The date by which all customers are required to notify Western of their transmission arrangements to deliver the Base

Resource is also extended to August 13, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas R. Boyko, Power Marketing Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, telephone (916) 353–4421, e-mail *boyko@wapa.gov*.

SUPPLEMENTARY INFORMATION:

Authorities

The Marketing Plan for marketing power by SNR after 2004, published in the **Federal Register** (64 FR 34417) on June 25, 1999, including the subsequent Final Resource Pool Allocations, published in the **Federal Register** (65 FR 45976) on July 26, 2000, and all other related notices, were established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101–7352); the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts that specifically apply to the projects involved.

Background

The Marketing Plan describes how SNR will market its power resources from the Central Valley Project, Washoe Project, and other sources beginning January 1, 2005, through December 31, 2024. The 2005 Resource Pool was established for new power allocations, and those allocations were made to qualified entities. All existing customers and new allottees have executed a Base Resource Contract with Western.

The Marketing Plan provides for making a Custom Product available to interested customers. A Custom Product is service not provided under the Base Resource Contract that a customer needs to meet its load, including firming or supplemental power, portfolio management, and/or scheduling coordinator services. The Marketing Plan required customers to commit to purchase a Custom Product by December 31, 2002. By notice in the **Federal Register** (67 FR 60654), dated September 26, 2002, the deadline was extended to June 30, 2004, to provide customers with more time to determine their need for a Custom Product in California's changing electric market.

SNR delayed its formal process to establish the rates to become effective January 1, 2005, until it completed the Operational Alternatives Administrative Procedure Act process. Western published a Final Decision on the Post-2004 Operational Alternative in the **Federal Register** (69 FR 8191) on February 23, 2004. Western then developed proposed rates consistent with that Final Decision. The Notice of Proposed Rates was published in the **Federal Register** (69 FR 26370) on May 12, 2004. Once established, these rates will apply to the services offered under the Marketing Plan. Therefore, Western is now extending the deadline to execute a Custom Product Contract to August 13, 2004. This extension is expected to provide ample time for customers to review the contracts and the proposed rates for the services offered under those contracts prior to the deadline to execute a contract.

The Base Resource Contract provides, among other things, that the customer make its own transmission arrangements to take delivery of the Base Resource, and must inform Western of such arrangements by July 1, 2004. Because Western is extending the deadline by which a customer must commit to purchase a Custom Product, Western has also decided to extend the notification date following the Transmission Arrangements Section of the Base Resource Contract to August 13, 2004.

Regulatory Procedure Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined that this action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); Council on Environmental Quality Regulations (40 CFR 1500–1508); and DOE NEPA Regulations (10 CFR 1021), Western has determined this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; so this notice requires no clearance by the Office of Management and Budget.

Small Business Regulatory Enforcement Fairness Act

Western has determined this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: May 26, 2004.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 04–13026 Filed 6–8–04; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0149; FRL–7359–7]

Systalex Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be tranferred to Systalex Corporation in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Systalex Corporation has been awarded multiple contracts to perform work for OPP, and access to this information will enable Systalex Corporation to fulfill the obligations of the contract.

DATES: Systalex Corporation will be given access to this information on or before June 14, 2004.

FOR FURTHER INFORMATION CONTACT: Erik Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7248; e-mail address:*johnson.erik@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. 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–2004–0149. 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, 1921 Jefferson Davis Hwy., 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. 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. Contractor Requirements

Under Contract No.4D–5094–NBSX, the contractor will perform the following: provide software development and related support services to the Office of Pesticide Programs in support of the redevelopment and enhancement of the OPP system known as the OPPIN Query Tool in order to make OPPIN information readily available to the general public, to comply with requirements of section 508 of the Americans with Disabilities Act, and enhance the software based on written specifications provided by the Office of Pesticide Programs.

This contract involves no subcontractors.

The OPP has determined that the contracts described in this document involve work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contracts with Systalex Corporation, prohibits use of the information for any purpose not specified in these contracts; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, Systalex Corporation is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Systalex Corporation until the requirements in this document have been fully satisfied. Records of information provided to Systalex Corporation will be maintained by EPA Project Officers for these contracts. All information supplied to Systalex Corporation by EPA for use in connection with these contracts will be returned to EPA when Systalex Corporation has completed its work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: May 25, 2004.

Robert Forrest,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 04–12702 Filed 6–8–04; 8:45 am]

[BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL –7672–1]

Science Advisory Board Staff Office Clean Air Scientific Advisory Committee (CASAC) Notification of Advisory Committee Meeting of the CASAC Particulate Matter Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Clean Air Scientific Advisory Committee's (CASAC) Particulate Matter (PM) Review Panel to discuss follow-on matters related to its ongoing peer review of the *EPA Air Quality Criteria Document for Particulate Matter (Fourth External Review Draft).*

DATES: The meeting will be held July 20, 2004, from 8:30 a.m. to 5:30 p.m. (eastern time), and July 21, 2004, from 8:30 a.m. to 12 p.m. (eastern time).

Location: The meeting will take place at the Embassy Suites Hotel, Raleigh-Durham-Research Triangle East, 201 Harrison Oaks Boulevard, Cary, North Carolina. A publicly-accessible teleconference line will be available for the entire meeting.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to obtain the teleconference call-in numbers and access codes; would like to submit written or brief oral comments (5 minutes or less); or wants further information concerning this meeting, must contact Mr. Fred Butterfield, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343–9994; fax: (202) 233–0643; or e-mail at: *butterfield.fred@epa.gov.* General information concerning the CASAC or the EPA Science Advisory Board can be found on the EPA Web site at: *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION:

Summary: The CASAC, which comprises seven members appointed by the EPA Administrator, was established under section 109(d)(2) of the Clean Air Act (42 U.S.C. 7409) as an independent scientific advisory committee, in part to provide advice, information and recommendations on the scientific and technical aspects of issues related to air quality criteria and national ambient air

quality standards (NAAQS) under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The CASAC PM Review Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

The meeting is a continuation of the PM Review Panel's peer review of the *EPA Air Quality Criteria for Particulate Matter (Fourth External Review Draft)*. The CASAC PM Review Panel's reports, comments and recommendations from its last two reviews concerning this draft document can be found on the SAB Web site, as follows: (1) August 25–26, 2003 meeting, *http://www.epa.gov/sab/pdf/casacl04002.pdf*; and (2) February 3, 2004 teleconference, *http://www.epa.gov/sab/pdf/casac_04005.pdf*. Specifically, this meeting will be held to discuss the revisions to Chapter 7 (Toxicology of Particulate Matter in Humans and Laboratory Animals); Chapter 8 (Epidemiology of Human Health Effects Associated with Ambient Particulate Matter); and Chapter 9 (Integrative Synthesis) of the Fourth External Review Draft of the Air Quality Criteria Document (AQCD) for PM.

Background: EPA is in the process of updating, and revising where appropriate, the AQCD for PM as issued in 1996. Section 109(d)(1) of the Clean Air Act (CAA) requires that EPA carry out a periodic review and revision, where appropriate, of the air quality criteria and the National Ambient Air Quality Standards (NAAQS) for ''criteria'' air pollutants such as PM. On June 30, 2003, the National Center for Environmental Assessment (NCEA), within EPA's Office of Research and Development, made available for public review and comment a Fourth External Review Draft of a revised document, *EPA Air Quality Criteria for Particulate Matter*. Under CAA sections 108 and 109, the purpose of the revised document is to provide an assessment of the latest scientific information on the effects of airborne PM on the public health and welfare, for use in EPA's current review of the NAAQS for PM. Detailed summary information on the history of the current draft AQCD for PM is contained in a previous **Federal Register** notice (68 FR 36985, June 20, 2003). The *EPA Air Quality Criteria for Particulate Matter (Fourth External Review Draft)* and revised chapters of this draft document can be viewed and downloaded from the NCEA Web site at: *http://cfpub.epa.gov/ncea/cfm/partmatt.cfm*. Any questions concerning the draft document should be directed to Dr. Robert Elias, NCEA–RTP, via telephone: (919) 541–1818; or e-mail at: *elias.robert@epa.gov*.

Availability of Additional Meeting Materials: Copies of the draft agendas for the meetings that are described in this notice will be posted on the SAB Web site at: *http://www.epa.gov/sab* (under the ''Agendas'' subheading) in advance of the CASAC PM Review Panel meeting. Other materials that may be available will also be posted on the SAB Web site during this time-frame.

Providing Oral or Written Comments at SAB Meetings: It is the policy of the SAB Staff Office to accept written public comments of any length, and to accommodate oral public comments whenever possible. The SAB Staff Office expects that public statements presented at its meetings will not be repetitive of previously-submitted oral or written statements.

Oral Comments: In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of five minutes (unless otherwise indicated). Requests to provide oral comments must be *in writing* (e-mail, fax or mail) and received by Mr. Butterfield no later than noon Eastern Time five business days prior to the meeting in order to reserve time on the meeting agenda. Speakers should bring at least 75 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting.

Written Comments: Although the SAB Staff Office accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office no later than noon Eastern Time five business days prior to the meeting so that the comments may be made available to the CASAC PM Review Panel for their consideration. Comments should be supplied to Mr. Butterfield (preferably via e-mail) at the address/contact information noted above, as follows: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format)). Those providing written comments and who attend the meeting are also asked to bring 75 copies of their comments for public distribution.

Meeting Access: Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Mr. Butterfield at the phone number or e-mail address noted above at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: June 20, 2004.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 04–13030 Filed 6–8–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0131; FRL–7363–7]

Notice of Receipt of Requests To Voluntarily Cancel Certain PesticideRegistrations; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of public comment period.

SUMMARY: EPA issued a notice in the **Federal Register** of May 7, 2004, concerning receipt of requests by a registrant to voluntarily cancel certain pesticide registrations. This document is extending the public time period during which the registrant may withdraw the requests for 14 days, from June 7, 2004, to June 21, 2004.

DATES: Unless the registrant withdraws by June 21, 2004,the request for voluntary cancellation for EPA Registration number(s): 264–577, 264–576, and 264–580, orders will be issued canceling these registrations.

ADDRESSES: Registrants should submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Ann Sibold, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6502; e-mail address: *sibold.ann@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

The Agency included in the notice a list of those who may be potentially affected by this action. If you have 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–2004–0131. 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, 1921 Jefferson Davis Hwy., 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 underthe ''**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.

II. What Action Is EPA Taking?

This document extends the comment period established in the **Federal Register** of May 7, 2004 (69 FR 25577) (FRL–7358–1), during which the registrant may withdraw the voluntary cancellation request. In that document, EPA issued a notice of receipt of request by a registrant to voluntarily cancel certain pesticide registrations. On May 20, 2004, EPA received a request from the USA Rice Federation for an extension of the time period to July 1, 2004, so that the USA Rice Federation may negotiate with the registrant, Bayer Crop Science, to withdraw its voluntary cancellation request. In light of the fact that the registrations will expire on July 1, 2004, the Agency will extend the comment period to June 21, 2004, not July 1, 2004. By extending to June 21, 2004, the Agency will be able to address timely received comments and requests for withdrawal before the expiration of the registrations on July 1, 2004. EPA is hereby extending the public comment period during which the registrant may withdraw the request to voluntarily cancel these pesticide registrations, which was set to end on June 7, 2004, to June 21, 2004.

III. What Is the Agency's Authority for Taking This Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Section 6(f)(1) further provides that the Administrator shall provide for a 30–day period in which the public may comment. For minor crops, this period shall be 180 days, except that the registrant may waive the 180–day comment period. In this case, Bayer CropScience waived the 180–day comment period.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 2, 2004.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 04–12917 Filed 6–7–04; 12:03 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0148; FRL–7360–2]

Pymetrozine; Notice of Filing a Pesticide Petition To Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2004–0148, must be received on or before July 9, 2004.

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: Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: *jackson.sidney@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. 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. 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. 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–2004–0148. 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, 1921 Jefferson Davis Hwy., 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 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.

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. 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 on 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–2004–0148. 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–2004–0148. 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) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID number OPP–2004–0148.

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, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID number OPP–2004–0148. 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. Make sure to submit your comments by the deadline in this notice.

7. 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. What Action Is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated:May 24, 2004.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner's summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by Syngento Crop Protection, the pesticide's registrant, and submitted by the Interregional Research Project Number 4 (IR-4) and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interregional Research Project Number 4

PP 2E6467

EPA has received a pesticide petition (PP 2E6467) from the IR-4 Project, Project Centre for Minor Crop Pest Management, Rutgers, The State University of New Jersey, 681 U.S. Highway #1 South, North Brunswick, NJ 8920–3390 proposing, pursuant to section 408(d) of FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180, by establishing a tolerance for residues of the insecticide pymetrozine (1,2,4-triazin-3(2H)-one,4,5-dihydro-6-methyl-4-(3-pyridinylmethylene)amino in or on the raw agricultural commodity asparagus at 0.02 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of pymetrozine in plants is understood for the purposes of the proposed tolerances. Studies in rice, tomatoes, cotton and potatoes gave similar results. The metabolic pathways have demonstrated that pymetrozine, per se, is the residue of concern for tolerance setting purposes.

2. *Analytical method*. Syngenta has submitted an analytical method (AG-643) for the determination of pymetrozine in crop substrates. The limit of detection (LOD) for the analytical method is 1.0 ng and the limit of quantification (LOQ) is 0.02 ppm. Samples are extracted, purified with solid-phase and liquid-liquid partitions and analyzed by high performance liquid chromotography (HPLC). Analytical method has undergone independent laboratory validation. The pymetrozine Analytical Method AG-643 is proposed as the tolerance enforcement method. Syngenta has also submitted an analytical method (AG-647) for the determination of the major crop metabolite of pymetrozine, GS-23199. GS-23199 is considered a marker for metabolite residues. This metabolite is not proposed as part of the tolerance expression. Samples are extracted, purified with solid-phase and/or liquid-liquid partitions and analyzed by HPLC.

3. *Magnitude of residues*. Residue data were generated for pymetrozine for tolerance setting and dietary exposure estimates. Data were also generated for a major metabolite, GS-23199. Adequate residue trials were performed for pymetrozine on the uses proposed in this notice of filing.

B. Toxicological Profile

1. *Acute toxicity*. In general, pymetrozine has low acute toxicity being classified as Toxicity Category III for acute dermal and primary eye irritation studies and Toxicity Category IV for acute oral, acute inhalation and primary dermal studies. The oral lethal dose $(LD)_{50}$ in rats is >5,820 milligrams/kilogram (mg/kg) for males and females, combined. The rat dermal LD_{50} is>2,000 mg/kg and the rat inhalation lethal concentration $(LC)_{50}$ is > 1.8 milligrams/liter (mg/L) air. Pymetrozine is a slight sensitizer in guinea pigs. End-use water-dispersible granule formulations of pymetrozine have similar low acute toxicity profiles.

2. *Genotoxicity*. Pymetrozine did not induce point mutations in bacteria (Ames assay in *Salmonella typhimurium and Escherichia coli*) or in cultured mammalian cells (Chinese hamster V79) and was not genotoxic in an *in vitro* unscheduled DNA synthesis assay in rat hepatocytes. Chromosome aberrations were not observed in an *in vitro* test using Chinese hamster ovary cells and there were no clastogenic or aneugenic effects on mouse bone marrow cells in an *in vivo* mouse micronucleus test. These studies show that pymetrozine is not mutagenic or genotoxic.

3. *Reproductive and developmental toxicity*. In a teratology study in rats, pymetrozine caused decreased body weights and food consumption in females given 100 and 300 mg/kg/day during gestation. This maternal toxicity was accompanied by fetal skeletal anomalies and variations consistent

with delayed ossification. The no observed adverse effect level (NOAEL) for maternal and fetal effects in rats was 30 mg/kg/day. In a rabbit teratology study, maternal death, reduced body weight gain and food consumption were observed at 125 mg/kg/day (highest dose tested). Embryo and feto toxicity (abortion in one female and total resorptions in two females) accompanied maternal toxicity. Body weight and food consumption decreases, early resorptions and postimplantation losses were also observed in maternal rabbits given 75 mg/kg/day. There was an increased incidence of fetal skeletal anomalies and variations at these maternally toxic doses. The NOAEL for maternal and fetal effects in rabbits was 10 mg/kg/day. Pymetrozine is not teratogenic in rats or rabbits. In a 2–generation reproduction study in rats, parental body weights and food consumption were decreased, liver and spleen weights were reduced and histopathological changes in liver, spleen and pituitary were observed at approximately 110–440 mg/kg/day (highest dose tested). Liver hypertrophy was observed in a few parental males at approximately 10–40 mg/kg/day. Reproductive parameters were not affected by treatment with pymetrozine. The NOAEL for reproductive toxicity is approximately 110–440 mg/kg/day. The NOAEL for toxicity to adults and pups is approximately 1–4 mg/kg/day.

4. *Subchronic toxicity*. Pymetrozine was evaluated in 13–week subchronic toxicity studies in rats, dogs and mice. Liver, kidneys, thymus and spleen were identified as target organs. The NOAEL was 33 mg/kg/day in rats and 3 mg/kg/day in dogs. In mice, increased liver weights and microscopical changes in the liver were observed at all doses tested. The NOAEL in mice was <198 mg/kg/day. No dermal irritation or systemic toxicity occurred in a 28–day repeated dose dermal toxicity study with pymetrozine in rats given 1,000 mg/kg/day. Minimum direct dermal absorption (1.1%) of pymetrozine was detected in rats over a 21–hour period of dermal exposure. Maximum radioactivity left on or in the skin at the application site and considered for potential absorption was 11.9%.

5. *Chronic toxicity*. Based on chronic toxicity studies in the dog and rat, a reference dose (RfD) of 0.0057 mg/kg/day is proposed for pymetrozine. This RfD is based on a NOAEL of 0.57 mg/kg/day established in the chronic dog study and an uncertainty factor of 100 to account for interspecies extrapolation and interspecies variability. Minor changes in blood chemistry parameters, including higher plasma cholesterol and phospholipid levels, were observed in the dog at the lowest observed adverse effect level (LOAEL) of 5.3 mg/kg/day. The NOAEL established in the rat chronic toxicity study was 3.7 mg/kg/day and was based on reduced body weight gain and food consumption, hematology and blood chemistry changes, liver pathology and biliary cysts.

The carcinogenic potential of pymetrozine has been evaluated in rats and mice. A liver tumor response was observed in male and female mice and female rats at high doses exceeding the maximum tolerated dose. These liver tumors correlated with reversible biochemical (induction of liver metabolizing enzymes) and morphological (hepatocyte and smooth endoplasmic reticulum proliferation) changes and a reversible saturation of metabolic processes. EPA has assigned a cancer classification of ''likely'' to pymetrozine and calculated a Q1* value. However, Syngenta believes that the mechanism of action leading to liver tumors at maximum tolerated doses is a non-genotoxic threshold event and should be regulated as such.

6. *Animal metabolism*. The metabolism of pymetrozine in the rat is well understood. Metabolism involves oxidation of substituent groups of the triazine ring yielding ketones and carboxylic acids. Hydrolysis of the enamino bridge between rings results in products that are further metabolized. The metabolic pathways in animals and plants are similar.

7. *Metabolite toxicology*. The residue of concern for tolerance setting purposes is the parent compound. Metabolites of pymetrozine are considered to be of equal or lesser toxicity than the parent.

8. *Endocrine disruption*. Pymetrozine does not belong to a class of chemicals known or suspected of having adverse effects on the endocrine system. There is no evidence that pymetrozine has any effect on endocrine function in developmental and reproduction studies. Furthermore, histological investigation of endocrine organs in chronic dog, rat and mouse studies did not indicate that the endocrine system is targeted by pymetrozine.

C. Aggregate Exposure

1. *Dietary exposure*. Tier III acute, chronic and lifetime dietary exposure evaluations were made using the Dietary Exposure Evaluation Model (DEEM™), version 7.81 from Exponent. Empirically derived processing studies for cotton oil (0.62X), potato chips (1.00X), tomato paste (0.57X) and tomato puree (0.21X) were used in these assessments. All consumption data for these assessments was taken from the USDA's Continuing Survey of Food Intake by Individuals (CSFII) with the 1994–1996 consumption database and the Supplemental CSFII children's survey (1998) consumption database. These exposure assessments included all registered uses on cotton, pecans, hops, cucurbits, tuberous and corm vegetables, Brassica (cole) leafy vegetables, leafy vegetables, fruiting vegetables, and a pending new use on asparagus. Secondary residues in animal commodities were not included in the exposure assessment since no tolerance values exist for residues in meat and milk and a three-level dairy feeding study in lactating livestock showed no residues at any of the feeding levels. Additionally, the highest feeding level (10 ppm) used in this study was at least 10–fold higher than what would be expected in treated feed.

a. *Food*. For the purposes of assessing the potential dietary exposure, Syngenta Crop Protection has estimated aggregate exposure from all crops for which tolerances are established or proposed. These assessments utilized residue data from field trials where pymetrozine was applied at the maximum intended use rate and samples were harvested at the minimum pre-harvest interval (PHI) to obtain maximum residues. Percent of crop treated values were values were taken from the Biological and Economic Analysis Division's (BEAD's) latest pymetrozine estimate compiled on August 15, 2001.

i. *Chronic exposure*. The chronic reference dose (RfD) of pymetrozine is 0.0038 mg/kg bwt/day and is based on a NOAEL of 0.38 mg/kg bwt/day from a chronic feeding study in rats and a 100X uncertainty factor. No additional FQPA safety factor was applied. The pymetrozine Tier III chronic dietary exposure assessment was based upon field trial residue results. For the purpose of aggregate risk assessment, the exposure values were expressed in terms of margin of exposure (MOE), which was calculated by dividing the NOAEL by the exposure for each population subgroup. In addition, exposure was expressed as a percent of the chronic reference dose (%RfD). Chronic exposure to the most exposed sub-population (children 1–2 years old) resulted in a MOE of 1,203 (1.1% of the chronic RfD of 0.0038 mg/kg bwt/day). Since the benchmark MOE for this assessment was 100 and the EPA generally has no concern for exposures below 100% of the RfD, Syngenta believes that there is a reasonable

certainty that no harm will result from dietary (food) exposure to residues arising from the current and proposed uses of pymetrozine.

ii. *Acute exposure.* The aRfD for pymetrozine for all populations except females (13+ years old) is 0.42 mg/kg-bw/day and is based on a lowest observable adverse effect level (LOAEL) of 125 mg/kg/day from an acute neurotoxicity study in rats and a 300X uncertainty factor. The acute population adjusted-dose (aPAD) for females (13+ years old) is 0.10 mg/kg bwt/day and is based on a NOAEL of 10 mg/kg bwt/day from a rabbit developmental toxicity study and a 100X uncertainty factor. A Tier III probabilistic acute dietary analysis was conducted with a full distribution of residues for all registered commodities and asparagus. Each residue distribution was adjusted for percent of crop treated by adding zeroes to the distribution to account for the percent of crop not treated. Acute exposure to females (13–50 years old) resulted in a MOE of 19,881 (0.5% of the acute population adjusted dose (aPAD) of 0.10 mg/kg bwt/day). Acute exposure to the most exposed sub-population children 1–2 years old resulted in a MOE of 123,640 (0.2% of the acute RfD of 0.0038 mg/kg bwt/day). Since the benchmark MOE for this assessment was 300 and since EPA generally has no concern for exposures below 100% of the RfD, Syngenta believes that there is a reasonable certainty that no harm will result from dietary (food) exposure to residues arising from the current and proposed uses of pymetrozine.

iii. *Lifetime exposure.* Lifetime risk to pymetrozine was evaluated by comparing exposure to a Q* value of 0.0119 (mg/kg bwt/day)$^{-1}$ based on male mouse liver benign hepotomas and/or carcinomas combined. Lifetime risk for the U.S. population was 3.49 x 10^{-7}. Since this value is below the EPA's lifetime risk limit of 1.00 x 10^{-6}, these results indicate that there is a reasonable certainty of no harm resulting from lifetime exposures through the consumption of pymetrozine-treated commodities.

b. *Drinking water.* Drinking water exposure to pymetrozine was evaluated based on the crop uses above with EPA's surface water Tier I model (Generic Expected Environmental Concentration (GENEEC)). Hops, with three applications at 0.1875 lb a.i./acre, gave the highest total application and this rate was; therefore, used in GENEEC to estimate the chronic, acute and lifetime estimated environmental concentrations (EECs) for drinking water.

1. *Acute exposure*—i. The acute EEC for pymetrozine was 4.27 ppb and the chronic EEC was 0.31 parts per billion (ppb.) The calculated acute DWLOC for the most sensitive sub-population children 1–2 years old was 4,190 ppb. Since acute EEC value of 4.27 ppb is less than the calculated acute DWLOC, these results indicate that there is a reasonable certainty of no harm resulting from acute drinking water exposures.

ii. *Chronic exposure.* The chronic EEC for pymetrozine was 0.031 ppb. The calculated chronic DWLOC for the most sensitive sub-population children 1–2 years old was 38 ppb. Since the chronic EEC of 0.31 ppb is below this value, these results indicate that there is a reasonable certainty of no harm resulting from chronic drinking water exposures.

iii. *Lifetime exposure.* Using a Q* value of 0.0119 mg/kg bwt/day^{-1} and a chronic EEC of 0.31 ppb, the risk to a typical 70 kg adult drinking 2 liters of water per day would be at 1.05 x 10-^{7}.

2. *Non-dietary exposure.* Pymetrozine is registered on ornamentals and exposure could occur through post-application re-entry to treated plants. Syngenta believes that risks due to short-term, intermediate-term or chronic exposure are either not applicable or insignificant.

D. Cumulative Effects

EPA is also required to consider the potential for cumulative effects of pymetrozine and other substances that have a common mechanism of toxicity. Pymetrozine belongs to a chemical class known as pyridine azomethines and exhibits a unique mode of action. EPA consideration of a common mechanism of toxicity is not appropriate at this time since EPA does not have information to indicate that toxic effects produced by pymetrozine would be cumulative with those of any other chemical compounds; thus only the potential risks of pymetrozine are considered in this exposure assessment.

E. Safety Determination

1. *Acute risk.* Exposure to pymetrozine residues in food will occupy no more than 0.2% of the RfD of 0.42 mg/kg bwt/day for the most sensitive population subgroup children 1–2 years old. Residue values used for these dietary risk assessments were from field trials and incorporated percent of crop treated information in the residue distributions. Acute dietary exposure estimates were determined at the 99.9th percentile of acute exposure. Estimated concentrations of pymetrozine residues in surface water and ground water were below the calculated acute drinking water level of comparison (DWLOC). Therefore, Syngenta does not expect acute aggregate risk to pymetrozine residues from food and water sources to exceed the level of concern for acute dietary exposure.

2. *Chronic risk.* Chronic dietary exposure to pymetrozine residues in food for the most sensitive population subgroup (children 1-2 years old) occupied 1.1% of the chronic RfD of 0.0038 mg/kg bwt/day. Residue values used for these dietary risk assessments were from field trials and incorporated percent of crop treated information, as indicated above. Estimated concentrations of pymetrozine residues in surface water and ground water were below the calculated chronic drinking water level of comparison (DWLOC). Syngenta believes that the chronic aggregate risk from pymetrozine residues in food and drinking water would therefore not be expected to exceed the EPA's level of concern.

3. *Lifetime risk.* The chronic lifetime dietary risk to pymetrozine residues in food for the U.S. population was 3.49 x 10^{-7}, which is below EPA's level of concern (1.0 x 10^{-6}). Residue values used for this lifetime risk assessment were from field trials and incorporated percent of crop treated information, as indicated above. The estimated concentrations of pymetrozine residues in surface water and ground water are lower than the calculated lifetime DWLOC. Therefore, Syngenta concludes that the aggregate lifetime risk from pymetrozine residues in food and drinking water sources would therefore not be expected to exceed EPA's level of concern for lifetime dietary exposure.

Syngenta has considered the potential aggregate exposure from food, water and non-occupational exposure routes and concluded that aggregate exposure is not expected to exceed 100% of the acute, chronic and lifetime reference doses. Therefore, Syngenta believes there is a reasonable certainty that no harm will result to infants and children from the aggregate exposures to pymetrozine.

F. International Tolerances

There are no established European Codex, Canadian, or Mexican maximum residue limits for pymetrozine. There are provisional MRLs in Germany for hops 10 ppm and potatoes 0.02 ppm. The European Union is currently evaluating a proposed tolerance of 5 ppm on hops. At this time, international

harmonization of residue levels is not an issue.

[FR Doc. 04–12703 Filed 6–8–04; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7671–8]

Notice of Proposed Settlement Agreement Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) as Amended, 42 U.S.C. 9606(a) and 9622(h), Agromac/ Lockwood Superfund Site, Gering, NE, Docket No. CERCLA–07–2003–0302

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement agreements, Lockwood Corporation and Agromac International, Inc., Agromac/ Lockwood Superfund Site, Gering, Nebraska.

SUMMARY: Notice is hereby given that two proposed settlement agreements regarding the Lockwood Corporation and Agromac International, Inc. Superfund Site (Agromac/Lockwood), located in Gering, Nebraska, were signed by the United States Environmental Protection Agency (EPA) on December 17, 2003, and signed by the United States Department of Justice (DOJ) on May 1, 2004. Commenters may request an opportunity for a public meeting in the affected area, in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d).

DATES: EPA will receive written comments relating to these proposed settlement agreements until July 9, 2004.

ADDRESSES: Comments should be addressed to E. Jane Kloeckner, Senior Assistant Regional Counsel, United States Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, Kansas 66101 and should refer to: In the Matter of Agromac/ Lockwood Superfund Site, Gering, Nebraska, Docket No. CERCLA–07–2003–0302. Comments may also 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 In re: Lockwood Corporation, D.J. Ref. 90–11–2–06925.

These proposed settlement agreements may be examined or obtained in person or a copy requested by mail from the office of the United States Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, KS 66101, (913) 551–7235. The Settlement Agreements may be examined at the Office of the United States Attorney, 1620 Dodge Street, Suite 1400, Omaha, NE 68102–1506. A copy 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 a request to Tonia Fleetwood, fax No. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please enclose a check in the amount of $3.75 for the Bankruptcy Agreement, or $19.50 for the Administrative Order (25 cents per page reproduction cost) payable to the U.S. Treasury.

SUPPLEMENTARY INFORMATION: These proposed settlements are intended to resolve the CERCLA liability of Lockwood Corporation, Debtor (Lockwood), and Agromac International, Inc. (Agromac) for response actions at the Agromac/Lockwood Site. This Site is located on Highway 92 East in Gering, Nebraska, and encompasses approximately 80 acres. It is generally in a commercial/agricultural area; however, a few residential homes are nearby.

Prior to acquisition by Agromac, the entire facility was owned by Lockwood, which manufactured and galvanized irrigation equipment and manufactured potato harvesting machines beginning in the early 1970s. In 1976, Agromac brought the facility and leased the irrigation manufacturing/galvanizing portion of the Block P Parcel to Powerhorse Lockwood Irrigation, Inc. (PLI), a defunct Nebraska corporation. During operations by Lockwood Corporation through 1984, Lockwood disposed of some hazardous wastes in a waste acid evaporation pond. In 1989, Lockwood obtained a RCRA Post Closure Permit from the State of Nebraska and a RCRA Corrective Action Permit from EPA, Region VII, which regulates the post-closure care of the evaporation pond and corrective action for six solid waste management units throughout the Agromac/Lockwood Site.

Agromac and Lockwood have been identified by EPA as eligible for a settlement based on their limited ability to pay for cleanup and reimburse response costs using EPA's Superfund Ability to Pay (ATP) Guidance. The Lockwood agreement is embodied in a Settlement under the United States Bankruptcy Court in Nebraska because Lockwood is under supervision of the US Bankruptcy Trustee due to its petition for liquidation under Chapter 7 of the US Bankruptcy Code. The Settlement Agreement is between the Lockwood Corporation Bankruptcy Trustee, Agromac International Inc., and the United States. The Agreement provides for (i) the hazardous waste management unit to be transferred from Lockwood to Agromac, and (ii) transfer of the remaining funds in the bankruptcy estate, net of $52,000 in reimbursement of monitoring expenditures and fees, to an escrow account for use in cleaning up the property in accordance with the companion Administrative Order on Consent entered into between Agromac and the EPA. In return for the commitments by the Trustee, the United States grants Lockwood a covenant not to sue under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6973, relating to the Agromac/ Lockwood Site.

The settlement with Agromac is pursuant to section 107 and 122 of CERCLA. The agreement provides for Agromac to pay $65,000 to EPA and perform the final removal action at the Site. In addition, the Agromac settlement has certain re-openers for changed financial condition if Agromac sells real estate above its book value, in which case 40% of the excess proceeds will be paid to EPA. Agromac agrees to use all funds received in the Bankruptcy distribution from Lockwood to pay for the response actions. If the removal action costs less than Agromac received from the bankruptcy distribution, the remaining proceeds from the distribution will be paid to EPA. In return for the commitments by the Agromac, the United States grants Agromac a covenant not to sue under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, relating to the Agromac/Lockwood Site.

Dated: May 24, 2004.

James B. Guilliford,

Regional Administrator, Region VII.

[FR Doc. 04–12928 Filed 6–8–04; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–45; DA 04–1445]

Parties are Invited to Comment on Petitions for Eligible Telecommunications Carrier Designations

AGENCY: Federal Communications Commission.

ACTION: Notice; solicitation of comments.

SUMMARY: In this document, interested parties are invited to comment on petitions recently filed by certain wireless telecommunications carriers seeking designation as eligible telecommunications carriers (ETCs) pursuant to section 214(e)(6) of the Communications Act of 1934, as amended.

DATES: Comments are due on or before June 21, 2004. Reply comments are due on or before July 6, 2004.

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

FOR FURTHER INFORMATION CONTACT: Thomas Buckley, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7400, TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of public notice, CC Docket No. 96–45, DA 04–1445, released May 21, 2004. In this public notice, the Wireline Competition Bureau invites parties to comment on the following petitions filed by wireless telecommunications carriers seeking designation as eligible telecommunications carriers (ETCs) pursuant to section 214(e)(6) of the Communications Act of 1934, as amended.

ETC petitions	Date filed
RCC Minnesota, Inc. and RCC Atlantic, Inc. (NH)	3/12/04
Manchester-Nashua Cellular Telephone, L.P., NH #1 Rural Cellular, Inc., USCOC of New Hampshire RSA #2, Inc. (NH)	4/13/04
USCOC of Virginia RSA #3, Inc., USCOC of Virginia RSA #2, Inc., Virginia RSA #4, Inc., Virginia RSA #7, Inc. Ohio State Cellular	4/13/04
Telephone Company, Inc. and Charlottesville Cellular Partnership (VA).	
Dobson Cellular Systems, Inc. and American Cellular Corporation (NY)	5/10/04
Dobson Cellular Systems, Inc. and American Cellular Corporation (NY)	5/3/04
AT&T Wireless Services, Inc. (FL)	5/6/04

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments as follows: comments are due on or before June 21, 2004 and reply comments are due on or before July 6, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998. Parties should clearly specify in the caption of all filings the petition(s) to which the filing relates.

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

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other then U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

Parties also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW., Room 5–B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Best Copying and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20054.

Pursuant to § 1.1206 of the Commission's rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which ex parte communications are permitted subject to disclosure.

Federal Communications Commission.

Anita Cheng,

Assistant Chief, Wireline Competition Bureau, Telecommunications Access Policy Division.

[FR Doc. 04–13036 Filed 6–8–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

FCC to hold open Commission meeting Thursday, June 10, 2004.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, June 10, 2004, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	International	Title: Mandatory Electronic Filing for International Telecommunications Services and Other International Filings. Summary: The Commission will consider a Notice of Proposed Rulemaking concerning Electronic Filing—Telecoms.

Item No.	Bureau	Subject
2	International	Title: Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands (IB Docket No. 02–364); and Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems (ET Docket No. 00–258). Summary: The Commission will consider a Report and Order and Fourth Report and Order concerning spectrum sharing in the 1.6 and 2.4 GHz bands.
3	Wireless Telecommunications.	Title: Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands (WT Docket No. 03–66, RM–10586); Part 1 of the Commission's Rules—Further Competitive Bidding Procedures (WT Docket No. 03–67); Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and the Instructional Television Fixed Service Amendment of Parts 21 and 74 to Engage in Fixed Two-Way Transmissions (MM Docket No. 97–217); Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Licensing in the Multipoint Distribution Service and in the Instructional Television Fixed Service for the Gulf of Mexico (WT Docket No. 02–68, RM–9718); and Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets (WT Docket No. 00–230). Summary: The Commission will consider a Report and Order and Further Notice of Proposed Rulemaking concerning the eligibility, licensing and service rules for the 2500–2690 MHz Band to promote ubiquitous wireless broadband services nationwide.
4	Media	Title: Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming. Summary: The Commission will consider a Notice of Inquiry seeking information and comment for the Eleventh Annual Report to Congress on the status of competition in the market for the delivery of video programming.
5	Consumer & Governmental Affairs.	Title: Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities (CC Docket Nos. 90–571, 98–67, and 03–123). Summary: The Commission will consider a Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking addressing numerous issues concerning the provisions, regulations, and compensation of telecommunications relay service (TRS) for persons with hearing and speech disabilities.
6	Wireline Competition	Title: Review of the Section 251 Unbundling Obligations for Incumbent Local Exchange Carriers (CC Docket No. 01–338); Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (CC Docket No. 96–98); and Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98–147). Summary: The Commission will consider an Order on Reconsideration concerning requests from BellSouth and Sure West to reconsider and/or clarify unbundling obligations relating to multiple dwelling units and the network modification rules.

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322.

Audio/Video coverage of the meeting will be broadcast live over the Internet from the FCC's Audio/Video Events Web Page at *http://www.fcc.gov/realaudio.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.* Audio and video tapes of this meeting can be purchased from CACI Productions, 341 Victory Drive, Herndon, VA 20170, (703) 834–1470, Ext. 19; Fax (703) 834–0111.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Best Copy and Printing, Inc. may be reached by e-mail at *FCC@BCPIWEB.COM.*

Federal Communications Commission

Marlene H. Dortch,

Secretary.

[FR Doc. 04–13209 Filed 6–7–04; 3:35 pm]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 010977–054.

Title: Hispaniola Discussion Agreement.

Parties: Crowley Liner Services; Seaboard Marine; Tropical Shipping and Construction Co. Ltd.; and Frontier Liner Services.

Synopsis: The amendment would provide for joint service contracting authority, delete obsolete language, clarify voting requirements and restate the agreement.

Agreement No.: 011795–002.

Title: Puerto Rican Cross Space Charter and Sailing Agreement.

Parties: Compania Chilena de Navegacion Interoceanica S.A. and Compania Sud Americana de Vapores S.A.

Synopsis: The amendment revises the geographic scope to include the United States Pacific Coast. The parties request expedited review.

Agreement No.: 011737–012.

Title: The MCA Agreement.

Parties: Atlantic Container Line AB; Alianca Navegacao e Logistica Ltda.; Antillean Marine Shipping Corporation; A.P. Moller-Maersk A/S; Bernuth Lines, Ltd.; China Shipping Container Lines

Co., Ltd.; CMA CGM S.A.; Companhia Libra de Navegacao; Compania Sud Americana de Vapores S.A.; CP Ships (UK) Limited d/b/a ANZDL and d/b/a Contship Containerlines; Crowley Liner Services, Inc.; Dole Ocean Cargo Express, Inc.; Great White Fleet (U.S.) Ltd.; Hamburg-Süd; Hapag-Lloyd Container Linie; Italia di Navigazione S.p.A.; King Ocean Central America S.A.; King Ocean Service de Colombia S.A.; King Ocean Service de Venezuela S.A.; Lykes Lines Limited, LLC; Montemar Maritima S.A.; Norasia Container Line Limited; P&O Nedlloyd Limited; Safmarine Container Lines N.V.; TMM Lines Limited, LLC; Tropical Shipping & Construction Co., Ltd.; Wallenius Wilhelmsen Lines AS.

Synopsis: The proposed amendment would add HUAL AS to and delete Antillean Marine, Bernuth Lines, P&O Nedlloyd, and the three King Ocean companies from the membership list; add authority for the parties to discuss credit, collection billing procedures, charges, and systems; and correct the addresses of CP Ships, Lykes, Italia, and TMM.

Dated: June 4, 2004.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 04–13059 Filed 6–8–04; 8:45 am]

BILLING CODE 6730–01–U

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

Apex Maritime Co., (NY) Inc., 71 South Central Avenue, Suite 307, Valley Stream, NY 11580, Officer: Vicky Cheung, President (Qualifying Individual).

Express USA Inc., 4007 Sapphire Lane, Bethlehem, PA 18020, Officers: Giuseppe Fenu, Vice President, (Qualifying Individual), Claudio Priotto, President.

R & S Trading, Lerida 310, Urb, Valencia, Rio Piedras, PR 00924, Carlos B. Sanchez, Sole Proprietor.

Fleet Global Logistics (9U.S.A.), Inc., 4144 East Wood Harbor Ct., Suite 1, Richmond, VA 23231, Officers: Paul Wiegers, Vice CEO, (Qualifying Individual), Julia Murphy, CEO.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Tisco Logistics Inc., 347 South Stimson Avenue, City of Industry, CA 91744, Officers: Pei-Lin Eto, Operation Manager (Qualifying Individual), Jimmy C.M. Hsu, CEO.

Grace Computer Distributors dba Grace Cargo, 8434 NW 66th Street, Miami, FL 33166, Officers: Samir Gebran, President (Qualifying Individual), Maria Garcia Bianchini, Vice President.

Grupo Delpa Corp., 7225 NW 25th Street, Suite #311, Miami, FL 33122, Officers: Lucila Rosario, Treasurer (Qualifying Individual), Cecilia M. Lima, President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

NMT International Shipping (Americas) Inc., 12600 Northborough, Suite 170, Houston, TX 77067, Officers: Olga Lidia Baez, Vice President (Qualifying Individual), Peter Kermis, President.

R.G. Associates, Inc. dba Interfreight SE., 200 Dividend Drive, Suite 105, Peachtree City, GA 30269, Officers: Reinhard H. Grabowsky, President (Qualifying Individual).

Dublin Worldwide Moving & Storage, 2060 Marina Blvd., San Leandro, CA 94577, Officers: Donna Marshall, Secretary (Qualifying Individual), Michael S. Tullock, President.

Dated: June 4, 2004.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 04–13062 Filed 6–8–04; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 012489N.

Name: Auto Express Lines, Inc.

Address: 12200 W. Colonial Drive, Winter Garden, FL 34787.

Date Revoked: March 31, 2004.

Reason: Surrendered license voluntarily.

License Number: 015090N.

Name: International Freight Logistics Ltd.

Address: 4 William Street, Lynbrook, NY 11563.

Date Revoked: May 26, 2004.

Reason: Failed to maintain a valid bond.

License Number: 016093N.

Name: Sovereign Express Line, LLC.

Address: 64–66 North Main Street, P.O. Box 1309, St. Albans, VT. 05478.

Date Revoked: May 21, 2004.

Reason: Failed to maintain a valid bond.

License Number: 017457NF.

Name: Starwood, Inc.

Address: 1352 NW 78th Avenue, Miami, FL 33126.

Date Revoked: May 19, 2004.

Reason: Failed to maintain valid bonds.

License Number: 015563N.

Name: Universal Consolidated Services, Inc.

Address: 145–32 157th Street, Suite 228, Jamaica, NY 11434.

Date: May 26, 2004.

Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 04–13061 Filed 6–8–04; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
018140NF	Commonwealth Custom Broker, Inc. dba C.C.B. Logistics, dba C.C.B. Terminal, 8100 NW 29th Avenue, Miami, FL 33122.	January 14, 2004.
002652NF	IFF, Inc., 452A Plaza Drive, Atlanta, GA 30320	May 14, 2004.
004179NF	Lilly & Associates—International Freight Forwarders, Inc., 8501 NW 17th Street, Suite 101, Miami, FL 33126.	May 1, 2004.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 04–13060 Filed 6–8–04; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 23, 2004.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. Nicholas, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Charles Dale Shonkwiler, Hamilton, Montana; to acquire voting shares of Ravalli County Bankshares, Inc., Hamilton, Montana, and thereby indirectly acquire voting shares of Ravalli County Bank, Hamilton, Montana, and West One Bank, Kalispell, Montana.

Board of Governors of the Federal Reserve System, June 3, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–12963 Filed 6–8–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 23, 2004.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. The Desjardins Group, Montreal, Quebec, Canada; Federation de caisses Desjardins du Quebec, Levis, Quebec, Canada; and La Caisse centrale Desjardins du Quebec, Montreal, Quebec, Canada; to engage *de novo* through its subsidiary, not yet named (in organization), in extending credit and servicing loans, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, June 3, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–12962 Filed 6–8–04; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–04–53]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404)498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–E11, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.* Written comments should be received within 60 days of this notice.

Proposed Project

State-based Evaluation of the Alert Notification Component of CDC's Epidemic Information Exchange (Epi–X) Secure Public Health Communications

Network (OMB No. 0920—0636)—Extension Epidemiology Program Office (EPO), Centers for Disease Control and Prevention (CDC).

Great attention has been focused on improving secure public health communications networks for the dissemination of critical disease outbreak and/or bioterrorism-related events, which may have multi-jurisdictional involvement and cause disease and death within a short time-frame. A central component of the mission of the CDC's Epidemiology Program Office (EPO) is to strengthen the nation's public health infrastructure by coordinating public health surveillance at CDC and providing domestic and international support through scientific communications and terrorism preparedness and emergency response. The Office of Scientific and Health Communication's Epidemic Information Exchange (Epi-X) provides CDC and its state and local partners and collaborators with a secure public health communications network intended for routine and emergent information exchange in a secure environment.

The purpose of the information gathered during this notification proficiency testing exercise is to evaluate the extent to which new registrants and currently authorized users of the Epidemic Information Exchange (Epi-X) are able to utilize alert notification functionality to minimize or prevent unnecessary injury or disease-related morbidity and mortality through the use of secure communications and rapid notification systems. In this case, notification alerts would be sent to targeted public health professionals through a ''barrage'' of office cell phone, home telephone, and pager calls to rapidly inform key health authorities from multidisciplinary backgrounds and multiple jurisdictions of evolving and critical public health information, and assist with the decision making process. Presently, the necessity of this evaluation process is timely because of ongoing terrorism threats and acts perpetrated worldwide.

The survey information will be gathered through an online questionnaire format, and help evaluate user comprehension and facility solely with the targeted notification and rapid alerting functionalities of Epi–X. The questionnaire will consist of both closed- and open-ended items, and will be administered through Zoomerang, an online questionnaire program, or as a last resort, by telephone. Approximately 6,000 Epi–X users from every state of the union will be asked to volunteer input (in a 5–10 question format) about their experiences using the alert notification functionalities of the Epi–X communications system. There will be no cost to respondents, whose participation will be strictly voluntary. The estimated annualized burden is 500 hours.

Respondents	No. of respondents	No. of responses per respondent	Average burden per response (in hrs)	Total burden hours
State Epidemiologists and critical state public health emergency responders ...	2000	1	15/60	500
Total	2000	.....	.....	500

Dated: June 2, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04–13006 Filed 6–8–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–04–61]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Sandra Gambescia, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–E11, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.* Written comments should be received within 60 days of this notice.

Proposed Project

Survey of Public Health Laboratories regarding Volume and Type of STD Laboratory Testing Methods—New—National Center for HIV, STD, and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC). CDC is requesting OMB approval to survey public health laboratories about the volume of testing and type of laboratory testing methods for sexually transmitted diseases (STD).

In October 2002, CDC published ''Screening Tests to Detect Chlamydia trachomatis and Neisseria gonorrhoeae Infections,'' (MMWR 2002:51, No. RR–15). The purpose of this publication was to provide information for public health laboratories regarding the most effective testing methodologies for *Chlamydia trachomatis* and *Neisseria gonorrhoeae.* Because testing practices could affect the resources available to public health departments for STD screening and surveillance programs, it is critical to monitor the capacity and current practices of public health laboratories to appropriately test for these diseases.

The objectives of this proposed data collection are to: (1) Collect information about the volume of and type of testing for chlamydia and gonorrhea during calendar year 2003; (2) collect information about antimicrobial susceptibility testing for gonorrhea; and (3) collect information about the volume and type of testing for herpes simplex

virus (HSV), syphilis, human papillomavirus (HPV), bacterial vaginosis, and trichomoniasis performed in laboratories in calendar year 2003. This survey will build on data collected in 2001 by the Association of Public Health Laboratories on laboratory test methods and the volume of testing.

CDC anticipates collecting this data using an on-line survey of 140 public health laboratories. The survey will take approximately 20 minutes to complete. The only cost to respondents is their time to complete the survey.

ANNUALIZED BURDEN TABLE

Respondents	No. of respondents	No. of responses per respondent	Average burden per response (in hours)	Total burden hours
Public Health Laboratories	140	1	20/60	47
Total				47

Dated: June 3, 2004.

Alvin Hall,

Director, Management Analysis and Services Office,Centers for Disease Control and Prevention.

[FR Doc. 04–13007 Filed 6–8–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 04070]

National Center for Bioethics in Research and Health Care; Notice of Intent To Fund Single Eligibility Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to fund fiscal year (FY) 2004 funds for a cooperative agreement program to continue the support of the Tuskegee University National Center for Bioethics in Research and Health Care, and to provide funds to support the Center's mission to become the premier provider and promoter of interdisciplinary instruction, research, and community outreach by engaging institutions, individuals, health care providers, communities, and the media on bioethics-related issues of importance to African Americans and other people of color. The Catalog of Federal Domestic Assistance number for this program is 93.283 and 93.977.

B. Eligible Applicant

Assistance will be provided only to Tuskegee University. The Tuskegee University National Center for Bioethics in Research and Health Care is the only bioethics center that focuses on issues related to bioethics, minority health, and public health. The new project will continue to support the Center's mission to become a premier provider and promoter of interdisciplinary instruction, research, and community outreach by engaging institutions, individuals, health care providers, communities, and the media on bioethics-related issues of importance to African Americans and other people of color.

C. Funding

Approximately $2,000,000 is available in FY 2004 to fund this award. It is expected that the award will begin on or before June 1, 2004 and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

D. Where To Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For technical questions about this program, contact: Bryan K. Lindsey, PhD, Project Officer, 1600 Clifton Road NE., MS E–07, Atlanta, GA 30333, Telephone: 404–639–6299, E-mail: *Blindsey@cdc.gov.*

Dated: June 3, 2004.

William P. Nichols,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 04–13005 Filed 6–8–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 04099]

Requests for Applications To Determine the Pharmacokinetics of Clostridium Botulinum Neurotoxins A, B, C, E, and F; Notice of Availability of Funds—Amendment

A notice announcing the availability of fiscal year (FY) 2004 funds for a cooperative agreement, Requests for Applications to Determine the Pharmacokinetics of Clostridium Botulinum Neurotoxins A, B, C, E, and F, was published in the **Federal Register** Friday, May 14, 2004, Volume 69, Number 94, pages 26836–26841. The notice is amended as follows: Page 26837, third column, fifth paragraph, under Activities, the sentence ''Awardee activities for this program but are not limited to the following:'' should be changed to read, ''Awardee activities for this program are as follows:''.

Dated: June 3, 2004.

William P. Nichols,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 04–13004 Filed 6–8–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 04097]

Role of the Environment in the Transmission of SARS Co-v; Notice of Intent To Fund Single Eligibility Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to fund fiscal year (FY) 2004 funds for a cooperative agreement program to address several outstanding questions regarding the role of the environment in SARS transmission and to provide important information about pathogen transmission in isolation facilities, appropriate cleaning procedures, and appropriate procedures for donning/removal of personal protective equipment. The Catalog of Federal Domestic Assistance number for this program is 93.283.

B. Eligible Applicant

Assistance will be provided only to the University of North Carolina.

• Experience of UNC Staff

It is in the best interest of CDC to utilize the expertise of Drs. Sobsey, Weber and Rutala from the University of North Carolina, who have combined, over 80 years of experience in microbial inactivation studies using a wide range of microorganisms, including a wide range of viruses.

The UNC BSL3 laboratory is shared with Dr. Ralph Baric, who has spent the last twenty years studying how coronaviruses are transmitted among species. Dr. Baric currently has research support form the National Institutes of Health for a variety of research projects involving SARS. Thus, UNC has the unique opportunity to collaborate with Dr. Baric, one of the world's experts in coronaviruses.

Lastly, UNC has a cadre of researchers that are well trained in microbial inactivation studies and have published several hundred papers on this subject.

• Urgency of the Need to Address the SARS Co-v Research Questions

The emergence of severe acute respiratory syndrome (SARS) produced an international health emergency in the late winter and into early spring in 2003. By early July there were an estimated 8,439 probable cases and 812 deaths from severe acute respiratory syndrome (SARS) identified from 30 countries (URL: *http://www.who.int/csr/sars/en/*). A newly described coronavirus SARS-CoV was implicated. SARS outbreaks were reported in China (Beijing, Guandong, and Hong Kong), Vietnam (Hanoi), Singapore, Taiwan, and Canada (Toronto). During the outbreak SARS-CoV was being transmitted both in the community and in the healthcare facilities.

• Immediate Availability of BSL3 Laboratory

The University of North Carolina BSL3 laboratory is now available to conduct the research. This will enable a timely response to research questions regarding how long infectious virus can persist on common hospital environmental surfaces, wastewater, etc., or the role of personal protective equipment for protecting health-care workers. While other institutions may have BSL3 capability, the facilities are usually restricted to use with a limited number of infectious agents. For example, a facility conducting work on Mycobacterium tuberculosis would not use the same BSL3 facility for working with coronaviruses, since disinfection schemes would be different, and the necessity for cell culture materials and unique pieces of equipment would likely require remodeling. A facility such as that at UNC that is already equipped to work with coronoaviruses saves considerable expense in retooling a BSL3 to work with this virus.

C. Funding

Approximately $500,000 is available in FY 2004 to fund this award. It is expected that the award will begin on or before July, 2004, and will be made for a 18 month budget period within a project period of up to 18 months. Funding estimates may change.

D. Where To Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For technical questions about this program, contact: Matthew Arduino, Dr.P.H., Extramural Project Officer, Division of Healthcare Quality Promotion, Epidemiology and Laboratory Branch, NCID, 1600 Clifton Road, NE. Building 17, Room 4211 C–16, Telephone: (404) 639–2318, E-mail: *MAarduino@cdc.gov.*

Dated: June 3, 2004.

William P. Nichols,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 04–13003 Filed 6–8–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2002D–0509]

International Conference on Harmonisation; Guidance on the M4 Common Technical Document—Quality: Questions and Answers/Location Issues; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled ''M4: The CTD—Quality: Questions and Answers/Location Issues.'' The guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). This guidance provides further clarification for preparing the quality components of an application file in the common technical document (CTD) format. The guidance addresses the relationship between linked sections for certain parameters (such as polymorphism and particle size), and it addresses location issues (by indicating the section in which to place requested information). The guidance is intended to ease the preparation of paper and electronic submissions, facilitate regulatory reviews, and simplify the exchange of regulatory information among regulatory authorities.

DATES: Submit written or electronic comments on the guidance at any time.

ADDRESSES: Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments.* Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. The guidance may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800. Send two self-addressed adhesive labels to assist the office in processing

your requests. Requests and comments should be identified with the docket number found in brackets in the heading of the document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Justina A. Molzon, Center for Drug Evaluation and Research (HFD–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5400; or Christopher C. Joneckis, Center for Biologics Evaluation and Research (HFM–20), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0833.

Regarding the ICH: C. Michelle Limoli, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0908.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health, Labour, and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In the **Federal Register** of October 16, 2001 (66 FR 52634), FDA made available the ICH guidance entitled ''M4 Organization of the Common Technical Document for the Registration of Pharmaceuticals for Human Use'' (M4 CTD), which describes a harmonized format for new product applications (including applications for biotechnology-derived products) for submission to the regulatory authorities in the three ICH regions. The M4 CTD guidance was made available in four parts: (1) A description of the organization of the M4 CTD; (2) the quality section; (3) the safety, or nonclinical, section; and (4) the efficacy, or clinical, section.

In the **Federal Register** of December 30, 2002 (67 FR 79639), FDA published a notice announcing the availability of a draft tripartite guidance entitled ''Common Technical Document—Quality: Questions and Answers/Location Issues.'' The notice gave interested persons an opportunity to submit comments by February 28, 2003. After consideration of the comments received and revisions to the guidance, a final draft of the guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies in July 2003.

This guidance provides further clarification for preparing the quality components of an application in the CTD–Q format. The guidance addresses the relationship between linked sections for certain parameters, such as polymorphism and particle size. The guidance also addresses location issues by indicating the section in which to place requested information. The guidance is intended to ease the preparation of paper and electronic submissions, facilitate regulatory reviews, and simplify the exchange of regulatory information among regulatory authorities.

This guidance represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the guidance. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/cder/guidance/index.htm*, *http://www.fda.gov/cber/publications.htm*, or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: June 3, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 04–13064 Filed 6–8–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2000D–1392]

Guidance for Industry on Botanical Drug Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Botanical Drug Products.'' FDA has revised a draft guidance issued on August 11, 2000, in response to comments from industry and other interested persons. The guidance explains the circumstances under which FDA regulations require approval of a new drug application (NDA) for marketing of a botanical drug product and when such a product may be marketed under an over-the-counter (OTC) drug monograph. It also provides guidance to sponsors on submitting investigational new drug applications (INDs) for botanical drug products.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information (HFD–

240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Shaw T. Chen, Center for Drug Evaluation and Research (HFD–105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2601.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 11, 2000 (65 FR 49247), FDA published a notice announcing the availability of a draft guidance for industry entitled ''Botanical Drug Products.'' In a notice published in the **Federal Register** of December 15, 2000 (65 FR 78496), FDA reopened the comment period on the draft guidance until March 15, 2001.

FDA received a number of comments on the botanical drugs draft guidance. FDA has made a few substantive changes along with several editorial revisions to the draft guidance. For example, FDA has revised the guidance to emphasize the importance of maintaining batch-to-batch consistency in the drug substance and drug product used throughout the clinical development process. FDA also is adding to the final guidance a section that provides answers to what the agency expects may be frequently asked questions concerning the guidance.

II. Description of the Guidance

The guidance is intended to encourage the clinical study and submission for marketing approval of botanical drug products. The guidance explains the circumstances under which FDA regulations require approval of an NDA submitted under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) before marketing a botanical drug and when such a drug may be marketed under an OTC drug monograph. The guidance also provides scientific and regulatory guidance to sponsors about conducting initial and expanded clinical investigations of botanical drugs, including those botanical products currently lawfully marketed as foods and dietary supplements in the United States.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on the development of botanical drug products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the guidance at any time. Two copies of mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. The Paperwork Reduction Act of 1995

This guidance contains no new information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The guidance explains the circumstances under which FDA regulations require approval of an NDA for marketing a botanical drug product and when such a product may be marketed under an OTC drug monograph. The regulations governing the preparation and submission of an NDA are in part 314 (21 CFR part 314), and the guidance does not contain any recommendations that exceed the requirements of these regulations. FDA estimated the information collection requirements resulting from the preparation and submission of an NDA, and OMB approved the reporting and recordkeeping burden until March 31, 2005, under OMB control number 0910–0001. FDA anticipates that any NDAs submitted for botanical drug products would be included under the burden estimates approved by OMB for part 314.

The regulations on the procedures for classifying OTC drugs as generally recognized as safe and effective and not misbranded, and for establishing OTC drug monographs, are set forth in § 330.10 (21 CFR 330.10). FDA believes that any botanical drug products that may be eligible for inclusion in an OTC drug monograph under current § 330.10 have already been or presently are being considered for such inclusion.

The guidance also provides scientific and regulatory guidance to sponsors on conducting clinical investigations of botanical drugs. The regulations governing the preparation and submission of INDs are in part 312 (21 CFR part 312). The guidance does not contain any recommendations that exceed the requirements in those regulations. FDA estimated the information collection requirements resulting from the preparation and submission of an IND under part 312, and OMB approved the reporting and recordkeeping burden until January 31, 2006, under OMB control number 0910–0014.

V. Electronic Access

Persons with access to the Internet may obtain this guidance at *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: June 2, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 04–13031 Filed 6–8–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG 2003–16298]

Information Collection Under Review by the Office of Management and Budget (OMB): 1625–0080, Customer Satisfaction Surveys

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded one Information Collection Report (ICR), Customer Satisfaction Surveys, to the Office of Information and Regulatory Affairs (OIRA) of the OMB for review and comment. Our ICR describes the information we seek to collect from the public. Review and comment by OIRA ensures that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before July 9, 2004.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG 2003–16298]

more than once, please submit them by only one of the following means:

(1)(a) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. (b) By mail to OIRA, 725 17th Street, NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard. Caution: Because of recent delays in the delivery of mail, your comments may reach the Facility more quickly if you choose one of the means described below.

(2)(a) By delivery to room PL–401 at the address given in paragraph (1)(a) above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. (b) By delivery to OIRA, at the address given in paragraph (1)(b) above, to the attention of the Desk Officer for the Coast Guard.

(3) By fax to (a) the Facility at 202–493–2298 and (b) OIRA at 202–395–5806, or e-mail to OIRA at *oira_docket@omb.eop.gov* attention: Desk Officer for the Coast Guard.

(4)(a) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.* (b) OIRA does not have a website on which you can post your comments.

The Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 (Plaza level), 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICR are available for inspection and copying in public dockets. They are available in docket USCG 2003–16298 Docket Management Facility between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays; for inspection and printing on the internet at *http://dms.dot.gov;* and for inspection from the Commandant (CG–611), U.S. Coast Guard, room 6106, 2100 Second Street, SW., Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, 202–267–2326, for questions on this document; Ms. Andrea M. Jenkins, Program Manager, U.S. Department of Transportation, 202–366–0271, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this request for comment by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov,* and they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG 2003–16298], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Regulatory History

This request constitutes the 30-day notice required by OIRA. The Coast Guard has already published the 60-day notice required by OIRA (68 FR 60110, October 21, 2003). That notice elicited no comments.

Request for Comments

The Coast Guard invites comments on the proposed collection of information to determine whether the collection is necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collection; (2) the accuracy of the Department's estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collection; and (4) ways to minimize the burden of collection on respondents, including the use of automated collection techniques or other forms of information technology.

Comments, to DMS or OIRA, must contain the OMB Control Number of the ICR addressed. Comments to DMS must contain the docket number of this request, USCG 2003–16298 comments to OIRA are best assured of having their full effect if OIRA receives them 30 or fewer days after the publication of this request.

Information Collection Request

Title: Customer Satisfaction Surveys.

OMB Control Number: 1625–0080.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Affected Public: Recreational boaters, commercial mariners, industry groups, and State and local governments.

Form: This collection of information does not require the public to fill out forms, but does require submitting information to the Coast Guard in written or electronic format.

Abstract: Putting people first means ensuring that the Federal Government provides the highest quality of service possible to the American people. Executive Order 12862, requires that all executive departments and agencies providing significant services directly to the public seek to meet established standards of customer service and (1) identify the customers who are, or should be, served by the agency and (2) survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.

Burden: The estimated burden is 5,847 hours a year. This estimate represents an increase of 847 hours from the estimate in our 60-day notice.

Dated: May 27, 2004.

Clifford I. Pearson,

Assistant Commandant for C4 and Information Technology.

[FR Doc. 04–12966 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2004–17971]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Numbers: 1625–0019, 1625–0041, 1625–0062, 1625–0088, and 1625–0092

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of five Information Collection Requests (ICRs). The ICRs comprise (1) 1625–0019, Alternative Compliance for International and Inland Navigation Rules—33 CFR Parts 81 and 89; (2) 1625–0041, Various International Agreement Pollution Prevention Certificates and Documents, and Equivalency Certificates; (3) 1625–0062, Approval of Alterations to Marine Portable Tanks; Approval of Non-Specification Portable Tanks; (4) 1625–0088, Voyage Planning for Tank Barge Transits in the Northeast United States; and (5) 1625–0092, Sewage and Graywater Discharge Records for Certain Cruise Vessels Operating on Alaskan Waters. Before submitting the ICRs to OMB, the Coast Guard is inviting comments on them as described below.

DATES: Comments must reach the Coast Guard on or before August 9, 2004.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG–2004–17971] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. Caution: Because of recent delays in the delivery of mail, your comments may reach the Facility more quickly if you choose one of the other means described below.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov,* and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Mr. Arthur Requina), 2100 Second Street, SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, 202–267–2326, for questions on these documents; or Ms. Andrea M. Jenkins, Program Manager, U.S. DOT, 202–366–0271, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this request for comment by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov,* and they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act''' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG–2004–17971], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Information Collection Requests

1. *Title:* Alternative Compliance for International and Inland Navigation Rules—33 CFR Parts 81 and 89.

OMB Control Number: 1625–0019.

Summary: The information collected provides an opportunity for an owner, operator, builder, or agent of a unique vessel to present their reasons why the vessel cannot comply with existing International/Inland Navigation Rules and how alternative compliance can be achieved. If appropriate, a Certificate of Alternative Compliance is issued.

Need: Certain vessels cannot comply with the International Navigation Rules (33 U.S.C. 1601–1608) and Inland Navigation Rules (33 U.S.C. 2001–2073). The Coast Guard thus provides an opportunity for alternative compliance. However, it is not possible to determine whether alternative compliance is appropriate, or what kind of alternative procedures might be necessary, without this collection.

Respondents: Vessel owners, operators, builders and agents.

Frequency: One-time application.

Burden Estimate: The estimated burden is 180 hours a year.

2. *Title:* Various International Agreement Pollution Prevention

Certificates and Documents, and Equivalency Certificates.

OMB Control Number: 1625–0041.

Summary: Required by the adoption of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), these certificates and documents are evidence of compliance with this convention for U.S. vessels on international voyages. Without the proper certificates or documents, a U.S. vessel could be detained in a foreign port.

Need: Compliance with MARPOL 73/78 aids in the prevention of pollution from ships.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden is 6,780 hours a year.

3. *Title:* Approval of Alterations to Marine Portable Tanks; Approval of Non-Specification Portable Tanks.

OMB Control Number: 1625–0062.

Summary: The information will be used to evaluate the safety of proposed alterations to marine portable tanks and non-specification portable tank designs used to transfer hazardous materials during offshore operations, *e.g.*, drilling rigs.

Need: Approval by the Coast Guard of alterations to marine portable tanks ensures that the altered tank retains the level of safety to which it was originally designed. In addition, rules that allow for the approval of non-specification portable tanks ensure that innovation and new designs are not frustrated by the regulation.

Respondents: Owners of marine portable tanks and owners/designers of non-specification portable tanks.

Frequency: On occasion.

Burden Estimate: The estimated burden is 18 hours a year.

4. *Title:* Voyage Planning for Tank Barge Transits in the Northeast United States.

OMB Control Number: 1625–0088.

Summary: The information collection requirement for a voyage plan serves as a preventive measure and assists in ensuring the successful execution and completion of a voyage in the First Coast Guard District. This rule (33 CFR 165.100) applies to primary towing vessels engaged in towing certain tank barges carrying petroleum oil in bulk as cargo.

Need: The information for a voyage plan will provide a mechanism for assisting vessels towing tank barges to identify those specific risks, potential equipment failures, or human errors that may lead to accidents.

Respondents: Owners and operators of towing vessels.

Frequency: On occasion.

Burden Estimates: The estimated burden is 420 hours a year.

5. *Title:* Sewage and Graywater Discharge Records for Certain Cruise Vessels Operating on Alaskan Waters.

OMB Control Number: 1625–0092.

Summary: To comply with Title XIV of Public Law 106–554, 114 STAT. 2763A–315, this information collection is needed to enforce sewage and graywater discharges requirements from certain cruise ships operating on Alaskan waters.

Need: Title 33 CFR part 159 subpart E prescribes regulations governing the discharge of sewage and graywater from cruise vessels, requires sampling and testing of sewage and graywater discharges, and establishes reporting and recordkeeping requirements.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Burden Estimates: The estimated burden is 910 hours a year.

Dated: May 27, 2004.

Clifford I. Pearson,

Assistant Commandant for C4 and Information Technology.

[FR Doc. 04–12967 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[USCG–2004–17696]

Freeport-McMoRan Energy LLC Main Pass Energy Hub Liquefied Natural Gas Deepwater Port License Application

AGENCY: Coast Guard, DHS; and Maritime Administration, DOT.

ACTION: Notice of application.

SUMMARY: The Coast Guard and the Maritime Administration (MARAD) give notice, as required by the Deepwater Port Act of 1974, as amended, that they have received an application for the licensing of a deepwater port, and that the application appears to contain the required information. This notice summarizes the applicant's plans and the procedures that will be followed in considering the application.

DATES: Any public hearing held in connection with this application must be held no later than February 4, 2005, and it would be announced in the **Federal Register**. A decision on the application must be made within 90 days after the last public hearing held on the application.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2004–17696 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Web site: *http://dms.dot.gov.*

(2) Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

(3) Fax: 202–493–2251.

(4) Delivery: Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(5) Federal eRulemaking Portal: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call Mr. Kenneth Smith at 202–267–0578, or e-mail at *KNSmith@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, telephone 202–366–0271.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

You may submit comments concerning this application. All comments received will be posted, without change, to *http://dms.dot.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use their Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this rulemaking (USCG–2004–17696), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they

reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

Viewing comments and documents: To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Receipt of application; determination. On February 27, 2004, the Coast Guard and MARAD received an application from Freeport-McMoRan Energy LLC (FME), 1615 Poydras Street, New Orleans, Louisiana 70112 for all federal authorizations required for a license to own, construct and operate a deepwater port off the coast of Louisiana. Supplemental information was furnished at our request on May 10, 2004. On May 24, 2004, we determined that the application contains all information required by the Deepwater Port Act of 1974, as amended, 33 U.S.C. 1501 *et seq.* (the Act). The application and related documentation supplied by the applicant (except for certain protected information specified in 33 U.S.C. 1513) will be available in the public docket (*see* **ADDRESSES**).

Background. According to the Act, a deepwater port is a fixed or floating manmade structure other than a vessel, or a group of structures, located beyond State seaward boundaries and used or intended for use as a port or terminal for the transportation, storage, and further handling of oil or natural gas for transportation to any State.

A deepwater port must be licensed, and the Act provides that a license applicant submit detailed plans for its facility to the Secretary of Transportation, along with its application. The Secretary has delegated the processing of deepwater port applications to the U.S. Coast Guard and MARAD. The Act allows 21 days following receipt of the application to determine if it contains all required information. If it does, we must publish a notice of application in the **Federal Register** and summarize the plans. This notice is intended to meet those requirements of the Act and to provide general information about the procedure that will be followed in considering the application.

Application procedure. The application is considered on its merits. The U.S. Coast Guard and the Maritime Administration (MARAD) will prepare an environmental impact statement (EIS) for this project. Under the Act, we must hold at least one public hearing within 240 days from the date this notice is published. A separate **Federal Register** notice will be published to notify interested parties of any public hearings that are held. At least one public hearing must be held in each adjacent coastal state. Pursuant to 33 U.S.C. 1508, we designate Louisiana, Alabama and Mississippi as adjacent coastal states for this application. Other states may apply for adjacent coastal state status in accordance with 33 U.S.C. 1508(a)(2). After the last public hearing, Federal agencies have 45 days in which to comment on the application, and approval or denial of the application must follow within 90 days of the last public hearing. Details of the application process are described in 33 U.S.C. 1504 and in 33 CFR part 148.

Summary of the application. The application plan calls for the proposed deepwater port to be located in the Gulf of Mexico on the Outer Continental Shelf (OCS), approximately 16 miles offshore southeast Louisiana in Main Pass Block 299. It will be located in a water depth of approximately 210 feet (64 meters). The proposed location is a former sulphur mining facility. The project would utilize four existing platforms, along with associated bridges and support structures, with appropriate modifications and additions as part of the deepwater port. Two new platforms will be constructed to support liquefied natural gas (LNG) storage tanks, and a patent-pending berthing system to berth the LNG carriers will be installed.

FME proposes the installation of approximately 192 miles of natural gas and natural gas liquid (NGL) transmission pipelines on the OCS, varying in size ranging from 12 to 36 inches in diameter. Five proposed pipelines would connect the deepwater port with several existing gas distribution pipelines, one of which would connect with a gas distribution pipeline near Coden, Alabama. NGL derived from natural gas conditioning (*i.e.* ethane, propane, and butanes) would be delivered via a 12-inch pipeline to an existing NGL facility near Venice, Louisiana. A proposed metering platform is to be installed at Main Pass 164 and would also provide a tie-in location for two lateral transmission lines.

The proposed project will sit atop a salt dome, approximately 2 miles in diameter. An on-site total gas storage capacity of approximately 28 billion cubic feet would be provided in three salt caverns to be constructed under the deepwater port.

The deepwater port facility would consist of LNG storage tanks, LNG carrier berthing provisions, LNG unloading arms, low and high pressure pumps, vaporizers, a gas conditioning plant, salt cavern gas storage, compression, dehydration, metering, utility systems, general facilities and accommodations. The terminal would be able to receive LNG carriers ranging in capacity between 60,000 and 160,000 cubic meters. LNG would be stored in six tanks located on two new fixed platforms. Each tank would have an approximate gross capacity of 24,660 cubic meters, for a total net capacity of approximately 145,000 cubic meters. Four unloading arms would be provided to offload the LNG carriers at a rate of 10,500 to 12,000 cubic meters per hour. The facility would have living quarters to routinely accommodate up to 50 personnel, but would be capable of accommodating up to 94 personnel for brief periods.

FME Main Pass Energy Hub would be designed to handle a nominal capacity of 7.0 million metric tons per year of LNG, or 350 billion cubic feet per year of gas. This is equivalent to an average delivery of approximately 1.0 billion cubic feet per day (bcfd). The facility would be capable of delivering a peak of 1.6 bcfd of pipeline-quality natural gas during periods of high demand, and a peak of 85,000 barrels per day of natural gas liquid.

Dated: June 2, 2004.

J. G. Lantz,

Acting Director of Standards, Marine Safety, Security, and Environmental Protection, U.S. Coast Guard.

H. Keith Lesnick,

Senior Transportation Specialist, Deepwater Ports Program Manager, U.S. Maritime Administration.

[FR Doc. 04–12965 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–EU–24 1A]

Extension of Approved Information Collection, OMB Approval Number 1004–0153

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is requesting the Office of Management and Budget (OMB) to extend an existing approval to collect information from persons who seek to acquire the Federally-owned (reserved) mineral interests underlying their surface estate. BLM collects this information to verify that the applicant is the surface owner that overlies the Federally-owned minerals and that statutory requirements for their conveyance are met. The regulations under 43 CFR Part 2720 authorize BLM to collect information (no specific form is required) to convey Federally-owned mineral interests to surface owners if certain conditions are met.

DATES: You must submit your comments to BLM at the address below on or before August 9, 2004. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Bureau of Land Management, (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0153'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Alzata L. Ransom, Realty Use Group, on (202) 452–7772 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Ransom.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden 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.

Section 209 of the Federal Land Policy and Management Act of 1976 and implementing regulations at 43 CFR 2720 establish procedures for BLM to convey Federally-owned (reserved) mineral interests to non-Federal surface ownership. The regulations authorize BLM to collect this information (no specific form is required) to determine if BLM may convey the Federally-owned mineral interests to surface owners who apply and meet the statutory requirements. We list in 43 CFR 2720.1–2 the specific information requirements you must submit when applying for a conveyance of Federally-owned mineral interests. Without this information, BLM would not be able to analyze and approve applications to convey Federally-owned mineral interests.

Based upon BLM experience administering the regulations, we estimate the public reporting information collection burden to be 10 hours per application. The respondents are surface owners in which the mineral interests are reserved or owned by the United States. The estimated number of responses per year is 30 and the total annual burden is 300 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: June 4, 2004.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 04–13019 Filed 6–8–04; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–930–1310–DP–NEAM]

Proposed Amendment to the Integrated Activity Plan for the Northeast National Petroleum Reserve—Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability and announcement of public subsistence-related hearing schedule.

SUMMARY: The Bureau of Land Management announces the availability of the Draft Amendment to the Northeast National Petroleum Reserve—Alaska (NPR–A) Integrated Activity Plan/Environmental Impact Statement (IAP/EIS). The planning area is roughly bounded by the Beaufort Sea to the North, the Ikpikpuk River to the west and the Colville River to the east and south of the planning area (Map 1–3). In November 2000, Congress passed and the President signed the Energy Policy and Conservation Act Amendments of 2000 (EPCA), which directed the Secretary of the Interior, in consultation with the Secretaries of Energy and Agriculture, to conduct an inventory of oil and natural gas resources beneath federal lands and to identify the extent and nature of any restrictions or impediments to the development of these resources. In 2002, the President's National Energy Policy Development Group recommended that the President direct the Secretary of the Interior to consider additional environmentally responsible oil and gas development, based on sound science and the best available technology, through further lease sales in the National Petroleum Reserve—Alaska and that such consideration should include areas not currently leased within the northeast corner of the National Petroleum Reserve—Alaska.

ADDRESSES: Written comments should be sent to: NPR–A Planning Team, Bureau of Land Management, Alaska State Office (931), 222 West 7th Avenue, Anchorage, Alaska 99513–7599. Comments can also be submitted at the project Web site *http://nenpra.ensr.com.* Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. BLM will not consider anonymous comments. All submissions from

organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety. The amended DIAP/DEIS will be available in either hard copy or on compact disks at the Alaska State Office Public Room at 222 West 7th Avenue, Anchorage, Alaska 99513–7599 at the above address. The entire document can also be reviewed at the project Web site *http://www.ak.blm.gov/nwnpra.*

FOR FURTHER INFORMATION CONTACT: Susan Childs (907) 271–1945; *7susan_childs@ak.blm.gov*) or Mike Kleven (907) 474–2317, *Mike_Kleven@ak.blm.gov.*

SUPPLEMENTARY INFORMATION: This IAP/EIS amendment contains three alternatives for a land management plan for the 4.6 million-acre planning area and assessments of each plan's impacts on the surface resources present there. These alternatives provide varying answers to two primary questions that are consistent with EPCA and the President's Energy Policy. First, will BLM conduct oil and gas lease sales in the planning area on lands currently unavailable or surface-restricted, and, if so, which of those lands will be made available for leasing? Second, what measures should BLM develop to protect important surface resources during oil and gas activities?

Alternative A, the No Action Alternative, makes approximately 87 percent of 4.6 million acres available for oil and gas leasing and calls for no change from the status quo rendered under the 1998 Record of Decision (ROD) for the Northeast National Petroleum Reserve—Alaska. Under Alternative A, no leasing would occur on lands currently unavailable, and the existing No Surface Restrictions would be maintained. Alternatives B, the Preferred Alternative, and C make progressively more land available to leasing. Alternative B makes approximately 96% percent of 4.6 million acres in the planning area available for oil and gas leasing, and Alternative C makes 100 percent of 4.6 million acres in the planning area available for oil and gas leasing. Mitigating measures would provide protections for natural and cultural resources under all alternatives, but their nature, number and scope would vary among alternatives.

Alternative A would maintain the current land allocation that makes approximately 840,000 acres either unavailable (600,000 ac) or surface restricted (240,000) to leasing. It maintains the 79 prescriptive stipulations set forth in the 1998 ROD. The Preferred Alternative, Alternative B, makes approximately 213,000 acres of sensitive bird habitat north of Teshekpuk Lake unavailable to leasing. This alternative also contains a mitigation package that is comprised of a combination of prescriptive and performance-based mitigations very similar to those developed for the 2004 Northwest National Petroleum Reserve—Alaska ROD. Performance-based mitigations provide the BLM and other land users, including industry, greater flexibility by emphasizing the intent or objective of the mitigation to protect the environment. In addition, there are site-specific mitigations protecting key biological resources throughout the planning area. Alternative C contains no land allocation prohibiting leasing, and includes performance-based mitigations similar to those in Alternative B and site-specific mitigations protecting identified key biological resources throughout the planning area.

The Secretary of the Interior is authorized to identify specific lands in the NPR–A as ''Special Areas'', and there are two previously designated Special Areas within the planning area—The Colville River Special Area and the Teshekpuk Lake Special Area. As required by 43 CFR 2361.1, all three alternatives proposed through this amendment process, using stipulations, Required Operating Procedures (ROPs), and allocation decisions, mitigate or avoid unnecessary surface damage and miminize ecological disturbance throughout the reserve to the extent consistent with the requirement of the National Petroleum Reserve Protection Act (NPRPA) for the exploration of the reserve. Also, each alternative presents for public comment a different approach to providing maximum protection to surface resources within designated Special Areas.

Public participation has occurred throughout the period since the Notice of Intent to Prepare the Amendment and Environmental Impact Statement was published on June 23, 2003. In addition to holding scoping meetings in Anaktuvuk Pass, Nuiqsut, Atqasuk, Barrow, Fairbanks and Anchorage, several public meetings have addressed important issues within the planning area. The planning area provides particularly important habitat for caribou, waterfowl and other species and many of the local residents of the area rely on harvesting these resources for subsistence purposes. Ensuring adequate protection of these resources has been one of the driving forces behind the meetings to seek input from a variety of public sources with information in related fields. Information from these meetings has also been helpful in developing this draft document.

The BLM has worked closely with native communities within or adjacent to the planning area in developing this draft IAP/EIS. In addition to native representatives, the State of Alaska, the North Slope Borough, and other Federal agencies have participated in meetings that identified areas of concern to be addressed during the development of the alternatives presented here. BLM is solely responsible for the form of alternatives evaluated.

Section 810 of the Alaska National Lands Conservation Act requires the BLM to evaluate the effects of the alternatives presented in this DEIS on subsistence activities in the area of the proposed action and alternatives, and to hold public hearings if it finds that any alternative may significantly restrict subsistence activities. The analysis of environmental consequences indicates that Alternative C and the cumulative case for all alternatives may significantly restrict subsistence activities. Therefore, the BLM will hold public hearings on subsistence in conjunction with the public meetings in the potentially affected communities.

DATES: Written comments on the Amended DIAP/DEIS will be accepted for 45 days following the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register**. Future meetings or hearings and any other public-involvement activities will be announced at least 15 days in advance through public notices, media news releases, and/or mailings. Authority for developing this document is derived from the Federal Land Policy and Management Act, the Naval Petroleum Reserves Production Act of 1976 and the National Environmental Policy Act (NEPA).

Copies of the draft IAP/EIS amendment will be available for public review at the following locations: Tuzzy Public Library, Barrow, AK; City of Nuiqsut, Nuiqsut, AK; City of Atqasuk, Atqasuk, AK; City of Anaktuvuk Pass, Anaktuvuk Pass, AK; Z.J. Loussac Public Library, Anchorage, AK; Noel Wien Public Library, Fairbanks, AK.

Dated: March 31, 2004.

Curtis J. Wilson,

Acting Chief, Planning and Resources, Alaska State Office.

[FR Doc. 04–13016 Filed 6–8–04; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–912–04–1990–PP–241A–006F]

Sierra Front-Northwestern Great Basin Resource Advisory Council; Notice of Meeting Location and Time

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting location and time for the Sierra Front-Northwestern Great Basin Resource Advisory Council (Nevada).

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), a meeting of the U.S. Department of the Interior, Bureau of Land Management (BLM) Sierra Front-Northwestern Great Basin Resource Advisory Council (RAC), Nevada, will be held as indicated below. Topics for discussion at the meeting will include, but are not limited to: Manager's reports of current field office activities; Recreation Fee Demonstration fees-expenses report and trail compliance monitoring for Sand Mountain Recreation Area; project updates on the North Valleys Water Projects EIS and the Churchill County Resource Management Plan (RMP) Amendment/EIS; status of proposed geothermal and wind energy projects; status of northern Nevada acquisition projects funded under the Southern Nevada Public Lands Management Act; RAC Chair report on the national RAC Chairs meeting held in Phoenix on May 11–13, 2004; and additional topics the council may raise during the meeting.

DATE AND TIME: The RAC will meet on Tuesday, July 27, 2004, from 9 a.m. to 5 p.m., and on Wednesday, July 28, 2004, from 8 a.m. to 3 p.m., at Sturgeon's Ramada Inn & Casino, Center Club Room, 1420 Cornell, Lovelock, Nevada. A field trip for the RAC will be conducted on July 28, 2004, to the Nevada Cement site near Rye Patch Reservoir, Lovelock Indian Cave and its associated Scenic Byway, Rochester Mine, and lunch at either Rye Patch State Recreation Area or Lovelock Cave. All meetings and field trips are open to the public. A general public comment period, where the public may submit oral or written comments to the joint RACs, will be held at 4 p.m. on Tuesday, July 27, 2004.

A final detailed agenda, with any additions/corrections to agenda topics and meeting times, will be available on the internet no later than July 13, 2004, at *http://www.nv.blm.gov/rac;* hard copies can also be mailed or sent via FAX. Individuals who need special assistance such as sign language interpretation or other reasonable accommodations, or who wish a hard copy of the agenda, should contact Mark Struble, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701, telephone (775) 885–6107, no later than July 20, 2004.

FOR FURTHER INFORMATION CONTACT: Mark Struble, Public Affairs Officer, BLM—Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701. Telephone: (775) 885–6107. E-mail: *mstruble@nv.blm.gov.*

Dated: June 3, 2004.

Donald T. Hicks,

Field Office Manager, BLM—Carson City Field Office.

[FR Doc. 04–13008 Filed 6–8–04; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–020–1430–EU]

Notice of Intent To Prepare a Resource Management Plan Amendment for the Dune Allen II Tract

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: The Bureau of Land Management Eastern States (BLM–ES) Jackson Field Office, in Jackson, Mississippi, is initiating the preparation of a Resource Management Plan Amendment to consider the disposal of public land (Dune Allen II Tract) in Walton County, Florida. This action will require the preparation of an Environmental Assessment (EA).

DATES: Submit comments on or before July 9, 2004.

ADDRESSES: Send written comments to BLM-ES, Jackson Field Office; 411 Briarwood Drive, Suite 404, Jackson MS 39206.

FOR FURTHER INFORMATION CONTACT: Elizabeth Allison, Land Use Planner, (601) 977 4413

SUPPLEMENTARY INFORMATION: The RMP Amendment will consider the disposal (direct sale) of public land located in:

Tallahassee Meridian, Florida

T. 3 S., R. 10 W.
Sec. 3, Lot 37

Containing 0.58 acres, more or less.

The land is identified as the Dune Allen II tract in the Florida Proposed Resource Management Plan and Final Environmental Impact Statement (October 1994) and Florida Resource Management Plan and Record of Decision (September 1995). The Palms of Dune Allen Homeowners Association, a non-profit organization, has proposed to purchase, by direct sale, from the United States 0.58 of an acre of public land in Walton County, Florida. The Dune Allen II tract has a boardwalk crossing the dune area (October 1994 RMP). The continued, proposed use of the land, if it is sold, would essentially be limited to the maintenance and use of the boardwalk. The beachfront property lies on the Gulf of Mexico in the Florida panhandle. The coastal environment adjacent to the land has been substantially modified by construction of roads, beach houses and condominiums. The land is closed to off-highway vehicle (OHV) use (October 1994 RMP).

Preliminary Topic

The preliminary topic, for this planning effort, has been identified by BLM personnel. The anticipated topic, that will be addressed in the RMP Amendment, is limited to the proposed transfer of land from government ownership to private ownership. If the tract were to be transferred to private ownership, protective covenants would be included with the transfer of title. These protective covenants would ensure the land is used for both the maintenance of the boardwalk and public access to the beach. This notice initiates the public scoping process.

BLM staff will review additional concerns raised by the public. Determinations will be made as to whether they (1) will be addressed in the RMP Amendment or (2) are outside the scope of the RMP Amendment.

Planning Criteria

Preliminary planning criteria have been developed to guide the preparation of this RMP Amendment and are listed below.

1. Land use planning (RMP Amendment) and environmental analysis (EA) will be conducted in accordance with laws, regulations, executive orders and manuals. Planning will be conducted for the land under the administration of BLM.

2. Land use policy, for either the continued retention or proposed disposal of this land, will determine for this BLM-administered land after the RMP Amendment is completed.

3. Resource data, needed to evaluate the impacts of the proposed sale of this land, will be collected, as needed.

4. BLM staff will work cooperatively with (a) county and local governments and agencies, (b) groups and organizations and (c) individuals. These

criteria are not final and may be refined by public input (comment).

Multiple Resource Considerations

An interdisciplinary team approach will be used, as needed, to address resource issues in this RMP Amendment. The tentative resource programs that will be addressed include lands and realty, socioeconomics, soils, water, and wildlife.

Public Participation

This notice initiates the National Environmental Policy Act (NEPA) public scoping process (CFR, Title 43, part 1610, Section 2(c) and Title 40, part 1501, Section 7). The BLM will work collaboratively with interested parties to identify the management decision that is best suited to local needs and concerns. The public is invited to participate in this planning process, beginning with the identification of issues and planning criteria for the RMP Amendment. Comments relating to the preliminary issues and planning criteria (listed above) can be submitted in writing to BLM–ES Jackson Field Office; 411 Briarwood Drive, Suite 404, Jackson MS 39206.

This planning process will emphasize localized one-to-one contacts and continual coordination and collaboration. Meetings may be held, if they are needed to (1) determine the scope of the RMP Amendment and (2) obtain input on issues and planning criteria. All public meetings will be announced through the local news media at least 15 days prior to the event.

Confidentiality

Individuals who submit comments may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. BLM will not consider anonymous comments. All submissions from (1) organizations and businesses and (2) individuals identifying themselves as representatives or officials of organizations or businesses will be available for public review in their entirety.

Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. The BLM also accepts comments and data on disks in WordPerfect 7 (and higher) and Word 97 (and higher) file formats or the ASCII file format. Identify all comments and data in electronic form by the docket number [PP 4F4327/R2253].

(Authority: 43 U.S.C. 1711–1712, CFR Title 43, part 1610, Section 2(c); 42 U.S.C. 4321 *et seq*., CFR Title 40, part 1507, Section 7.)

Dated: April 22, 2004.

Michael D. Nedd,

State Director.

[FR Doc. 04–13000 Filed 6–8–04; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0039

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

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans, 30 CFR 784, has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by July 9, 2004, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783, or electronically to *jtreleas@osmre.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). OSM has submitted a request to OMB to renew its approval of the collection of information contained in: Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans, 30 CFR part 784. OSM is requesting a 3-year term of approval for the information collection activity.

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 number for this collection of information is 1029–0039.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection of information was published on January 23, 2004 (69 FR 3389). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans, 30 CFR 784.

OMB Control Number: 1029–0039.

Summary: Sections 507(b), 508(a) and 516(b) of Public law 95–87 require underground coal mine permit applicants to submit an operations and reclamation plan and establish performance standards for the mining operation. Information submitted is used by the regulatory authority to determine if the applicant can comply with the applicable performance and environmental standards required by the law.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: 80 Underground coal mining permit applicants and 24 State regulatory authorities.

Total Annual Responses: 80.

Total Annual Burden Hours: 82,480.

Total Annual Cost Burden: $680,000.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the following addresses. Please refer to the appropriate OMB control number in all correspondence.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, by telefax at (202) 395–6566 or via e-mail to *OIRA_Docket@omb.eop.gov.* Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 210–

SIB, Washington, DC 20240, or electronically to *jtreleas@osmre.gov.*

Dated: March 29, 2004.

Sarah E. Donnelly,

Acting Chief, Division of Regulatory Support.

[FR Doc. 04–13029 Filed 6–8–04; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Partial Consent Decree in *United States* v. *Brian Chuchua, et al.*, (S.D. Cal.), 3:01CV1479 DMS (AJB), was lodged with the United States District Court for the Southern District of California on May 28, 2004.

This proposed Partial Consent Decree concerns a complaint filed by the United States against Brian Chuchua, Al Julian, and Joe Weber III pursuant to section 309(b) and (d) of the Clean Water Act, 33 U.S.C. 1319(b) and (d), to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Partial Consent Decree resolves these allegations against Defendant Joe P. Weber III by requiring Mr. Weber to pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Partial Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Pamela S. Tonglao, Trial Attorney, United States Department of Justice, Environment and Natural Resources Division, P.O. Box 23986, Washington, DC 20026–3986 and refer to *United States* v. *Brian Chuchua et al.*, (S.D. Cal.) 3:01CV1479 DMS (AJB), DJ #90–5–1–1–16111.

The proposed Partial Consent Decree may be viewed at *http://www.usdoj.gov/enrd/open.html.*

Stephen Samuels,

Assistant Chief, Environmental Defense Section, Environment & Natural Resources Division.

[FR Doc. 04–13046 Filed 6–8–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Notice is hereby given that on May 20, 2004 a proposed Consent Decree in *United States* v. *The City and County of Denver, Waste Management of Colorado, Inc., and Chemical Waste Management, Inc.*, an action under section 106(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9606(b), was lodged with the United States District Court for the District of Colorado, Case No. 04–N–1031 (MJW).

In this action, the United States sought to recover civil penalties arising from Defendants' failure to comply with EPA's Administrative Order for Remedial Design/Remedial Action, EPA Docket No. CERCLA VIII–95–05, as it pertains to Defendants' implementation of the Landfill Gas Remedy at the Lowry Landfill Superfund Site which is located in Denver, Colorado. Specifically, in its Complaint the United States alleges that on numerous occasions between August 1998 and January 1999, Defendants failed to ensure compliance with Landfill Gas Performance Standards, failed to appropriately report exceedances of the LFGPS, and failed to take prompt action to prevent, abate or minimize the presence of volatile organic compounds (''VOCs'') in the subsurface environment at the Landfill Gas Compliance Boundary as required by the UAO.

The Consent Decree provides that within thirty (30) days of the entry of the Consent Decree, the Defendants shall pay two hundred and sixty-five thousand dollars ($265,000.00) to the United States in satisfaction of the United States civil penalties claims.

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 the United States v. The City and County of Denver, Waste Management of Colorado, Inc., and Chemical Waste Management, Inc., Civil Action No. 04–N–1031 (MJW), DOJ No. 90–11–3–06703.

The Consent Decree may be examined at U.S. EPA Region 8, 999 18th Street, Suite 500, Denver, Colorado, 80202. During the public comment period, the Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the 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 $4.50 payable to the U.S. Treasury.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–13044 Filed 6–8–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on May 28, 2004, a proposed Consent Decree in *United States* v. *Equistar Chemicals, LP,* Civil Action No. 04–1172 was lodged with the United States District Court for the Western District of Louisiana.

In this action the United States sought injunctive relief and a civil penalty to address violations of the Clean Air Act and the regulations promulgated thereunder. The Equistar Chemicals, LP facility is located in Sulphur, Calcasieu Parish, Louisiana and is currently closed. Under the Consent Decree, Equistar will, when it restarts the facility, conduct performance tests of Flares 008 and 009 to demonstrate compliance with the parameters in 40 CFR 60.18(f)(1) through 60.18(f)(6) and submit a written report containing the test results to the United States Environmental Protection Agency, Region 6 and the State within one hundred and eighty (180) days. Equistar Chemicals, LP will also pay a civil penalty of $100,000 and, as a supplemental environmental project, spend at least $95,000 to replace two older school buses in Calcasieu Parish with two new school buses that will emit less pollution than the older buses.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating tot he 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. *Equistar Chemicals, LP,* D.J. Ref. No. 90–5–2–1–08012.

The Consent Decree may be examined during the public comment period on the following Department of Justice 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 coipy from the Consent Decree Library, please enclose a check in the amount of $7.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Thomas A. Mariani, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–13042 Filed 6–8–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Partial Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'')

Consistent with Departmental policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 962(d) notice is hereby given that on May 25, 2004, a proposed Partial Consent Decree in *United States* v. *FMC Corporation, et al.,* Civil Action No. 01–0476(KSH), was lodged with the United States District Court for the District of New Jersey.

In this action the United States seeks recovery of response costs pursuant to Section 107(a) of CERCLA, for costs incurred related to the Higgins Disposal Superfund Site in Kingston, New Jersey. Subsequent to the filing of the Complaint, the U.S. Environmental Protection Agency issued an Explanation of Significant Difference (''ESD''). The ESD revised the second component of the remedial action selected in the 1997 Record of Decision to the installation of an on-site ground water extraction and reinjection system. The Partial Consent Decree requires Defendant FMC Corporation to design, construct and operate the on-site ground water extraction and reinjection system for the Higgins Disposal Superfund Site. The Partial Consent Decree preserves the United States' claims for past and future costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Partial 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. *FMC Corporation, et al.,* D.J. Ref. #90–11–3–1486/2.

The Partial Consent Decree may be examined at U.S. EPA Region II, 290 Broadway, New York, New York 10007–1866 (contact Deborah Schwenk). During the public comment period, the Partial Consent Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Partial 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 $10.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–13047 Filed 6–8–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Pursuant to 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States and Commonwealth of Pennsylvania* v. *J & L Specialty Steel Company*, L.L.C., Civil Action No. 04–807 was lodged with the United States District Court for the Western District of Pennsylvania on May 28, 2004. The Commonwealth of Pennsylvania has filed a Complaint in Intervention and is a signatory to the proposed Consent Decree.

In its Complaint, the United States alleges J & L Specialty Steel, L.L.C. (''J & L'') violated the Clean Water Act, 33 U.S.C. 1251 *et seq.*, and the requirements of J & L's National Pollutant Discharge Elimination System (''NPDES'') permit at J & L's Midland, Pennsylvania, steel-making facility (''Midland Facility''). The United States' Complaint alleged that J & L discharged pollutants in excess of the amounts allowed pursuant to J & L's NPDES permit for the Midland Facility, and that J & L failed to comply with the Spill Prevention Control and Countermeasures (''SPCC'') requirements of the Clean Water Act. The Commonwealth of Pennsylvania filed a Motion for Leave to Intervene and a Complaint in Intervention, alleging violations of the Pennsylvania Clean Streams Law.

The proposed Consent Decree resolves J & L's liability to the United States and the Commonwealth for the violations alleged in the Complaints. J & L has implemented measures to prevent future violations of the Clean Water Act at the Midland Facility. The Decree requires J & L to pay a civil penalty of $50,000 to the United States and $50,000 to the Commonwealth of Pennsylvania.

The Department of Justice will receive for a period of twenty (20) days from the date of this publication comments relating to the Consent Decree. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and refer to *United States* v. *J & L Specialty Steel Company, L.L.C.*, DOJ No. 90–5–1–1–08243.

The Consent Decree may be examined at the Office of the United States Attorney for the Western District of Pennsylvania, U.S. Post Office and Courthouse, Suite 400, 700 Seventh Avenue, Pittsburgh, PA 15219 and at U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice 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 $6.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–13041 Filed 6–8–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'') for Settlement of Response Costs and Performance of Response Actions at Tongass National Forest Sites

Pursuant to 28 CFR 50.7, notice is hereby given that on May 20, 2004, a Consent Decree *United States* v. *Ketchikan Pulp Company,* Docket No. A04–0104 CV (JKS) was lodged with the United States District Court for the District of Alaska.

In this action brought pursuant to section 107 and 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'', 42 U.S.C. 9607 and 9613, the United States is seeking: (1) reimbursement of response costs incurred and to be incurred for actions to clean up hazardous substances at six sites in the Tongass National Forest where Ketchikan Pulp Company (''KPC'') previously conducted logging and associated operations under a long-term timber sale contract (''Contract'') with the United States Department of Agriculture, Forest Service (''Forest Service''); and (2) declaratory relief that KPC will be liable for any future response costs incurred by the United States with respect to those sites. In addition, the United States is seeking, pursuant to AS 46.03.822(a), recovery of damages incurred in connection with the cleanup of petroleum contamination at an additional sixteen sites formerly operated by KPC in the Tongass National Forest.

The Consent Decree requires KPC to complete cleanup work at three sites—East Twelve Mile, Ratz Harbor, and Francis Cove—under CERCLA administrative orders on consent previously issued by the Forest Service and to perform an additional removal action at the Naukati Site. The Decree also requires the Forest Service to undertake operation, maintenance, and monitoring activities selected by the Forest Service in the Thorne Bay Landfills Site Action Memorandum dated February 9, 2004, as supplemented on March 5, 2004, and any additional activities selected in that Action Memorandum to address the seeps containing iron and manganese identified in the Action Memorandum. The parties agreed in the Decree to a 50%–50% allocation of any future response costs incurred at the Thorne Bay Landfills Site as a result of new information or unknown conditions. The Decree includes reciprocal convenants not to sue for response and removal costs pertaining to twenty-three former logging facilities and the Connell Dam Site without payment by either side, subject to a ''reopener'' for unknown conditions or information which indicate that the response actions taken are not protective of human health and the environment. Finally, the Decree binds KPC's parent, Louisiana-Pacific Corporation, to guarantee performance of KPC's obligations arising out of the rights the United States has reserved under the Decree, including those arising out of unknown conditions or new information through December 31, 2013, or, at the Thorne Bay Landfills Site, through December 31, 2030.

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, United States Department of Justice and sent to 801 B Street, Suite 504, Anchorage, Alaska 99501–3657. Comments should refer to *United States* v. *Ketchikan Pulp Company*, D.J. Ref. #90–7–1–1–06974. During the public comment period, the Consent Decree may be examined during business hours at the same address by contacting Lorraine Carter (907–271–5452) or on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html*. The Consent Decree may also be examined at the Office of Aviation and Engineering Management, United States Department of Agriculture, Juneau, Alaska 99802, by contacting Deputy Director Ken Vaughan (907–586–8789). A copy of the Consent Decree may 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 by mail, please enclose a check in the amount of $8.00 (25 cents per page reproduction cost) payable to the U.S. Treasury. This amount does not include costs for reproduction of any of the seven appendices of the Consent Decree (identified on page 34). If you would like any of the appendices, please identify which one(s) and you will be contacted regarding the additional charge.

William D. Brighton,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–13043 Filed 6–8–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement in *in re Philip Services Corporation* Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Notice is hereby given that on May 28, 2004, a proposed Settlement Agreement was lodged with the United States Bankruptcy Court for the Southern District of Texas in *In re Philip Services Corporation, et al.,* Case No. 03–37718–H2–11. The Settlement Agreement between the United States on behalf of the Environmental Protection Agency (''EPA'') and Debtor Philip Services Corporation and its affiliated Debtors resolves CERCLA claims against the Debtors for the following six hazardous waste sites: Consolidated Iron Site in Newburgh, NY; Breslube-Penn Site in Corapolis, PA; Spectron Site in Elkton, MD; Modena Yard Site in Chester County, PA; Malone Services Site in Texas City, TX; and Casmalia Site in Santa Barbara, CA. Under the Settlement Agreement, EPA will have an allowed bankruptcy claim in the total amount of $16,738,601.

The Department of Justice will receive comments relating to the Settlement Agreement for a period of thirty (30) days from the date of this publication. 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 *In re Philip Services Corporation, et al.,* DJ Ref. No. 90–11–3–06852/1.

The Settlement Agreement may be examined at the Office of the United States Attorney for the Southern District of Texas, 910 Travis, Suite 1500, Houston, Texas by request to Assistant U.S. Attorney Judy A. Robbins, and at the United States Environmental Protection Agency, 401 M Street, SW., Washington, DC. 20460. During the public comment period, the Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Settlement Agreement 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 $3.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Bruce S. Gelber,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–13045 Filed 6–8–04; 8:45 am]

BILLING CODE 4410–15–M

NATIONAL SCIENCE FOUNDATION

EarthScope Science and Education Advisory Committee; 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: EarthScope Science and Education Advisory Committee (#16638).

Dates/Time: 9 a.m.–9:30 p.m. Monday–Wednesday, June 21–23, 2004 8:30 a.m.–5 p.m. Thursday, June 24, 2004.

Place: Granlibakken Conf. Center, 725 Granlibakken Rd., Tahoe City, CA 96145.

Type of Meeting: Open.

Contact Person: Dr. James H. Whitcomb, Division of Earth Sciences, National Science Foundation, Suite 785, 4201 Wilson Boulevard, Arlington, VA 22230, Phone (703) 292–8553.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To carry out EarthScope proposal and management review, and to provide advice, recommendations, and oversight concerning EarthScope construction, operation, science and education support.

Agenda: June 21–23, 2004 9 a.m.–9:30 p.m.—Review the Project Execution Plan, program and facility management, installation technical plans, science plans, and progress reports of EarthScope. June 24, 2004 8 a.m–5 p.m.—Visit potential EarthScope installation sites.

Dated: June 4, 2004.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 04–13039 Filed 6–8–04; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–263]

Licensee; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 139 to Facility Operating License No. DPR–22 issued to Nuclear Management Company, LLC (the licensee), which revised the Technical Specifications for operation of the Monticello Nuclear Generating Plant, located in Wright County, Minnesota. The amendment is effective as of the date of issuance.

The amendment modified the Technical Specifications to change design bases and the Updated Safety Analysis Report (USAR) for (1) long-term containment response to the design-basis loss-of-coolant accident (LOCA) and (2) containment overpressure required for adequate available net positive suction head for the low-pressure emergency core cooling system pumps following a LOCA, reactor vessel isolation, and Appendix R fire.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on January 27, 2003 (68 FR 3900). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (69 FR 29983).

Further details with respect to the action see (1) the application for amendment dated December 6, 2002, as supplemented September 24, 2003 and March 12, 2004, (2) Amendment No. 139 to License No. DPR–22, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 1555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 2nd day of June, 2004.

For the Nuclear Regulatory Commission.

L. Mark Padovan,

Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 04–13020 Filed 6–8–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–327 and 50–328]

Tennessee Valley Authority; Sequoyah Nuclear Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from the requirements in Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Appendix G, ''Fracture Toughness Requirements'' for Facility Operating License Nos. DPR–77 and DPR–79, issued to Tennessee Valley Authority (the licensee), for operation of the Sequoyah Nuclear Plant (SQN), located in Hamilton County, Tennessee. 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 exemption would allow use of the methods described in WCAP–15984, Revision 1, ''Reactor Vessel Closure Head/Vessel Flange Requirements Evaluation for Sequoyah Units 1 and 2,'' instead of the requirements in 10 CFR Part 50,

Appendix G, footnote 2 to Table 1, ''Pressure and Temperature Requirements for the Reactor Pressure Vessel,'' for the SQN.

The proposed action is in accordance with the licensee's application dated September 6, 2002, as supplemented on December 19, 2002, March 28, June 24, September 3, October 22, and December 18, 2003. The supplemental letters provided clarifying information that did not expand the scope of the original request.

The Need for the Proposed Action

The licensee's exemption request was made in support of an associated licensing action, submitted in the same letter, to adopt a Pressure-Temperature Limit Report for SQN, Units 1 and 2. Section 50.12(a) of 10 CFR allows licensees to apply for an exemption from the requirements of Part 50 if, (1) the exemption will not present an undue risk to the protection of public health and safety and common defense and security and (2) the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The licensee has stated that compliance with the reactor pressure vessel (RPV) flange minimum temperature requirements of Appendix G to 10 CFR Part 50 is not necessary to meet the underlying purpose of the rule (*i.e.*, to provide adequate margins of safety with regard to pressure boundary integrity for any condition of normal operation for the service life of the RPV).

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the exemption described above would continue to satisfy the underlying purpose of 10 CFR 50.68(b)(1). The details of the staff's safety evaluation will be provided with the letter to the licensee approving the exemption to the regulation.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts 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 application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the Sequoyah Nuclear Plant, Units 1 and 2 dated February 13, 1974.

Agencies and Persons Consulted

On April 28, 2004, the staff consulted with the Tennessee State official, Elizebeth Flannagin of the Tennessee Bureau of Radiological Health, regarding the environmental impact of the proposed action. The State official had no comments.

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 September 6, 2002, as supplemented on December 19, 2002, March 28, June 24, September 3, October 22, and December 18, 2003. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. 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 at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 3rd day of June, 2004.

For the Nuclear Regulatory Commission.

William F. Burton,

Acting Chief, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 04–13021 Filed 6–8–04; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Reclearance of a Revised Information Collection: SF 2802 and SF 2802A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for reclearance of a revised information collection. SF 2802, Application for Refund of Retirement Deductions (Civil Service Retirement System) is used to support the payment of monies from the Retirement Fund. It identifies the applicant for refund of retirement contributions. SF 2802A, Current/Former Spouse's Notification of Application for Refund of Retirement Deductions, is used to comply with the legal requirement that any spouse or former spouse of the applicant has been notified that the former employee is applying for a refund.

Approximately 3,741 SF 2802 forms are completed annually. We estimate it takes approximately one hour to complete the form. The annual burden is 3,741 hours. Approximately 3,389 SF 2802A forms are processed annually. We estimate it takes approximately 15 minutes to complete this form. The annual burden is 847 hours. The total annual burden is 4,588 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or via e-mail to *mbtoomey@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received by July 9, 2004.

ADDRESSES: Send or deliver comments to—

Ronald W. Melton, Chief, Operations Support Group, Center for Retirement and Insurance Services, U.S. Office of

Personnel Management, 1900 E Street, NW., Room 3425, Washington, DC 20415–3660.

and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

For Information Regarding Administrative Coordination—Contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 04–13048 Filed 6–8–04; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection OPM 2809

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for the review of a revised information collection. OPM 2809, Health Benefits Registration Form, is used by annuitants and former spouses to elect, cancel or change health benefits enrollment during periods other than open season.

There are approximately 30,000 changes to health benefits coverage per year. Of these, 20,000 are submitted on form OPM 2809 and 10,000 verbally or in written correspondence. Each form takes approximately 45 minutes to complete; data collection by telephone or mail takes approximately 10 minutes. The annual burden for the form is 15,000 hours; the burden not using the form is 1,667 hours. The total burden is 16,667.

Comments are particularly invited on: whether this information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it 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; 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.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or e-mail to *mbtoomey@opm.gov*. Please be sure to include a mailing address with your request.

DATES: Comments on this proposal should be received by August 9, 2004.

ADDRESSES: Send or deliver comments to—Ronald W. Melton, Chief, Operations Support Group, Retirement Services Program, Center for Retirement & Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349A, Washington, DC 20415–3540.

For Information Regarding Administrative Coordination— Contact: Cyrus S. Benson, Team Leader, Publications Team, Administrative Services Branch, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 04–13049 Filed 6–8–04; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27852]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

June 2, 2004.

Notice is hereby given that the following filing(s) has/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) is/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 25, 2004, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant 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 facts 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 25, 2004, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities, et al. (70–9755)

Northeast Utilities (''NU''), a registered holding company; Western Massachusetts Electric Company (''WMECO''), a wholly owned, direct public-utility company subsidiary of NU, both located at 174 Brush Hill Ave., West Springfield, Massachusetts 01090–0010; Public Service Company of New Hampshire (''PSNH''), a wholly owned, direct public-utility company subsidiary of NU; and North Atlantic Energy Corporation (''NAEC''), a wholly owned, direct nonutility subsidiary of NU, both located at Energy Park, 780 North Commercial Street, Manchester, NH 03101; Yankee Energy System, Inc. (''YES''), a wholly owned, direct holding company subsidiary of NU that claims exemption under section 3(a)(1) by rule 2; Northeast Utilities Service Company (''NUSCO''), a direct, wholly owned service company subsidiary of NU; The Connecticut Light and Power Company (''CL&P''), a wholly owned, direct public-utility company subsidiary of NU; Northeast Nuclear Energy Company (''NNECO''), a wholly owned, direct nonutility company subsidiary of NU; Yankee Gas Services Company (''Yankee Gas'') a wholly owned, direct public-utility company subsidiary of YES; The Rocky River Realty Company (''RR''), a wholly owned, direct nonutility subsidiary of NU; The Quinnehtuk Company (''Quinnehtuk''), a wholly owned, direct nonutility subsidiary of NU, Properties, Inc. (''Properties''), a wholly owned, direct nonutility subsidiary of PSNH; Yankee Energy Financial Services Company (''Yankee Financial''), a wholly owned, direct nonutility subsidiary of YES; Yankee Energy Services Company (''YESCO''), a wholly owned, direct nonutility subsidiary of YES; NorConn Properties, Inc. (''NorConn''), a wholly owned, direct nonutility subsidiary of YES; NU Enterprises, Inc. (''NUEI''), a wholly owned, direct nonutility subsidiary of NU; Northeast Generation Company (''NGC''), a wholly owned, direct nonutility subsidiary of NUEI; Northeast Generation Services Company (''NGS'') a wholly owned, direct nonutility subsidiary of NUEI; E.S. Boulos Company (''Boulos''), a wholly

owned, direct nonutility subsidiary of NGS; Woods Electrical Company, Inc. (''Woods''), a wholly owned, direct nonutility subsidiary of NGS; Woods Network Services, Inc. (''Woods Network''), a wholly owned, direct nonutility subsidiary of NUEI; Select Energy, Inc. (''Select Energy''), a wholly owned, direct nonutility subsidiary of NUEI; Mode 1 Communications, Inc. (''Mode 1''), a wholly owned, direct nonutility subsidiary of NUEI; and Select Energy New York, Inc. (''SENY''), a wholly owned, direct nonutility subsidiary of Select Energy, all located at 107 Selden Street, Berlin, Connecticut 06037; Holyoke Water Power Company (''HWP''), a public-utility subsidiary of NU, One Canal Street, Holyoke, Massachusetts 01040; and Select Energy Services, Inc. (''SESI''), a wholly owned, direct nonutility subsidiary of NUEI, 24 Prime Parkway, Natick, MA 01760, (collectively, ''Applicants'') have filed, under sections 6(a), 7, 9(a), 10 and 12 of the Act, and rules 43, 45 and 54 under the Act, a post-effective amendment to a previously filed application.

I. Background

A. The NU System

NU is the parent company of four electric utility companies and one gas utility company. For the twelve months ended December 31, 2003, NU's consolidated gross revenues and net income were approximately $6.1 billion and $116.4 million, respectively. As of December 31, 2003, NU's consolidated capitalization consisted of: 33.5% common equity, 1.7% preferred stock, 25.6% of rate reduction bonds, and 39.2% long-term and short-term debt.[1] Applicants state that the current corporate credit rating for NU is BBB+ by Standard and Poor's and Baa1 by Moody's, and that the ratings issued by Moody's and Standard and Poor's for NU's Senior Unsecured Debt were Baa1 and BBB, respectively.

CL&P, an electric utility company, provides retail electric service to approximately 1.2 million customers in Connecticut. As of December 31, 2003, CL&P's consolidated capitalization consisted of: 24.4% common equity, 4.1% preferred stock, 39.3% of rate reduction bonds, and 32.2% of long-term and short-term debt.[2] Applicants state that the corporate credit rating for CL&P is BBB+ by Standard and Poor's and A3 by Moody's, and that the credit rating for its senior secured debt is A- by Standard and Poor's and Fitch and A2 by Moody's. Its senior unsecured debt has a rating of BBB from Standard and Poor's, A3 from Moody's and BBB+ from Fitch. CL&P's preferred stock has a rating of BBB—by Standard and Poor's and Baa2 by Fitch.

WMECO, an electric utility company, provides retail electric service to approximately 206,000 customers in Massachusetts. As of December 31, 2003, WMECO's consolidated capitalization consisted of: 31.4% common equity, 27.5% of rate reduction bonds, and 41.1% of long-term and short-term debt.[3] Applicants state that the corporate credit rating for WMECO is BBB+ by Standard and Poor's and A3 by Moody's, and that the credit rating for its senior unsecured debt is BBB+ by Standard and Poor's and Fitch and A3 by Moody's. WMECO has no preferred stock outstanding.

PSNH, an electric utility company, provides retail electric service to approximately 456,000 customers in New Hampshire. As of December 31, 2003, PSNH's consolidated capitalization consisted of: 28.8% common equity, 35.8% of rate reduction bonds, and 35.4% of long-term and short-term debt.[4] Applicants state that the corporate credit rating for PSNH is BBB+ by Standard and Poor's and Baa1 by Moody's, and that the credit rating for its senior secured debt is BBB+ by Standard and Poor's and Fitch and A3 by Moody's. PSNH has no preferred stock outstanding.

Yankee Gas, a gas utility company, is wholly owned by YES.[5] Yankee Gas provides natural gas distribution service to approximately 192,000 customers in Connecticut. As of December 31, 2003, Yankee Gas' consolidated capitalization consisted of: 67.5% common equity and 32.5% of long-term and short-term debt. Applicants state that the corporate credit rating for Yankee Gas is BBB+ by Standard and Poor's and Baa1 by Moody's. Yankee Gas has no preferred stock outstanding.

HWP, an electric utility company, currently sells all of the output of its electricity generating station to its affiliate, Select Energy. As of December 31, 2003, HWP's consolidated capitalization consisted of: 33.1% common equity and 66.9% long-term and short-term debt. HWP is not rated by any rating agency.

NU also owns, directly or indirectly, Properties, RR, Quinnehtuk and NorConn, which are real estate companies, NUSCO, the system's principal service company, NUEI, the system's nonutility holding company, NGC, an exempt wholesale generator, SESI, an energy services company acquired pursuant to Commission Order, Mode 1 and Woods Network, each exempt telecommunications companies, Yankee Financial, a financial services company and Select Energy, SENY, NGS, Woods, Boulos and YESCO, each companies formed or acquired pursuant to rule 58. HWP sells the output of its electricity generating station directly to its affiliate, Select Energy.

B. Current Authority

By order dated December 28, 2000 (HCAR No. 27328) (''2000 Order''), the Commission authorized Applicants, through June 30, 2003 (''Prior Authorization Period'') and subject to certain conditions, to: (1) Continue participating in the NU system money pool (''NU Money Pool''); and (2) to the extent not exempt under rules 45(b) and 52, enter into short-term debt transactions through the NU Money Pool, borrowing from and extending credit to (and acquiring promissory notes from) each other. Additionally, by the 2000 Order, the Commission authorized NU and its utility subsidiaries to issue notes or commercial paper to unaffiliated third parties to evidence short-term debt up to specified limits (identified below) through the Prior Authorization Period.

By order dated June 30, 2003 (HCAR No. 27693) (''2003 Order''), the Commission: (1) Extended the Prior Authorization Period for the issuance of short-term debt by NU, CL&P, WMECO, PSNH, YES, and Yankee Gas through June 30, 2006; (2) authorized companies to enter into interest rate hedging transactions related to short-term debt transactions through June 30, 2006; and (3) extended the authorization period for participation by the Applicants (other than Properties) in the NU Money Pool through June 30, 2004, pending the submission by the Applicants of a feasibility study concerning the creation of a separate money pool for nonutility subsidiaries of NU.

II. Requests for Authority

Applicants request authority for NU, YES, CL&P, WMECO, and Yankee Gas to

[1] Excluding the rate reduction bonds, NU's consolidated capitalization consisted of: 45% common equity, 2.3% preferred stock and 52.7% debt.

[2] Excluding the rate reduction bonds, CL&P's consolidated capitalization consisted of: 40.2% common equity, 6.7% preferred stock and 53.1% debt.

[3] Excluding rate reduction bonds, WMECO's consolidated capitalization consisted of: 43.4% common equity and 56.6% debt.

[4] Excluding rate reduction bonds, PSNH's consolidated capitalization consisted of 45% common equity and 55% debt.

[5] As of December 31, 2003, YES' consolidated capitalization consisted of: 67.8% common equity and 32.2% long-term and short-term debt. Applicants state that YES is not currently rated by Standard and Poor's, Moody's or Fitch.

issue and sell short-term debt securities to unaffiliated third parties through June 30, 2007 (''Authorization Period'') up to the following aggregate outstanding principal amounts: NU, $450 million; YES, $50 million, CL&P, $450 million; WMECO, $200 million; and Yankee Gas, $150 million (each limit, ''Aggregate Short-Term Debt Limit'').

Applicants also request authority for CL&P, WMECO, HWP and Yankee Gas to issue and sell short-term debt securities to affiliates through the NU Money Pool through the Authorization Period in the following aggregate outstanding principal amounts: CL&P, $450 million; WMECO, $200 million; HWP, $10 million; and Yankee Gas, $150 million. These Money Pool borrowings would be subject to the applicable Aggregate Short-Term Debt Limit, if any.

Authority is requested for Applicants other than Properties to continue participating in the NU Money Pool, and for Properties to participate in the NU Money Pool both as borrower and lender. They also request that the Commission release jurisdiction over the removal of limits on the NU Money Pool borrowings by Properties, RR, Quinnehtuk, Yankee Financial, YESCO, NorConn, NUEI, NGS, Boulos, Woods, Select Energy, SENY and SESI (collectively, ''Nonutility Subsidiaries'').

Further, Applicants request authority for NU and certain of its public-utility company subsidiaries—CL&P, WMECO, and Yankee Gas (collectively, ''Utility Borrowers'')—to enter into Interest Rate Hedges (described below) through the Authorization Period.

A. General Terms and Conditions

The proposed securities would be subject to the following financing parameters. Apart from the securities issued for the purpose of funding money pool operations, no securities would be issued in reliance upon the requested order, during the Authorization Period, unless: (1) The security to be issued, if rated, is rated investment grade; (2) all outstanding securities of the issuer that are rated are rated investment grade; and (3) all outstanding securities of NU and YES that are rated, are rated investment grade. For purposes of this condition, a security would be considered investment grade if it is so rated by at least one nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of Rule 15c3–1 under the Securities Exchange Act of 1934. NU and the Utility Borrowers request that the Commission reserve jurisdiction over the issuance by NU and the Utility Borrowers of any securities that do not meet these conditions.

At all times during the Authorization Period, YES, NU and their utility subsidiaries (with the exception of CL&P and PSHH) [6] would maintain common equity of at least 30% of its consolidated capitalization (common equity, preferred stock, long-term debt and short-term debt) as reflected in the most recent form 10–K or form 10–Q filed with the Commission, adjusted to reflect changes in capitalization since the balance sheet date.

The proceeds from the short-term debt of NU, YES and the Utility Borrowers would be used for: (1) General corporate purposes, including investments by and capital expenditures of NU and its subsidiaries, including, without limitation, the funding of future investments in exempt wholesale generators (''EWG''), foreign utility companies (''FUCO'') (each to the extent permitted under the Act or Commission order), rule 58 subsidiaries (to the extent permitted under the Act or Commission order), and exempt telecommunications companies (''ETCs''); (2) the repayment, redemption, refunding or purchase by NU or any subsidiary of any of its own securities from non-affiliates pursuant to rule 42; and (3) financing working capital requirements of NU and its subsidiaries. No financing proceeds would be used to acquire the securities of, or other interests in, any company unless the acquisition has been approved by the Commission in this or a separate proceeding or is in accordance with an available exemption under the Act or rules under the Act.

B. External Short-Term Debt of NU and YES

Applicants request authority for NU and YES to issue and sell during the Authorization Period unsecured short-term debt in an aggregate principal amount at any time outstanding not to exceed $450 million and $50 million. This short-term debt would take a variety of forms, including commercial paper issuances and/or unsecured notes with banks or other institutional lenders under credit facilities on terms that are generally available to borrowers with comparable credit ratings. All short-term debt securities issued and sold by NU and YES would have maturities of less than one year from the date of issuance.

Commercial paper issued by NU and YES may be issued manually or through The Depository Trust Company in the form of book entry notes in denominations of not less than $50,000 of varying maturities. Applicants state that, typically, the commercial paper would be sold to dealers at the discount rate prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally. It is expected that the dealers acquiring the commercial paper would re-offer it at a discount to corporate and institutional investors. No commercial paper would be issued by NU or YES unless the issuer believes that the effective interest cost would be equal to or less than the effective interest rate at which it could issue short-term notes in an amount at least equal to the principal amount of commercial paper. The commercial paper would be publicly issued and sold without registration under the Securities Exchange Act of 1933 in reliance upon one or more applicable exemptions from registration.

Applicants request authority through the Authorization Period for NU and YES to continue or establish and maintain back-up credit lines with banks or other institutional lenders to support their commercial paper program(s), and other credit arrangements and/ or borrowing facilities generally available to borrowers with comparable credit ratings, providing for revolving credit or other loans. All amounts drawn and outstanding under these agreements and facilities would have maturities less than one year from the date of draw and would be counted against the applicable Aggregate Short-Term Debt Limit.

The effective cost of money on all external short-term debt of NU and YES would not exceed competitive market rates available at the time of issuance for securities having the same or reasonably similar terms and conditions issued by companies of comparable credit quality, provided that in no event would the effective cost of capital exceed 500 basis points over the comparable term London Interbank Offered Rate (''LIBOR''). Issuance expenses in connection with any non-competitive offering of short-term debt would not exceed 5% of the principal amount. Specific terms of any short-term debt would be determined by NU at the time of issuance. A copy of any new note or loan agreement executed pursuant to this Authorization would be filed under cover of the next quarterly report under rule 24. Subject to the applicable

[6] By Commission order dated March 7, 2000 (HCAR No. 35–27147), the Commission allowed CL&P and PSNH to maintain their common equities below 30% of their consolidated capitalizations taking into account their respective rate reduction bonds through December 31, 2004. Applicants state that a separate application/declaration will be filed seeking extension of this authority.

Aggregate Short-Term Debt Limit, NU and YES intend to renew and extend outstanding short-term debt as it matures, to refund short-term debt with other similar short-term debt, to repay short-term debt or to increase the amount of their short-term debt from time to time.

C. External Short-Term Debt of Utility Borrowers

Applicants request authority for the Utility Borrowers to issue and sell short-term debt during the Authorization Period up to the following aggregate outstanding principal amounts: CL&P, $450 million; WMECO, $200 million; and Yankee Gas, $150 million. The short-term debt for the Utility Borrowers would take a variety of forms, including commercial paper issuances and/or secured or unsecured notes with banks or other institutional lenders under credit facilities on terms that are generally available to borrowers with comparable credit ratings. All short-term debt would have maturities of less than one year from the date of issuance. Applicants request that the Commission reserve jurisdiction over the issuance and sale of secured short-term debt securities by Yankee Gas, pending completion of the record.

Commercial paper issued by a Utility Borrower hereunder may be issued manually or through The Depository Trust Company in the form of book entry notes in denominations of not less than $50,000 of varying maturities. Typically, this commercial paper would be sold to dealers at the discount rate prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally. Applicants expect that the dealers acquiring the commercial paper would re-offer it at a discount to corporate and institutional investors. No commercial paper would be issued unless the Utility Borrower issuing commercial paper believes that the effective interest cost would be equal to or less than the effective interest rate at which the company could issue short-term notes in an amount at least equal to the principal amount of commercial paper. The commercial paper would be publicly issued and sold without registration under the Securities Exchange Act of 1933 in reliance upon one or more applicable exemptions from registration.

The Utility Borrowers seek an extension through the Authorization Period of their authority to continue, or to establish and maintain back-up credit lines with banks or other institutional lenders to support their commercial paper program(s), and other credit arrangements and/or borrowing facilities generally available to borrowers with comparable credit ratings, providing for revolving credit or other loans. All amounts drawn and outstanding under these agreements and facilities would have maturities less than one year from the date of draw and would be counted against the applicable Aggregate Short-Term Debt Limit.

The effective cost of money on all external short-term debt of the Utility Borrowers would be subject to the same financing parameters as NU (described above). The specific terms of a short-term debt issuance and sale would be determined by the respective Utility Borrower at the time of issuance. A copy of any new note or loan agreement executed pursuant to this authorization would be filed under cover of the next quarterly report under rule 24. Subject to the applicable short-term debt limit, the Utility Borrowers intend to renew and extend outstanding short-term debt as it matures, to refund short-term debt with other similar short-term debt, to repay short-term debt or to increase the amount of their short-term debt from time to time.

D. Money Pool

Applicants request authority to continue operating the NU Money Pool through June 30, 2007, subject to the terms and conditions previously authorized. Applicants request authority for: (1) All Applicants, with the exception of NU, YES, NGC, Mode 1, Woods Network and NUSCO, to participate in the NU Money Pool as both lenders and borrowers; and (2) NU, YES, NGC, Mode 1 and Woods Network to participate in the NU Money Pool as lenders only. They request that the Commission reserve jurisdiction over participation by additional companies in the NU Money Pool. Applicants request that the Commission release jurisdiction over Applicants' request that there be no NU Money Pool borrowing limit imposed on the Nonutility Subsidiaries,[7] and they request that no limits be placed on borrowings by NAEC and NNECO, which are now nonutility companies.

The NU Money Pool would continue to be administered on behalf of Applicants by NUSCO on an ''at cost'' basis,[8] under the direction of an officer of NUSCO. The NU Money Pool would consist principally of surplus funds received from the Applicants. In addition to surplus funds, funds borrowed by NU through the issuance of short-term notes or other debt, or by the selling of commercial paper (''External Funds'') may be a source of funds for making loans or advances to the other Applicants through the NU Money Pool.

Applicants do not propose any changes to the operation of the NU Money Pool as it was approved in the 2003 Order. Transactions under the NU Money Pool would be designed to match, on a daily basis, the surplus funds of the pool participants with the short-term borrowing requirements of the pool participants (other than the pool participants who are lenders only), thereby minimizing the need for short-term debt to be incurred by the pool participants from external sources. The pool participants in the NU Money Pool that are regulated utility subsidiaries of NU would have priority as borrowers from the NU Money Pool over those participants that are nonutility companies.

The funds available through the NU Money Pool would be loaned on a short-term basis to those pool participants that have short-term debt requirements. If no short-term requirements match the amount of funds that are available for the NU Money Pool for the period funds are available, NUSCO would invest the funds, directly or indirectly, in: (1) Interest-bearing accounts with banks; (2) obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities, including obligations under repurchase agreements; (3) obligations issued or guaranteed by any state or political subdivision thereof, provided that obligations are rated not less than ''A'' (or ''A–1'' or ''P–1'' or their equivalent for short term debt) by a nationally recognized rating agency; (4) commercial paper rated not less than ''A–1'' or ''P–1'' or their equivalent by a nationally recognized rating agency; (5) money market funds; (6) bank certificates of deposit; (7) Eurodollar funds; and (8) other investments as are permitted by section 9(c) of the Act and rule 40 under the Act and, with respect to contributions of WMECO, and other investments approved by the Massachusetts Department of Telecommunications and Energy (''MDTE'') under Massachusetts law. NUSCO would allocate the interest earned on investments among the pool participants providing funds on a pro rata basis according to the amount of the funds provided.

All borrowings from and contributions to the NU Money Pool

[7] By the 2003 Order, the Commission imposed the following borrowing limits: Quinnehtuk: $10 million; NUEI $100 million; NGS $25 million; Select $200 million; SENY $10 million; RR: $30 million; Yankee Financial: $10 million; NorConn: $10 million; YESCO: $10 million; SESI $35 million; Boulos $10 million; Woods $10 million.

[8] NUSCO would neither lend nor borrow through the NU Money Pool.

would be documented and evidenced on the books of those participants. Any pool participant contributing funds to the NU Money Pool may withdraw those funds at any time without notice to satisfy its daily need for funds. All short-term debt through the NU Money Pool (other than from NU's External Funds) would be payable on demand, may be prepaid by any borrowing pool participant at any time without penalty and would bear interest for both the borrower and lender, payable monthly, at a rate equal to the daily Federal Funds Effective Rate (''Fed Funds Rate'') as quoted by the Federal Reserve Bank of New York. Short-term debt of pool participants derived from the proceeds of External Funds of NU would bear interest at the same rate paid by NU on External Funds, and no short-term debt may be prepaid by the pool participant unless NU is made whole for any additional costs that it may incur because of prepayment. NU would be fully reimbursed for all costs that it incurs in relation to loans made through the NU Money Pool to the pool participants.

E. Interest Rate Hedges

NU, YES and the Utility Borrowers request authority, through the Authorization Period, to enter into interest rate hedging transactions with respect to its outstanding short-term indebtedness (''Interest Rate Hedges''). Interest Rate Hedges, designed to reduce or manage the effective interest rate cost, would be entered into only with counterparties (''Approved Counterparties'') whose senior debt ratings, or the senior debt ratings of any credit support providers who have guaranteed the obligations of the Approved Counterparties, as published by S&P, are equal to or greater than BBB, or an equivalent rating from Moody's or Fitch, or through on-exchange transactions.

Interest Rate Hedges would involve the use of financial instruments commonly used in the capital markets, as options, interest rate swaps, locks, caps, collars, floors, exchange-traded futures and options, and other similar appropriate instruments. The transactions would be for fixed periods and stated notional amounts as are generally accepted as prudent in the capital markets. In no case would the notional principal amount of any Interest Rate Hedge exceed that of the underlying debt instrument. Neither NU nor the Utility Borrowers would engage in speculative transactions within the meaning of the term in the Statement of Financial Accounting Standard 133, as amended (''FAS 133''). Transaction fees, commissions and other amounts payable to brokers in connection with an Interest Rate Hedge would not exceed those generally obtainable in competitive markets for parties of comparable credit quality.

Each Interest Rate Hedge would qualify for hedge accounting treatment on a continuing basis under generally acceptable accounting practices (''GAAP''). NU would comply with the then existing financial disclosure requirements of the Financial Accounting Standards Board associated with hedging transactions.[9]

Entergy Corporation (70–10202)

Entergy Corporation (''Entergy''), a registered holding company and Delaware corporation, 639 Loyola Avenue, New Orleans, Louisiana 70113, has filed an application-declaration (''Application-Declaration'') under sections 6(a), 7, 9(a), 10 and 12(c) of the Act, and rules 46, 53, and 54 under the Act.

I. Background

Entergy is a registered holding company under the Act. Its public utility subsidiaries include Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, ''Entergy Operating Companies''). The Entergy Operating Companies provide public utility service to approximately 2.6 million electric customers in portions of Arkansas, Louisiana, Mississippi, and Texas and 238,000 retail gas customers in Louisiana. Entergy also owns all of the voting stock of System Energy Resources, Inc. (''SERI'') which owns and leases an aggregate 90% undivided interest in Grand Gulf Steam Electric Generating Station (nuclear) and sells all of the capacity and energy from that interest at wholesale to its only customers, Entergy Arkansas, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. Entergy Power Inc. (''EPI''), a public utility company for purposes of the Act, but not for state regulatory purposes, is principally engaged in the business of marketing and selling bulk power at wholesale from its own generating resources.

Entergy also engages through other subsidiaries in various energy-related and nonutility businesses. Other subsidiaries include ''exempt wholesale generators'' (''EWGs''), ''foreign utility companies'' (''FUCOs''), ''exempt telecommunication companies'' (''ETCs'') ''energy-related companies'' within the meaning of rule 58 (''Rule 58 Companies''), and other nonregulated subsidiaries that Entergy is authorized by order of the Commission to acquire or own under the Act, (including certain subsidiary companies known as ''O&M Subs'' that provide operations and maintenance services for power projects to associate and non-associate power project, certain subsidiary companies known as ''New Subsidiaries'' that engage in service and project development activities and/or acquire or finance the acquisition of the securities of other subsidiary non-utility companies).

By order dated April 3, 2001 (HCAR No. 27371) (''April 2001 Order'') and supplemented by order dated November 25, 2002 (HCAR No. 27608) (''November 2002 Order''), Entergy was authorized through June 30, 2004 to: (1) Issue and sell common stock (''Common Stock'') (in addition to any separate authority relating to benefit and dividend reinvestment plans) and, issue directly or indirectly through one or more special purpose finance subsidiaries, unsecured long-term debt and preferred or equity-linked securities in an aggregate amount not exceeding $2 billion; (2) issue and sell short-term debt in the form of notes to banks or commercial paper that in the aggregate, including then existing authority to issue short-term notes, would not exceed an outstanding principal amount of $2.5 billion; (3) enter into hedging transactions regarding its own debt and that of its special purpose finance subsidiaries or the Nonutility Companies; (4) form one or more special purpose finance subsidiaries; and (5) guarantee the securities issued by the special purpose finance subsidiaries.

II. Current Requests

Entergy requests approval for a program of external financing and related proposals through June 30, 2007 (Authorization Period'').

A. Financing Parameters

1. *Common Equity.* Entergy represents that at all times during the Authorization Period, Entergy and each of the public utility subsidiary companies will maintain common equity of at least 30% of total capitalization (based upon the financial statements filed with the most recent quarterly report on Form 10–Q or annual report on Form 10–K).

2. *Investment Grade.* Entergy represents that no guarantees or other securities will be issued in reliance upon the authorization to be granted by the Commission in this Application-Declaration, unless: (a) The security to

[9] Currently, FAS 133 is the applicable standard.

be issued, if rated, is rated investment grade; and (b) all outstanding securities of Entergy that are rated are rated investment grade (together, the ''Investment Grade Ratings Criteria''). For purposes of this provision, a security will be deemed to be rated ''investment grade'' if it is rated investment grade by Moody's Investors Service, Standard & Poor's, Fitch Ratings or any one other nationally recognized statistical rating organization (''NRSRO''), as that term is used in paragraphs (c) (2) (vi) (E), (F) and (H) of rule 15c3–1 under the Securities Exchange Act of 1934. Entergy further requests that the Commission reserve jurisdiction over the issuance of any guarantee or other security at any time that one or more of the Investment Grade Ratings Criteria are not satisfied.

3. *Effective Cost of Money.* The interest rate on long-term debt will not exceed at the time of issuance the greater of (a) 500 basis points over U.S. Treasury securities having a remaining term comparable to the term of the series, if issued at a fixed rate, or 500 basis points over the London Interbank Offered Rate (''LIBOR'') for the relevant interest rate period, if issued at a floating rate, and (b) a gross spread over U.S. Treasury securities that is consistent with similar securities of comparable credit quality and maturities issued by other companies. The dividend rate on any series of equity-linked securities or preferred securities will not exceed at the time of issuance the greater of (a) 500 basis points over the yield to maturity of a U.S. Treasury security having a remaining term comparable to the term of the series, if issued at a fixed rate, or 500 basis points LIBOR for the relevant interest rate period, if issued at a floating rate, and (b) a rate that is consistent with similar securities of comparable credit quality and maturities issued by other companies. The effective cost of money on short-term debt authorized in this proceeding will not exceed the greater of (a) 500 basis points over LIBOR for the relevant interest rate period, and (b) rates that are consistent with similar loans of comparable maturities to companies of comparable credit quality.

4. *Issuance Expenses.* The fees, commissions and expenses, including underwriting fees, arrangement fees and up-front fees, incurred or to be incurred in connection with the transactions proposed will not exceed 5% of the proceeds of the transactions in the case of Common Stock, Equity-linked Securities, Preferred Securities and Long-term Debt and will not exceed 5% of the commitments of the lenders in the case of Short-term Debt.

5. *Use of Proceeds.* Entergy proposes to use the proceeds from the above financings for general corporate purposes, including: (a) Financing, in part, investments by and capital expenditures of Entergy and its subsidiaries; (b) the repayment, redemption, refunding or purchase by Entergy of any of its securities pursuant to rule 42; and (c) financing working capital requirements of Entergy and its subsidiaries. Entergy represents that no financing proceeds will be used to acquire the equity securities of any company unless the acquisition has been approved by the Commission in this proceeding or in a separate proceeding or is in accordance with an available exemption under the Act or rules, including sections 32 and 33 and rule 58. A portion of the proceeds of the financings authorized under this Application-Declaration may be used to make investments in: (a) certain energy-related non-utility assets, which are authorized pursuant to Commission Order, dated January 5, 2001 (HCAR No. 27334) (''Energy Asset Order'') and (b) certain Energy Assets and/or Energy Asset Companies for which Entergy has filed a post-effective amendment to the Energy Asset Order. Further, Entergy represents that proceeds of financing to fund investments in rule 58 companies will be subject to the applicable limitations of that rule. Entergy states that, unless otherwise authorized by the Commission, the aggregate amount of proceeds of financing approved by the Commission in this proceeding which are used to fund investments in EWGs and FUCOs will not, when added to Entergy's ''aggregate investment'' (as defined in rule 53) in all the entities at any point in time, exceed 100% of Entergy's ''consolidated retained earnings'' (also as defined in rule 53). Lastly, Entergy represents that it will not seek to recover through higher rates of any of the Entergy Operating Companies losses attributable to any operations of its nonutility companies. Specifically, related to Long-term Debt, Equity-linked Securities and Preferred Securities, the proceeds from these financings would enable Entergy to replace Short-term Debt with more permanent capital and provide an important source of future financing for the operations of, and for investments in, non-utility businesses that are exempt under the Act.

B. Financing Requests

Entergy requests authority to issue and sell from time to time: (1) Common stock (''Common Stock'') (in addition to any separate authority relating to benefit and dividend reinvestment plans);[10] (2) indirectly through one or more finance subsidiaries (''Finance Subsidiaries''), unsecured long-term indebtedness (''Long-term Debt'') and equity-linked securities (''Equity-linked Securities'') having maturities of up to 50 years, including units consisting of a combination of incorporated options, warrants and/or forward equity purchase contracts with debt, preferred stock or preferred securities; (3) directly or indirectly through one or more Finance Subsidiaries, preferred securities, including specifically trust preferred securities or monthly income preferred securities (''Preferred Securities'') having maturities of up to 50 years; and (4) unsecured short-term indebtedness having maturities of 364 days or less (''Short-term Debt'') in an aggregate principal amount at any time outstanding (including the aggregate outstanding principal amount of any short-term notes and commercial paper issued under the November 2002 Order) not to exceed $2.5 billion (''Short-term Debt Limit''). The aggregate amount of all other securities listed in 1 through 3 above not to exceed $2 billion (''All Other Securities Limit''). In addition, Entergy requests authority to enter into various hedging transactions and for Finance Subsidiaries to pay dividends to Entergy.

1. *Common Stock.* Entergy requests authority to issue and sell Common Stock, or options, warrants or other stock purchase rights exercisable for Common Stock in accordance with the Financing Parameters set forth above. Public distributions may be pursuant to private negotiation with underwriters, dealers or agents, as discussed below, or effected through competitive bidding among underwriters. In addition, sales may be made through private placements or other non-public offerings to one or more persons. All Common Stock sales will be at rates or prices and under conditions negotiated or based upon, or otherwise determined by, competitive capital markets. Entergy seeks authority to issue Common Stock or options, warrants or other stock purchase rights exercisable for Common

[10] By order of the Commission dated March 25, 1997 (HCAR No. 26693), as supplemented by order of the Commission dated December 15, 2000 (HCAR No. 27300), Entergy has authority to issue and sell up to 30 million shares of its common stock through June 30, 2006 under its Dividend Reinvestment and Stock Purchase Plan. Proceeds from the issuance and sale of shares under this plan are to be used for general corporate purposes, and subject to any requisite Commission approval, such purposes may include, but are not limited to, investments in subsidiaries, repayment of debt and payment of dividends and interest.

Stock in public or privately-negotiated transactions as consideration for the equity securities or assets of other companies, provided that the acquisition of any equity securities or assets has been authorized in a separate proceeding or is exempt under the Act or the rules, such as rule 58.

2. *Long-term Debt, Equity-linked and Preferred Securities.* In connection with the issuance of Long-term Debt, Equity-linked Securities or Preferred Securities by the Finance Subsidiaries, Entergy requests authority to issue unsecured subordinated debentures, unsecured promissory notes or other unsecured debt instruments (''Notes'') to the extent of the related issuance of the Long-term Debt, Equity-linked Securities or Preferred Securities in an aggregate amount not to exceed during the Authorization Period the All Other Securities Limit and in accordance with the described Financing Parameters. Entergy also seeks to have the flexibility to issue Long-term Debt and/or Equity-linked Securities, indirectly through one or more special-purpose Finance Subsidiaries, and to issue Preferred Securities, indirectly through the Financing Subsidiaries.

The Long-term Debt proposed to be issued by Entergy: (a) May be convertible into any other securities of Entergy; (b) may be subject to optional and/or mandatory redemption, in whole or in part, at par or at premiums above the principal amount; (c) may be entitled to mandatory or optional sinking fund provisions; (d) may provide for reset of the coupon pursuant to a remarketing arrangement; and (e) may be called from existing investors by a third party. The maturity dates, interest rates, redemption and sinking fund provisions and conversion features, if any, with respect to Long-term Debt of a particular series, as well as any associated placement, underwriting or selling agent fees, commissions and discounts, if any, will be established by negotiation or competitive bidding.

The Equity-linked Securities and Preferred Securities may be issued in one or more series with rights, preferences, and priorities as may be designated in the instrument creating each series, as determined by Entergy's board of directors. Dividends or distributions on Equity-linked Securities and Preferred Securities will be made periodically and to the extent funds are legally available for the purpose, but may be made subject to terms which allow the issuer to defer dividend payments for specified periods. Equity-linked Securities will be exercisable or exchangeable for or convertible, either mandatorily or at the option of the holder, into Entergy Common Stock or indebtedness or allow the holder to surrender to the issuer or apply the value of a security issued by Entergy as approved by the Commission to the holder's obligation to make a payment on another security of Entergy issued as permitted by the Commission. For example, Entergy may issue Common Stock or Common Stock warrants linked with debt securities. The holder will be obligated to pay to Entergy an additional amount of consideration at a specified date for the Common Stock but is authorized to surrender the linked debt security to or for the benefit of Entergy in lieu of the cash payment. Any convertible or Equity-linked Securities will be convertible into or linked to Common Stock, Preferred Securities or unsecured debt that Entergy is otherwise authorized to issue by Commission order directly, or indirectly, through Financing Subsidiaries on behalf of Entergy. Any Preferred Securities may be convertible or exchangeable into Common Stock or unsecured debt that Entergy is otherwise authorized to issue by Commission order and may be issued in the form of shares or units.

3. *Finance Subsidiaries.* Entergy requests authority to: (a) Acquire the equity securities of one or more special-purpose subsidiaries, organized solely to facilitate financing; (b) to guarantee the securities issued by the Finance Subsidiaries, to the extent not exempt pursuant to rule 45(b) and rule 52; and (c) to have the Finance Subsidiaries pay dividends out of capital to Entergy.

Entergy also requests continued authority to acquire, directly or indirectly, the equity securities of one or more Finance Subsidiaries, which may be organized as corporations, trusts, partnerships or other entities, created specifically for the purpose of facilitating the financing of the authorized and exempt activities (including exempt and authorized acquisitions) of Entergy through the issuance of Long-term Debt, Equity-linked Securities or Preferred Securities, and any other type of security authorized by rule or order, to third parties. Entergy requests authority for Finance Subsidiaries to dividend (including dividends out of capital), loan or otherwise transfer the proceeds of the financings to Entergy. In the event that the Finance Subsidiaries loan the proceeds of the financings to Entergy, Entergy will issue Notes to evidence the borrowings. If required, Entergy proposes to guarantee, provide support for or enter into expense agreements to the extent of the obligations of any Finance Subsidiary that it organizes. Entergy states that the amount of any Long-term Debt, Equity-linked Securities or Preferred Securities issued by any Finance Subsidiary shall be counted against the All Other Securities Limit to the extent that Entergy guarantees the securities. Entergy further represents that the Finance Subsidiaries authorized under this Application-Declaration will not be merged or consolidated with any previously authorized finance subsidiary created by Entergy Louisiana, Inc., Entergy Mississippi, Inc., or Entergy Gulf States, Inc. under Commission orders dated December 29, 2003 (HCAR No. 27783) (as supplemented by order dated January 8, 2004 (HCAR No. 27783A), December 29, 2003 (HCAR No. 27787) and December 29, 2003 (HCAR No. 27786).

4. *Short-term Debt.* Entergy proposes to issue and sell unsecured Short term Debt in an aggregate principal amount at any time outstanding not to exceed $2.5 billion in any combination of notes to banks and commercial paper (including the aggregate principal amount of any notes and/or commercial paper issued and outstanding under the November 2002 Order).

Entergy proposes to sell commercial paper, from time to time, in established domestic or European commercial paper markets. Commercial paper would typically be sold to dealers at the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally. Entergy expects that the dealers acquiring commercial paper from Entergy will reoffer the paper at a discount to corporate, institutional and, with respect to European commercial paper, individual investors. It is anticipated that Entergy's commercial paper will be reoffered to investors as commercial banks, insurance companies, pension funds, investment trusts, foundations, colleges and universities, finance companies and nonfinancial corporations. In connection with the sale of the commercial paper, Entergy may obtain letters of credit from one or more banks in support of the commercial paper obligations.

Entergy also proposes to increase its currently established bank lines and establish additional bank lines as necessary to have bank lines in an aggregate principal amount not to exceed the proposed aggregate Short-term Debt Limit. Loans under these lines (which terminate no later than five years from the establishment of the facility) will have maturities not more

than 364 days from the date of each borrowing. Entergy proposes to engage in other types of short-term financing generally available to borrowers with comparable credit ratings as it may deem appropriate in light of its needs and market conditions at the time of issuance.

5. *Hedging.* Entergy requests authority to enter into hedging transactions (''Interest Rate Hedges'') with respect to indebtedness of Entergy, and the Finance Subsidiaries in order to manage and minimize interest rate costs. Entergy also requests authority to enter into hedging transactions (''Anticipatory Hedges'') with respect to anticipatory debt issuances of Entergy and the Finance Subsidiaries in order to lock-in current interest rates and/or manage interest rate risk exposure, with the Interest Rate Hedges and Anticipatory Hedges to be entered into with respect to debt issuances in aggregate principal amount not to exceed $2 billion.

Entergy seeks to enter into Interest Rate Hedges with respect to indebtedness of Entergy and the Finance Subsidiaries, subject to certain limitations and restrictions, in order to reduce or manage interest rate cost or risk. Interest Rate Hedges would only be entered into with counterparties (''Approved Counterparties'') whose senior debt ratings, or whose parent companies' senior debt ratings, as published by Standard and Poor's Ratings Group, are equal to or greater than BBB, or an equivalent rating from Moody's Investors' Service, Fitch Investor Service, or Duff and Phelps.

Interest Rate Hedges will involve the use of financial instruments and derivatives commonly used in today's capital markets, such as interest rate futures, swaps, caps, collars, floors, and structured notes (*i.e.*, a debt instrument in which the principal and/or interest payments are indirectly linked to the value of an underlying asset or index), or transactions involving the purchase or sale, including short sales, of U.S. Treasury or agency (*e.g.* FNMA) obligations or LIBOR-based swap instruments. The transactions would be for fixed periods and stated notional amounts. In no case will the notional principal amount of any Interest Rate Hedge exceed that of the underlying debt instrument and related interest rate exposure. Entergy will not engage in speculative transactions. Fees, commissions and other amounts payable to the counterparty or exchange (excluding, however, the swap or option payments) in connection with an Interest Rate Hedge will not exceed those generally obtainable in competitive markets for parties of comparable credit quality.

In addition, Entergy requests authorization to enter into Anticipatory Hedges with respect to anticipated debt offerings of Entergy and the Finance Subsidiaries, subject to certain limitations and restrictions. Anticipatory Hedges would only be entered into with Approved Counterparties, and would be utilized to fix and/or limit the interest rate risk associated with any new issuance through: (a) A forward sale of exchange-traded U.S. Treasury futures contracts, U.S. Treasury obligations and/or a forward swap (each a ''Forward Sale''); (b) the purchase of put options on U.S. Treasury obligations (a ''Put Options Purchase''); (c) a Put Options Purchase in combination with the sale of call options on U.S. Treasury obligations (a ''Zero Cost Collar''); (d) transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations; or (e) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to structured notes, options, caps and collars, appropriate for the Anticipatory Hedges.

Anticipatory Hedges may be executed on-exchange (''On-Exchange Trades'') with brokers through the opening of futures and/or options positions traded on the Chicago Board of Trade or the Chicago Mercantile Exchange, the opening of over-the-counter positions with one or more counterparties (''Off-Exchange Trades''), or a combination of On-Exchange Trades and Off-Exchange Trades. Entergy will determine the optimal structure of each Anticipatory Hedge transaction at the time of execution. Entergy may decide to lock in interest rates and/or limit its exposure to interest rate increases.

Entergy will comply with Statement of Financial Accounting Standard (''SFAS'') 133 (Accounting for Derivative Instruments and Hedging Activities) and SFAS 138 (Accounting for Certain Derivative Instruments and Certain Hedging Activities) or other standards relating to accounting for derivative transactions as are adopted and implemented by the Financial Accounting Standards Board (''FASB''). Entergy represents that each Interest Rate Hedge and each Anticipatory Hedge will qualify for hedge accounting treatment under the current FASB standards in effect and as determined as of the date such Interest Rate Hedge or Anticipatory Hedge is entered into. The Applicants will also comply with any future FASB financial disclosure requirements associated with hedging transactions.

American Transmission Company, LLC, et al. (70–10214)

American Transmission Company, LLC (''ATC''), an electric transmission public utility company subsidiary of Alliant Energy Corporation (''Alliant''), a registered holding company, and ATC Management, Inc. (''ATCMI''), a public utility company, corporate manager of ATC, and holding company subsidiary of Alliant, claiming exemption from registration under section 3(a)(1) by rule 2 of the Act, both located at N19 W23993 Ridgeview Parkway, West Waukesha, Wisconsin 53188 (together, ''Applicants'') have filed a declaration (''Declaration'') under sections 6(a), 7 and 12(b) of the Act and rule 54 under the Act.

I. Background

In 1999, the state of Wisconsin enacted legislation (''Transco Legislation'') that facilitated the formation of for-profit transmission companies (''Transcos''). ATC was created under the Transco Legislation and ATCMI was created to be the general manager of ATC. The legislation obligates these Transcos to construct, operate, maintain, and expand transmission facilities to provide adequate, reliable transmission services under an open-access transmission tariff.

By order dated December 29, 2000 (HCAR No. 27331) (''December Order''), the Commission authorized ATC to acquire the transmission assets of the subsidiaries of four investor owned public utility holding companies with service areas in Wisconsin and adjacent areas in Illinois and Michigan. The following utility companies transferred ownership and operation of their transmission assets to ATC in exchange for member interests (''Member Interests'') in ATC: Wisconsin Power and Light Company (''WPL'') and South Beloit Water, Gas and Electric Company (''South Beloit'');[11] Wisconsin Electric Power Company and Edison Sault Electric Company (''Edison Sault'');[12] Madison Gas and Electric Company;[13]

[11] *See* December Order. WPL and South Beloit (which are both subsidiary companies of Alliant) are together treated as a single member.

[12] *See Wisconsin Energy Corp.*, HCAR No. 27329 (Dec. 28, 2000). Wisconsin Electric Power Company and Edison Sault Electric Company (which are both subsidiaries of Wisconsin Energy Corp., *dba* We Energies, an exempt holding company) are together treated as a single member.

[13] *See Madison Gas and Electric Co.,* HCAR No. 27326 (Dec. 28, 2000). As a result of the acquisition, Madison Gas and Electric Company is both a

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and Wisconsin Public Service Corp.[14] Wisconsin Public Power Inc. (''WPPI''), a Wisconsin municipal electric company, contributed cash in exchange for an equity interest in ATC proportional to WPPI's load ratio share in Wisconsin.[15] These entities together are referred to as the ''Initial Members.''

Applicants state that as a limited liability company, ATC may be formed to be ''member managed'' or ''manager managed'' according to Wisconsin law. Applicants state that it was decided that ATC would be ''manager managed'' by ATCMI. In the December Order, the Commission authorized ATCMI to acquire a nominal interest in ATC and operate as the sole manager of ATC. Due to the extent of the operational control ATCMI has over the utility assets of ATC, the Commission found that both ATC and ATCMI were jurisdictional public utilities under the Act. ATCMI is also an intermediate holding company by virtue of its ownership interest in ATC and claims exemption from registration by rule 2 under section 3(a)(1) of the Act.

In June 2001, eighteen more contributors, including twelve municipal utilities, four cooperatives, one public power entity and one investor-owned utility invested transmission assets and/or cash in ATC. Two new members joined ATC on December 31, 2002; and a third member joined ATC on December 31, 2003. These three members are Alger Delta Cooperative Electric Association; the Ontonagon County Rural Electrification Association and the Upper Peninsula Public Power Agency. These members are referred to collectively as the ''Additional Members.'' Effective February 1, 2002, ATC transferred operational control of its facilities to the Midwest Independent Transmission System Operator, Inc. (''MISO'').

The Initial Members contributed cash and/or transmission assets to ATC and they or their associate companies received in exchange Member Interests in ATC proportional to their contributions. They or their associate companies also purchased a proportionate amount of Class A shares in ATCMI and one Class B share each of ATCMI.

The Additional Members contributed cash and/or transmission assets to ATC and received in exchange Member Interests in ATC proportional to their contributions. They also purchased a proportionate amount of Class A shares in ATCMI.

II. Existing Authorization

By order dated May 15, 2003 (Holding Co. Act Release No. 27678), as modified by an order issued on June 23, 2003 (Holding Co. Act Release No. 27688) (collectively, ''Prior Financing Order'') the Commission authorized Applicants to issue debt securities in an aggregate amount not to exceed $710 million at any one time outstanding, to issue member interests and ATCMI to issue Class A, Class B and preferred securities in an aggregate amount of $500 million, and guarantees and other credit support in an aggregate amount not to exceed $125 million, all at any one time outstanding through June 30, 2004.

III. Current Request

Applicants now request financing authority from the date of the issuance of the order in this matter (the ''Order'') through June 30, 2005 (''Authorization Period'') as follows:

A. Applicants seek authority for ATC to issue debt securities in an aggregate amount not to exceed $710 million at any one time outstanding during the Authorization Period, provided that the aggregate amount of short-term debt issued pursuant to the requested authority will not exceed $200 million at any one time outstanding during the Authorization Period;

B. ATC seeks authorization to issue Member Interests and ATCMI seeks authority to issue equity interests and preferred securities in an aggregate amount of $500 million at any one time outstanding during the Authorization Period, provided that the aggregate amount of Member Interests and Class A and Class B Shares outstanding at any one time during the Authorization Period will not exceed $393 million plus the value at that time of the Member Interests and Class A and Class B Shares outstanding as of the date of the order in this matter;

C. Applicants request authority to provide guarantees and other credit support as described below in an aggregate amount not to exceed $125 million outstanding at any one time during the Authorization Period; and

D. Applicants request authority to enter into interest rate hedging transactions as described below.

IV. Financing Conditions

All requested authorization is subject to the following terms and conditions: (i) The maturity of short-term debt will not exceed one year and the maturity of long-term debt will not exceed fifty years; (ii) any short-term or long-term debt security or credit facility will have such designation, aggregate principal amount, interest rate(s) or methods of determining the same, terms of payment of interest, collateral, redemption provisions, non-refunding provisions, sinking fund terms, conversion or put terms and other terms and conditions as ATC and ATCMI might determine at the time of issuance, provided that, in no event, however, will the effective cost of money on short-term debt exceed 300 basis points over the London Interbank Offered Rate for maturities of one year or less in effect at the time; (iii) the interest rate on long-term debt will not exceed 500 basis points over the yield-to-maturity of a U.S. Treasury security having a remaining term approximately equal to the average life of the debt; and (iv) the underwriting fees, commissions or other similar remuneration paid in connection with the non-competitive issue, sale or distribution of securities under this Application will not exceed 7% of the principal or total amount of the securities being issued.

Applicants represent that at all times during the Authorization Period, ATCMI and ATC will each maintain common equity of at least 30% of its consolidated capitalization (common equity, preferred stock, long-term and short-term debt). Applicants further represent that, other than Class A and Class B Shares and Member Interests, no security may be issued in reliance upon this Order, unless: (i) The security to be issued, if rated, is rated investment grade; (ii) all outstanding rated securities of the issuer are rated investment grade; and (iii) all outstanding rated securities of ATCMI are rated investment grade. For purposes of this condition, a security will be considered rated investment grade if it is rated investment grade by at least one nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of Rule 15c3–1 under the 1934 Act. Applicants request that the Commission reserve jurisdiction over the issuance by ATCMI or ATC of any securities that are rated below investment grade. Applicants further request that the Commission reserve jurisdiction over the issuance of any guarantee or other securities at any time that the conditions set forth in clauses (i) through (iii) above are not satisfied.

V. Specific Financing Requests

A. Short Term Debt

Short-term debt will be unsecured and may include institutional

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public-utility company and an exempt holding company.

[14] *See WPS Resources Corporation,* HCAR No. 27330 (Dec. 28, 2000). Wisconsin Electric Power Company is a subsidiary of WPS Resources Corporation, an exempt holding company.

[15] WPPI is exempt from all provisions of the Act under section 2(c).

borrowings, commercial paper and privately-placed notes. ATC may sell commercial paper or privately placed notes from time to time, in established commercial paper markets. Commercial paper may be sold at a discount or bear interest at a rate per annum prevailing at the date of issuance for commercial paper of a similarly situated company. ATC may, without counting against the limit on financing set forth above, maintain back up lines of credit in connection with one or more commercial paper programs in an aggregate amount not to exceed the amount of authorized commercial paper.

Credit lines may also be set up for use by ATC for general corporate purposes. Credit lines, which will not be counted against the financing limit, may be utilized to obtain letters of credit or may be borrowed against, from time to time, as it is deemed appropriate or necessary.

B. Long-Term Debt

Long-term debt securities may include notes or debentures under one or more indentures or long-term indebtedness under agreements with banks or other institutional lenders directly or indirectly. Long-term debt may be secured or unsecured.[16] Long-term debt may be convertible or exchangeable into forms of equity or indebtedness authorized in this filing, or into other securities or assets the acquisition of which is either exempt or approved by Commission order. Specific terms of any borrowings will be determined by ATCMI at the time of issuance and will comply in all regards with the parameters on financing authorization set forth above.

C. Equity Interests

In the event Applicants determine to seek capital through equity or to acquire new facilities in exchange for equity interests, ATC seeks authorization to issue Member Interests and ATCMI seeks authority to issue Class A and B Shares in an aggregate amount at any one time outstanding during the Authorization Period of $393 million plus the value at that time of any Member Interests and Class A and B Shares outstanding at the time of the Order.

Member Interests may be issued in the form of member interests, preferred member interests or convertible member interests.

Applicants contemplate that from time to time ATC may require an additional equity infusion. ATC could reduce the amount of distributions to Members. Each Member's equity would be increased by the amount of undistributed earnings on a *pro rata* basis. In the alternative, there could be a capital call for Members to make additional cash contributions on a *pro rata* basis. If a Member opts not to make an additional contribution, any other Member could make the requested contribution. Members do not, however, have the obligation to make additional contributions. Another possibility, therefore, would be for ATC to issue preferred securities that are convertible into Member Interests and/or Class A Shares and/or Class B Shares. The convertible preferred securities could be issued and sold to Members or third parties. The securities would have a stated par value and dividend rate and would be convertible into Member Interests and/or Class A and/or Class B Shares based on a predetermined ratio or formula. The conversion rights and terms and conditions for exercise of those rights would be set forth at the time of purchase. At the end of 2003, ATC made a capital call for additional contributions in the amount of $68 million to be paid in four quarterly installments in 2004.

ATC would issue Member Interests in exchange for cash or the transfer of transmission facilities to ATC by current or future members. The entities transferring transmission assets and their transferring asset values have not yet been determined. In order to maintain its 50/50 debt to equity ratio, ATC would reimburse the contributors for 50% of the net book value of the transmission assets contributed. In addition, ATCMI will issue to each new member of ATC Class A Shares in an amount that is proportional to that member's interest in ATC, with a par value of $0.01 per share and a sales price of $10 per share.

Additionally, it is anticipated that ATC will issue Member Interests and ATCMI will issue Class A Shares to Wisconsin Public Service Corporation or its affiliate in exchange for that company's contribution of 50% of the ongoing cash requirements of the Arrowhead to Weston Transmission Line Project. Current cost estimates are approximately $400 million over the 2002–2008 period.[17]

D. Preferred Stock

ATCMI seeks authority to issue preferred stock or other types of preferred securities (including convertible preferred securities). It is contemplated that preferred stock or other types of preferred securities may be issued in one or more series with rights, preferences, and priorities as may be designated in the instrument creating series, as determined by ATCMI's board of directors, or a pricing committee or other committee of the board performing similar functions. Preferred securities may be redeemable or may be perpetual in duration. Dividends or distributions on preferred securities will be made periodically and to the extent funds are legally available for the purpose, but may be made subject to terms which allow Applicants to defer dividend payments for specified periods. Preferred securities may be convertible into forms of equity or indebtedness authorized in this filing, or into other securities or assets the acquisition of which is either exempt or approved by Commission order.

Preferred securities may be sold directly or through underwriters or dealers in any manner. The dividend rate on any series of preferred securities issued by ATCMI would not exceed 500 basis points over the yield to maturity of a U.S. Treasury security having a remaining term equal to the term of that series of preferred securities at the time of issuance.

E. Guarantees

Applicants request authorization to enter into guarantees, obtain letters of credit, enter into expense agreements or otherwise provide credit support with respect to the obligations of their affiliates or members in the ordinary course of Applicants' business, in an amount not to exceed $125 million outstanding at any one time during the Authorization Period.

Applicants state that certain of the guarantees referred to above may be in support of obligations that are not capable of exact quantification. Applicants will determine the exposure under the guarantee by appropriate means including estimation of exposure based on loss experience or projected potential payment amounts. As appropriate, the estimates will be made in accordance with generally accepted accounting principles and/or sound financial practices.

F. Interest Rate Hedging Transactions

ATC seeks authority to enter into interest rate hedging transactions with respect to existing indebtedness

[16] Debt may be secured by the assets of ATC LLC.

[17] Arrowhead-Weston is a 220-mile transmission line connecting Duluth, Minnesota, with Wausau, Wisconsin. The line is needed to accommodate electric load growth in northern Wisconsin and to improve reliability of the electric transmission system in the region. The acquisition of utility assets has been approved by the Public Service Commission of Wisconsin and so is exempt from section 9(a)(1) pursuant to section 9(b)(1) of the Act.

(''Interest Rate Hedges''), subject to certain limitations and restrictions, in order to reduce or manage interest rate cost. Interest Rate Hedges will only be entered into with counterparties (''Approved Counterparties'') whose senior debt ratings, or the senior debt ratings of the parent companies of the counterparties, as published by Standard and Poor's Ratings Group, are equal to or greater than BBB, or an equivalent rating from Moody's Investors Service, Fitch, or Duff and Phelps. Interest Rate Hedges will involve the use of financial instruments commonly used in today's capital markets, such as interest rate swaps, caps, collars, floors, and structured notes (*i.e.*, a debt instrument in which the principal and/or interest payments are indirectly linked to the value of an underlying asset or index), or transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations. The transactions will be for fixed periods and stated notional amounts. Fees, commissions and other amounts payable to the counterparty or exchange (excluding, however, the swap or option payments) in connection with an Interest Rate Hedge will not exceed those generally obtainable in competitive markets for parties of comparable credit quality.

ATC also seeks authority to enter into interest rate hedging transactions with respect to anticipated debt offerings (the ''Anticipatory Hedges''), subject to certain limitations and restrictions. Anticipatory Hedges will only be entered into with Approved Counterparties, and will be utilized to fix and/or limit the interest rate risk associated with any new issuance through (i) a forward sale of exchange-traded U.S. Treasury futures contracts, U.S. Treasury obligations and/or a forward swap (each a ''Forward Sale''), (ii) the purchase of put options on U.S. Treasury obligations (a ''Put Options Purchase''), (iii) a Put Options Purchase in combination with the sale of call options on U.S. Treasury obligations (a ''Zero Cost Collar''), (iv) transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations, or (v) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to structured notes, caps and collars, appropriate for the Anticipatory Hedges.

Applicants state that they will comply with existing and future financial disclosure requirements of the Financial Accounting Standards Board associated with hedging transactions, and that these hedging transactions will qualify for hedge accounting treatment under generally accepted accounting principles.

Cinergy Corp. et al. (70–10224)

The Cinergy Corporation (''Cinergy''), a Delaware corporation and a registered holding company under the Act, its subsidiary public-utility company Cincinnati Gas & Electric Company, (''CG&E''), an Ohio corporation, both at 139 East Fourth Street, Cincinnati, Ohio 45202, and INOH Gas, Inc., an Indiana corporation, 2569 Handyside Avenue, Cincinnati, Ohio 45208, (''INOH'' and, together with Cinergy and CG&E, ''Applicants''), have filed an application-declaration (''Application'') with the Commission under sections 3(a)(1) and 12(d) of the Act and rules 44 and 54 under the Act.

Cinergy and CG&E request authority to sell to INOH all of the issued and outstanding common stock of CG&E's wholly-owned subsidiary Lawrenceburg Gas Company (''Lawrenceburg''), an Indiana corporation and gas utility company. INOH requests an order under section 3(a)(1) of the Act exempting it from all provisions of the Act, except section 9(a)(2).

CG&E is a public utility company all of whose outstanding common stock is owned by Cinergy. In addition to CG&E, Cinergy directly holds all the outstanding common stock of another public utility company, PSI Energy, Inc., a vertically integrated electric utility that provides service in north central, central and southern Indiana. Through various other subsidiaries, Cinergy engages in a variety of energy-related and other authorized non-utility businesses.

CG&E is a combination electric and gas public utility and holding company that provides service in the southwestern portion of Ohio and, through subsidiaries, in nearby areas of Kentucky and Indiana. CG&E's principal subsidiary is The Union Light, Heat and Power Company, which provides electric and gas service in northern Kentucky. CG&E's other utility subsidiaries, Lawrenceburg and Miami Power Corporation, are insignificant to its results of operations. As of and for the year ended December 31, 2003, CG&E reported consolidated total operating revenues of approximately $2.4 billion and consolidated total assets of approximately $5.8 billion.

Lawrenceburg distributes and sells natural gas to approximately 6,100 residential, commercial, industrial and municipal customers over a 60-square mile area in southeastern Indiana. Lawrenceburg owns a gas distribution system located within Indiana consisting of 161 miles of mains and 26 miles of service lines. Lawrenceburg is connected with and sells gas at wholesale to the City of Aurora, Indiana, and is also connected with interstate gas pipeline systems owned by Texas Gas Transmission Corporation and Texas Eastern Transmission Corporation. As of and for the year ended December 31, 2003, Lawrenceburg had total operating revenues of approximately $10.9 million and total assets of approximately $19.4 million, including net property, plant and equipment of approximately $16.2 million. As a ''public utility'' under the laws of Indiana, Lawrenceburg is subject to regulation by the Indiana Utility Regulatory Commission (''IURC'') with respect to such matters as retail rates, service and safety standards, accounts, acquisitions and sales of utility properties and issuance of securities.

INOH is a privately held Indiana corporation formed to acquire the common stock of Lawrenceburg. Upon consummation of the proposed transaction, Lawrenceburg will be a wholly-owned subsidiary of INOH. INOH owns, and upon consummation of the proposed transaction will own, no other public utility companies.

CG&E and INOH have entered into a Stock Purchase Agreement, dated as of February 27, 2004 (''Purchase Agreement''), in accordance with which CG&E has agreed to sell to INOH, and INOH has agreed to purchase, all of the outstanding shares (''Shares'') of common stock, $50 par value per share, of Lawrenceburg. Subject to the terms and conditions of the Purchase Agreement, at the closing of the proposed transaction (''Closing''), INOH has agreed to pay CG&E a purchase price of $16,700,000 in cash for the Shares (''Purchase Price''), subject to potential increase or decrease to the extent that the working capital of Lawrenceburg at the Closing exceeds or is less than the adjusted working capital of Lawrenceburg as of a date shortly before signing of the Purchase Agreement. CG&E will use the net proceeds from the sale of Lawrenceburg to reduce outstanding short-term indebtedness and for general corporate purposes.

Upon consummation of the proposed transaction, INOH, by virtue of its ownership of all of the outstanding common stock of Lawrenceburg, will be deemed a ''holding company'' under the Act. INOH asserts that it will be entitled to the exemption afforded by section 3(a)(1) of the Act, and accordingly requests that the Commission issue an order under that section of the Act exempting INOH from all provisions of the Act except section 9(a)(2). In

support of that request, INOH states that upon consummation of the Transaction, Lawrenceburg will constitute its only public utility subsidiary. Both INOH and Lawrenceburg are incorporated under the laws of Indiana, the same State in which all of Lawrenceburg's public utility operations are conducted. All of Lawrenceburg's gas distribution facilities, which compose substantially all of its physical assets, are likewise located in Indiana. Following the consummation of the Transaction, Lawrenceburg, as a ''public utility'' under Indiana law, will remain subject to extensive regulation by the IURC, with respect to such matters as rates, service and safety standards, accounting, securities issuances, and acquisitions and sales of utility property.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–12995 Filed 6–8–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27853]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

June 3, 2004.

Notice is hereby given that the following filing(s) has/have been made with the Commission under 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) is/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 28, 2004, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant 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 facts 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 28, 2004, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Southern Company (70–10186)

The Southern Company (''Southern''), 270 Peachtree Street, NW., Atlanta, Georgia, 30303, a registered holding company under the Act; Georgia Power Company (''Georgia Power''), Southern Company Services, Inc. (''SCS''), and Southern Company Energy Solutions, Inc., each located at 241 Ralph McGill Boulevard, NE., Atlanta, Georgia, 30308 and each a wholly-owned subsidiary of Southern; Gulf Power Company (''Gulf Power''), One Energy Place, Pensacola, Florida, 32520 and a wholly-owned utility subsidiary of Southern; Mississippi Power Company (''Mississippi Power''), 2992 West Beach, Gulfport, Mississippi, 39501 and a wholly-owned utility subsidiary of Southern; Savannah Electric and Power Company (''Savannah Power''), 600 Bay Street East, Savannah, Georgia, 31401 and a wholly-owned utility subsidiary of Southern; Alabama Power Company (''Alabama Power''), 600 North 18th Street, Birmingham, Alabama, 35291 and a wholly-owned utility subsidiary of Southern; Southern Company Capital Funding, Inc. (''Capital Funding''), 1403 Foulk Road, Suite 102, Wilmington, Delaware, 19803 and a wholly-owned subsidiary of Southern; Southern Communications Services, Inc., 555 Glenridge Connector, Suite 500, Atlanta, Georgia, 30342 and a wholly-owned subsidiary of Southern; and Southern Nuclear Operating Company, Inc., 40 Inverness Center Parkway, Birmingham, Alabama, 35242 and a wholly-owned subsidiary of Southern (collectively, ''Applicants''), have filed a declaration/application (''Declaration'') under sections 6(a), 7, 9(a), 10, and 12(b), 12(c), and 12(f) of the Act and rules 42, 45, 53, and 54 under the Act.

Southern owns the following public utilities: Alabama Power, Georgia Power, Gulf Power, Mississippi Power, Savannah Power, Southern Power Company and Southern Electric Generating Company.

I. Current Authority

Southern currently has authority to issue the following securities:

1. Up to 35 million shares of common stock (Holding Company Act Release No. 27323) (December 27, 2000);

2. Up to $2 billion aggregate principal amount of short-term notes, term loan notes and commercial paper (Holding Company Act Release No. 27367) (March 28, 2001);

3. Up to 88 million shares of common stock under its dividend reinvestment plan, employee savings plan and employee stock ownership plan (Holding Company Act Release No. 27118) (December 22, 1999). All of the Applicants, except Capital Funding, may purchase Southern common stock to contribute to the employee stock ownership plan for the benefit of their employees;

4. Up to $160 million aggregate amount of guarantees of the debt or other obligations of SCS (Holding Company Act Release No. 27082) (October 8, 1999); and

5. Up to $1.5 billion aggregate principal amount of preferred securities, notes, stock purchase contracts and stock purchase units (Holding Company Act Release No. 27134) (February 9, 2000). These securities may also be issued on Southern's behalf by Capital Funding. In connection with these financing transactions, Southern may enter into one or more guarantees or credit support agreements in favor of Capital Funding.

Upon the effectiveness of the order in this filing, Applicants will relinquish their authority to issue securities and engage in the transactions authorized in the orders listed above.

II. Overview of Request

Applicants request authorization to engage in the following financing transactions during the period from the effective date of the order in this filing through June 30, 2007 (''Authorization Period''):

1. Southern requests authority to issue and sell from time-to-time up to 35 million shares of its common stock;

2. Southern requests authority to issue and sell from time-to-time unsecured notes to effect short-term, term loan and commercial paper borrowings (collectively, ''Institutional Debt'') in an aggregate principal amount not to exceed $3 billion at any time outstanding;

3. Southern requests authority to issue and sell from time-to-time up to 85 million shares of its common stock to its dividend reinvestment plan, employee savings plan, employee stock ownership plan or other similar stock based plans adopted in the future. These shares will be in addition to the common stock proposed to be issued by Southern in paragraph II.1, above.[1] In addition, all of

[1] Under an order dated October 11, 2000 (Holding Company Act Release No. 27246), Southern has existing authority to issue up to 40 million shares

Continued

the Applicants, except Capital Funding, request authority to purchase Southern common stock to contribute to the employee stock ownership plan for the benefit of their employees;

4. Southern requests authority to provide from time-to-time guarantees on behalf or for the benefit of SCS in an aggregate principal amount not to exceed $330 million at any time outstanding; and

5. Southern and Capital Funding request authority to issue and sell from time-to-time directly shares of their preferred stock and, directly or indirectly preferred securities (including without limitation trust preferred securities) (''Preferred Securities''), as defined below, equity-linked securities (''Equity-Linked Securities''), as defined below, and/or long-term debt (''Long-term Debt''), as defined below, in an aggregate principal amount not to exceed $1.5 billion. Southern and Capital Funding request authority to issue and sell Preferred Securities indirectly through one or more financing subsidiaries. Any securities issued by Capital Funding, or any Preferred Securities issued by a financing subsidiary, may be guaranteed by Southern. Any securities may be convertible into common stock of Southern, provided that the value of the common stock issuable upon conversion may not exceed $2 billion in the aggregate. The common stock issuable upon conversion will be in addition to the common stock proposed to be issued by Southern in paragraphs II.1 and II.3, above.

III. Financing Parameters

Applicants propose that the following general terms will be applicable where appropriate to the financing transactions requested:

1. *Effective Cost of Money.* The effective cost of capital on Long-term Debt, preferred stock, Preferred Securities, Equity-linked Securities and Institutional Debt will not exceed competitive market rates available at the time of issuance for securities having the same or reasonably similar terms and conditions issued by similar companies of reasonably comparable credit quality; provided that in no event will the effective cost of capital (a) on any series of Long-term Debt exceed 700 basis points over a U.S. Treasury security having a remaining term equal to the term of the series, (b) on any series of Institutional Debt exceed 700 basis points over the London Interbank Offered Rate for maturities of less than one year, and (c) on any series of Preferred Stock, Preferred Securities or Equity-linked Securities exceed 700 basis points over a U.S. treasury security having a remaining term equal to the term of the series.

2. *Maturity.* The maturity of Long-term Debt and Preferred Securities will be between one and 50 years after the issuance. Equity-linked Securities will be redeemed or mature no later than 50 years after the issuance, unless converted into common stock. Preferred stock will be redeemed no later than 50 years, unless it is perpetual in duration.

3. *Issuance Expenses.* The underwriting fees, commissions or other similar remuneration paid in connection with the non-competitive issue, sale or distribution of (a) Long-term Debt and Institutional Debt will not exceed 7% of the principal or total amount of the securities being issued and (b) preferred stock, common stock, Preferred Securities or Equity-linked Securities will not exceed 7% of the principal or total amount of the securities being issued. However, no commission or fee will be payable in connection with the issuance and sale of commercial paper, except for a commission, payable to the dealer, not to exceed one-eighth of one percent per annum in respect of commercial paper sold through the dealer as principal.

4. *Common Equity Ratio.* At all times during the Authorization Period, Southern represents that it, and each of its public utility subsidiaries, will maintain a common equity ratio of at least thirty percent of their consolidated capitalization (common equity, preferred stock, long-term and short-term debt) as reflected in its most recent Form 10–K and Form 10–Q filed with the Commission adjusted to reflect changes in capitalization since the balance sheet date, unless otherwise authorized.

5. *Investment Grade Ratings.* Southern and Capital Funding represent that no guarantees or securities, other than common stock, commercial paper or short-term bank debt (with a maturity of one year or less), may be issued in reliance upon the authorization that may be granted by the Commission, unless upon original issuance (a) the security to be issued, if rated, is rated investment grade; (b) all outstanding securities of the issuer that are rated are rated investment grade; and (c) all outstanding securities of Southern that are rated are rated investment grade. For purposes of this provision, a security will be deemed to be rated ''investment grade'' if it is rated investment grade by at least one nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of Rule 15c3–1 under the Securities Exchange Act of 1934, as amended. Southern and Capital Funding also request the Commission to reserve jurisdiction over the issuance of any guarantees or securities that do not satisfy these conditions.

6. *Use of Proceeds.* Applicants state that the proceeds from the issuance or sale of securities in the proposed transactions will be used by Southern for general corporate purposes, to acquire the securities of associate companies and to acquire interests in other businesses, as permitted under the Act, including interests in ''exempt wholesale generators'' (''EWGs''), ''energy related companies'' under Rule 58 and ''foreign utility companies'' (''FUCOs''), in transactions permitted under Act, and for other lawful purposes. Southern does not seek in this proceeding any increase in the amount it is permitted to invest in EWGs and FUCOs.[2] However, no proceeds will be used to acquire interests in other businesses or the securities of associate companies unless the financing is consummated in accordance with Commission order or is exempt from the Act. The proceeds of any financing by Capital Funding or a financing subsidiary will be remitted, paid as a dividend, loaned or otherwise transferred to Southern. The proceeds realized by SCS from borrowings guaranteed by Southern will be used to fund the general requirements of the business of SCS including the possible refunding of outstanding indebtedness.

IV. Financial Condition

Applicants state that the ratings of the securities issued by Southern and Capital Funding are:

Southern senior unsecured debt—
Moody's: A3, S&P: A–
Southern commercial paper, short term—Moody's: P1, S&P: A1–
Capital Funding senior unsecured debt—Moody's: A3, S&P: A–

V. Description of Specific Types of Financings

1. *Common Stock.* Southern proposes to issue and sell up to 35 million shares

of its common stock in accordance with the Southern Company Performance Stock Plan through February 17, 2007. Under an order dated June 7, 2001 (Holding Company Act Release No. 27416), Southern has existing authority to issue up to 30 million shares of its common stock in accordance with the Southern Company Omnibus Incentive Compensation Plan through May 22, 2011. The authority granted in these orders will remain in place and will not be affected by the authority that may be granted to the Applicants in the present matter.

[2] Under an order dated April 1, 1996, Southern is authorized to invest up to 100% of its consolidated retained earnings in EWGs and FUCOs (Holding Company Act Release No. 26501).

of common stock in ordinary regular-way transactions in the auction market on the floor of the New York Stock Exchange, or any regional exchange on which Southern's common stock may be admitted to trading privilege, in block transactions on exchanges or in the over-the-counter market, in which a broker or dealer may act as a principal for its own account and in ''fixed-price offerings'' off the floor of the exchanges, or ''special offerings'' and ''exchange distributions'' in accordance with the rules of the exchanges. Public distributions may be as a result of private negotiations with underwriters, dealers or agents, or effected through competitive bidding among underwriters. In addition, sales may be made through private placements or other non-public offerings to one or more persons. The sale of the common stock will be made at market prices prevailing at the time of sale in the case of transactions on exchanges and at prices negotiated by the broker or dealer and related to prevailing market prices in the case of over-the-counter transactions.

2. *Institutional Debt.* Southern proposes to issue and sell from time to time unsecured Institutional Debt in an aggregate principal amount at any time outstanding not to exceed $3 billion. These borrowings will be evidenced by short-term and/or term loan notes, dated as of the date of the borrowings, and maturing not more than seven years after the date of issue, or ''grid'' short-term and/or long-term notes, evidencing all outstanding borrowings from each lender, dated as of the date of the initial borrowings, and maturing not more than seven years after the date of issue. Southern proposes to issue commercial paper in the form of promissory notes with varying maturities not to exceed one year. The commercial paper maturities may be subject to extension to a final maturity not to exceed 390 days. Actual maturities will be determined by market conditions, the effective interest costs and Southern's anticipated cash flow, including the proceeds of other borrowings, at the time of issuance.

3. *Common Stock Issuable under Stock-based Plans.* Southern proposes to issue up to 85 million shares of common stock under several stock-based plans as described below and any similar stock based plans adopted in the future (collectively, ''Plans''). The common stock issuable under the Plans would be in addition to the common stock issuable under paragraph V.1 above.

• *Southern Investment Plan.* The Southern Investment Plan (''SIP'') provides shareholders of record of Southern's common stock with a means of purchasing additional shares through the reinvestment of cash dividends and/or through optional cash payments. In addition, the SIP has a direct purchase feature that enables other eligible investors to become participants by making initial cash payments for the purchase of common stock. Shares of common stock are purchased under the SIP, at the option of Southern, from newly issued shares or shares purchased on the open market. The price per share for shares purchased on the open market will be the weighted average price paid to acquire the shares, excluding broker commissions. When shares are purchased from Southern using cash dividends, the price per share generally will be equal to the average of the high and low sale prices on the dividend payment date. When shares are purchased from Southern with the investor's cash payments, the price per share generally will be equal to the average of the high and low sale prices on the 10th or 25th of each month, as applicable.

• *Employee Savings Plan.* Under the Employee Savings Plan (''Savings Plan''), each employee of Southern's subsidiaries may generally contribute a certain percentage of his compensation to an account administered on his behalf under the Savings Plan. These funds, together with funds contributed by the employer, would be invested in one or more of several funds, including a stock fund consisting of Southern's common stock. Investment purchases for the funds may be made either on the open market or by private purchase, provided that no private purchase may be made of common stock of Southern at a price greater than the last sale price or the highest current independent bid price, whichever is higher, for the stock on the New York Stock Exchange, plus any applicable commission. In addition, common stock of Southern may be purchased directly from Southern under the SIP or under any similar plan made available to holders of record of shares of common stock of Southern, at the purchase price provided for in that plan.

• *Employee Stock Ownership Plan.* The purpose of the Employee Stock Ownership Plan (''ESOP'') is to enable eligible employees of SCS and other affiliates or subsidiaries of Southern that adopt the ESOP (''Employing Companies'') to share in the future of Southern, to provide participants with an opportunity to accumulate capital for their future economic security and to enable participants to acquire Southern common stock. All of the Applicants except for Capital Funding are currently Employing Companies. The ESOP permits the Employing Companies to contribute cash or common stock in an amount or under a formula that SCS will determine in its sole and absolute discretion. Cash contributions would be used to purchase common stock at market value, as determined by SCS. Cash dividends paid on the contributed common stock allocated to participating employees' accounts generally would be reinvested in additional shares of common stock, unless the employee elects to have the dividends distributed to him.

4. *Guarantees.* SCS provides certain services for Southern and its associate companies in the Southern electric system. Southern proposes to guarantee indebtedness or other obligations incurred by SCS in an aggregate amount not to exceed $330 million at any time outstanding. Applicants state that security issuances by SCS are exempt from prior Commission review in accordance with rule 52(b) under the Act, as they will be in the routine course of its business.

SCS may issue and sell notes (''SCS Notes'') to lenders other than Southern. The SCS Notes would be issued under agreements with lenders and may be guaranteed by Southern as to principal, premium, if any, and interest. The SCS Notes may have terms of up to 50 years, contain sinking funds and bear interest at a rate or rates not to exceed 700 basis points per annum over the rate for United States Treasury securities of corresponding maturity at the time the lenders commit to purchase the particular issue. SCS may engage an agent to place the SCS Notes for a commission based upon the principal amount borrowed.

SCS also may effect short-term or term-loan borrowings under one or more revolving credit commitment agreements. Short term borrowings would have a maximum maturity of one year; term loans would have a maximum maturity of ten years. It is expected that the borrowings would be evidenced by a ''grid'' promissory note to be dated the date of the initial borrowing and the date of each borrowing thereafter when a ''grid'' short-term or term-loan note, as the case may be, is not outstanding. Borrowings would bear interest at rates to be negotiated with the lending financial institution or institutions. In addition, it is expected that SCS will be obligated to pay fees in connection with the credit arrangements. Interest rates and fees will be negotiated based upon prevailing market conditions.

SCS also may effect borrowings from certain banks and other institutions.

Institutional borrowings will be evidenced by notes to be dated as of the date of the borrowings and to mature in not more than ten years after the date of borrowing or by ''grid'' notes evidencing all outstanding borrowings from each lender to be dated as of the date of the initial borrowing and to mature in not more than ten years after the date of borrowing. Generally, borrowings will be prepayable in whole, or in part, without penalty or premium, and will be at rates to be negotiated with the lending institutions based upon prevailing market conditions. SCS also may negotiate separate rates for, and/or agree not to prepay, particular borrowings if it is considered more favorable to SCS.

Southern further proposes that it may guarantee obligations incurred by SCS in connection with installment purchases, sale-leasebacks, leases or other acquisitions of equipment or other assets.

5. *Preferred Stock, Preferred Securities, Equity-linked Securities and Long-term Debt.* Southern and Capital Funding request authority to issue and sell from time to time, directly, preferred stock, and directly or indirectly through one or more financing subsidiaries, Preferred Securities, Equity-linked Securities and/or Long-term Debt in an aggregate amount at any time outstanding not to exceed $1.5 billion. Any of these securities may be convertible into common stock of Southern, provided that the value of the common stock issuable upon conversion may not exceed $2 billion in the aggregate, and will be in addition to the common stock authorized for issuance under paragraphs V.1 and V.3 above.

Preferred Stock. Southern and Capital Funding propose to issue and sell from time to time shares of their preferred stock. Any issue of preferred stock will have a specified par or stated value per share and, in accordance with applicable state law, will have voting powers (if any), designations, preferences, rights and qualifications, limitations or restrictions as shall be stated and expressed in the resolution or resolutions providing for the issue adopted by the board of directors of Southern or Capital Funding, as the case may be, under authority vested in it by the provisions of its certificate of incorporation. The foregoing may include rights of conversion or exchange into common stock of Southern.

Preferred Securities. Southern and Capital Funding request the authority to issue, directly or indirectly through one or more Financing Subsidiaries (as defined below) preferred securities (including, without limitation, trust preferred securities) (''Preferred Securities''). Preferred Securities may be issued in one or more series with rights, preferences and priorities as may be designated in the instrument creating each series, as determined by the board of directors of Southern or Capital Funding, as applicable. Dividends or distributions on the Preferred Securities will be made periodically and to the extent funds are legally available for that purpose, but may be made subject to terms which allow the issuer to defer dividend payments for specified periods. Southern proposes to guarantee certain payments made by a Financing Subsidiary in regard to the issuance of any Preferred Security.

Southern expects that one or more statutory or business trusts or other finance subsidiary (each a ''Financing Subsidiary'') established by Southern and/or Capital Funding would issue the Preferred Securities.[3] Southern proposes to organize one or more separate Financing Subsidiaries as a statutory trust of the State of Delaware or other comparable trust in any jurisdiction considered advantageous by Southern or any other entity or structure, foreign or domestic, that is considered advantageous by Southern. Southern requests that the Commission reserve jurisdiction over the use of a foreign entity as a Financing Subsidiary. The Financing Subsidiary would lend, dividend or otherwise transfer to Southern or Capital Funding, as applicable, the proceeds of the Preferred Securities it issues, together with the equity contributed to the Financing Subsidiary.[4] In turn, Capital Funding would lend, dividend or otherwise transfer the proceeds to Southern. Southern or Capital Funding would issue guarantees[5] related to: (a) Payment of dividends or distributions on the Preferred Securities of any Financing Subsidiary, if, and to the extent that, the Financing Subsidiary has funds legally available for this purpose; (b) payments to holders of the Preferred Securities of amounts due upon liquidation of the Financing Subsidiary or redemption of its Preferred Securities; and (c) certain additional amounts that may be payable in respect of the Preferred Securities.

Equity-linked Securities. Southern or Capital Funding may also issue and sell equity-linked securities, typically in the form of stock purchase units, which combine a security with a fixed obligation (*e.g.*, Long-term Debt, Preferred Securities, preferred stock or other debt obligations of third parties, including U.S. Treasury securities) with a stock purchase contract that is exercisable (either mandatorily or at the option of the holder) within a relatively short period (*e.g.*, one to six years after issuance) (''Equity-linked Securities''). Any securities issued by Capital Funding or a trust or other finance subsidiary may be guaranteed by Southern. In addition, Southern proposes to issue and sell stock purchase contracts (''Stock Purchase Contracts'') either separately or as part of units (''Stock Purchase Units''). The Stock Purchase Units would consist of (a) Stock Purchase Contracts and (b) Preferred Securities, Long-term Debt and/or debt obligations of third parties.

Long-term Debt. Southern and Capital Funding propose that, in addition to, or as an alternative to, any Preferred Securities financing, Southern or Capital Funding may issue and sell notes directly to investors. It is proposed that any notes so issued will be unsecured, may be either senior or subordinated obligations of Southern or Capital Funding, as the case may be, may be convertible or exchangeable into common stock of Southern or preferred stock and may have the benefit of a sinking fund (''Long-term Debt''). Long-term Debt of Capital Funding will have the benefit of a guarantee or other credit support by Southern and may be subject to redemption or remarketing or a put option. Southern or Capital Funding will not issue Long-term Debt unless it has evaluated all relevant financial considerations (including, without limitation, the cost of equity capital) and has determined that to do so is preferable to issuing Southern common stock or short-term debt.

[3] If a Financing Subsidiary is organized as a limited liability company, Southern or Capital Funding may also organize a second special purpose subsidiary under Delaware or other state law (''Investment Subsidiary'') to acquire and hold Financing Subsidiary membership interests, so as to comply with any requirement under any applicable law that a limited liability company have at least two members. Similarly, if any Financing Subsidiary is organized as a limited partnership, an Investment Subsidiary may be organized to act as the general partner of the Financing Subsidiary. if a Financing Subsidiary is organized as a limited partnership, Southern may acquire, directly or indirectly through the Investment Subsidiary, a limited partnership interest in the Financing Subsidiary, in order to ensure that the Financing Subsidiary will have a limited partner to the extent required by applicable law.

[4] The terms of any loan to Southern of the proceeds from the issuance of Preferred Securities would mirror the terms of those Preferred Securities.

[5] Guarantees issued by Capital Funding would in turn be supported by Southern's own credit.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–13023 Filed 6–8–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49791; File No. SR–CBOE–2004–20]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 by the Chicago Board Options Exchange, Inc., Relating to the $5 Quotation Spread Pilot Program

June 2, 2004.

I. Introduction

On April 5, 2004, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), 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 limit the applicability of the $5 quote spreads permitted under the CBOE's quote spread pilot program (''Pilot Program'') [3] to quotations that are submitted electronically to the CBOE's Hybrid Trading System (''Hybrid''). The CBOE filed Amendment No. 1 to the proposal on April 20, 2004.[4]

The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on April 27, 2004.[5] The Commission received no comments regarding the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

In January 2004, the CBOE implemented a six-month Pilot Program, which expires on June 29, 2004, that permits quote spread parameters of up to $5, regardless of the price of the bid, for up to 200 options classes traded on Hybrid.[6] The CBOE subsequently expanded the Pilot Program to include all options classes traded on Hybrid.[7] The CBOE proposes to amend the Pilot Program to limit the applicability of the $5 quote spreads permitted under the Pilot Program to quotations that are submitted electronically to Hybrid. Thus, under the proposal, market makers in Hybrid classes would not be permitted to give verbal quotes in open outcry in accordance with the terms of the Pilot Program. Instead, market makers quoting Hybrid classes in open outcry would be required to give verbal quotes that comply with the quote width requirements established in CBOE Rule 8.7(b)(iv).[8]

III. Discussion

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 exchange [9] and, in particular, with the requirements of Section 6(b)(5) of the Act,[10] which requires, among other things, that the rules of a national securities exchange be 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 to protect investors and the public interest.

As described more fully above, the proposal limits the quote width relief provided under the Pilot Program to options quotations that are submitted electronically to Hybrid. In its proposal, the CBOE noted that, unlike an options market maker quoting in open outcry, an options market maker quoting electronically could execute numerous transactions before having the ability to adjust his or her quotes to reflect new pricing information. For this reason, a market maker quoting in open outcry has less need for the quote spread relief provided under the Pilot Program than a market maker quoting electronically. Accordingly, by limiting the Pilot Program to quotes that are submitted electronically to Hybrid, the Commission believes that the proposal is designed to tailor the quote spread relief provided under the Pilot Program to the circumstances where it is most likely to be needed, thereby protecting investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–CBOE–2004–20), as amended, is approved on a pilot basis until June 29, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–12996 Filed 6–8–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49792; File No. SR–NSX–2004–05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Stock Exchange To Extend the Liquidity Provider Fee and Rebate Pilot Program

June 2, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 28, 2004, National Stock Exchange (''Exchange'') [3] filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed this proposal pursuant to section 19(b)(3)(A) of the Act [4] and Rule 19b–4(f)(6)[5] thereunder, which renders the proposal effective upon filing with the Commission.[6] The Commission is

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 49153 (January 29, 2004), 69 FR 5620 (February 5, 2004) (notice of filing and immediate effectiveness of File No. SR–CBOE–2003–50) (implementing the Pilot Program through June 29, 2004) (''Pilot Program Notice'').

[4] *See* letter from Steve Youhn, CBOE, to Nancy Sanow, Division of Market Regulation, Commission, dated April 19, 2004 (''Amendment No. 1''). In Amendment No. 1, CBOE revised the text of the proposed rule to change a reference in CBOE Rule 8.7(b)(iv)(A) from ''subparagraph (iv)(a)'' to ''subparagraph (iv)(A).''

[5] *See* Securities Exchange Act Release No. 49588 (April 21, 2004), 69 FR 22895.

[6] *See* Pilot Program Notice, *supra* note 3.

[7] *See* Securities Exchange Act Release No. 49318 (February 25, 2004), 69 FR 10085 (March 3, 2004) (notice of filing and immediate effectiveness of File No. SR–CBOE–2004–10).

[8] Under CBOE Rule 8.7(b)(iv), the allowable bid-ask differentials are: $0.25 for options under $2, $0.40 for options between $2 and $5, $0.50 for options between $5 and $10, $0.80 for options between $10 and $20, and $1.00 for options above $20.

[9] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange was formerly known as The Cincinnati Stock Exchange. *See* Securities Exchange Act Release No. 48774 (November 12, 2003), 68 FR 65332 (November 19, 2003)(SR–CSE–2003–12).

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] The Exchange provided the Commission with written notice of its intention to file the proposed rule change on May 21, 2004. The Commission reviewed the Exchange's submission, and asked the Exchange to file the instant proposed rule change, pursuant to Rule 19b–4(f)(6) under the Act. 17 CFR 240.19b–4(f)(6).

publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has a liquidity provider fee and rebate program (''Program''), which the Exchange established in SR–CSE–2002–16.[7] The Program is currently in effect, and is scheduled to expire on June 30, 2004.[8] With the instant proposed rule change, the Exchange extends the Program through June 30, 2005. The Exchange is making no substantive changes to the Program, other than extending its operation through June 30, 2005. The text of the proposed rule change is available at the Exchange and at the Commission.[9]

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

In SR–CSE–2002–16,[10] the Exchange established the Program, which provides a transaction credit for liquidity providers that is paid by liquidity takers on each intra-Exchange execution[11] in Nasdaq securities. To establish the Program, the Exchange amended CSE Rule 11.10A(g)(1) by adding subparagraph (B) to charge the liquidity taker (*i.e.*, the party executing against a previously displayed quote/order) $0.004 per share. The Exchange then passes on to the liquidity provider (*i.e.*, the party providing the displayed quote/order) $0.003 per share, allowing the Exchange to retain $0.001 per share. With the instant proposed rule change, the Exchange is extending the Program through June 30, 2005.[12] The Exchange is making no other changes to the Program as it currently operates.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[13] in general, and furthers the objectives of section 6(b)(5)[14] in particular, in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, generally, in that it protects investors and the public interest. The Exchange believes that the proposed rule change is also consistent with section 6(b)(4) of the Act,[15] in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members by crediting members on a *pro rata* basis.

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 solicited or received in connection with the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[16] and Rule 19b–4(f)(6)[17] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NSX–2004–05 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–NSX–2004–05. This file number should be included on the subject line if e-mail is used. To help the

[7] Securities Exchange Act Release No. 46848 (November 19, 2002), 67 FR 70793 (November 26, 2002).

[8] The Program was originally set to expire on March 31, 2003. It has been extended three times, with the most recent extension due to expire on June 30, 2004. *See* Securities Exchange Act Release Nos. 47596 (March 28, 2003), 68 FR 16594 (April 4, 2003) (SR–CSE–2003–03) (extending the pilot until September 30, 2003); 48584 (October 2, 3003), 68 FR 58368 (October 9, 2003) (SR–CSE–2003–13) (extending the pilot until December 31, 2003); and 48891 (December 8, 2003), 68 FR 69738 (December 15, 2003)(SR–CSE–2003–14) (extending the pilot until June 30, 2004).

[9] The Commission notes that the Exchange filed the proposed rule change with the intention of extending the Program's operation through June 30, 2005; however, the proposed rule language states the Program will operate ''until June 30, 2005.'' With the Exchange's permission, the Commission has conformed the proposed rule language to reflect that the Program will operate through June 30, 2005. The Commission did not require the Exchange to file an amendment to accomplish this technical change. *See* June 1, 2004 email exchange between Jennifer Lamie, Assistant General Counsel and Secretary, NSX, and Joseph P. Morra, Special Counsel, Division of Market Regulation, Commission.

[10] Securities Exchange Act Release No. 46848 (November 19, 2002), 67 FR 70793 (November 26, 2002).

[11] An ''intra-Exchange execution'' (referred to in the original filing as an ''intra-CSE execution'') is any transaction that is executed on the Exchange for which the executing member on the buy-side of the transaction differs from the executing member on the sell-side of the transaction.

[12] The Exchange understands that the Commission's Proposed Regulation NMS (''Reg. NMS'') may have an impact on the Program. Accordingly, the Exchange will undertake to work with the Commission to ensure that the Program would be consistent with the rules and regulations contained in Reg. NMS, should it be adopted.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

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 NSX. 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–NSX–2004–05 and should be submitted on or before June 30, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–12997 Filed 6–8–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49802; File No. SR–PCX–2004–31]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to Exchange Fees and Charges

June 3, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 14, 2004, 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 the PCX. The proposed rule change has been filed by PCX as establishing or changing a due, fee, or other charge under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. On May 21, 2004, the Exchange filed Amendment No. 1 to the proposal.[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

PCX is proposing to amend its Schedule of Fees and Charges by reinstating an Order Cancellation fee. The text of the proposed rule change is available at the Exchange and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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. 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 Exchange represents that it previously established the Order Cancellation fee to address operational problems and costs resulting from the practice of market participants canceling orders immediately after they route those orders electronically to the PCX.[6] The Exchange states that, while the Order Cancellation fee was intended to temper activity among trading participants who immediately cancelled orders without routing significant order flow to the Exchange, as applied, it had the unintended effect of penalizing Clearing Members because the Exchange did not have the methodology to correlate the cancellation of an order with the correspondent activity of a specific Clearing Member. On May 30, 2003, the Exchange filed a proposed rule change that repealed the Order Cancellation fee then in effect,[7] despite the fact that operational problems and costs resulting from the practice of market participants canceling orders immediately after they place such orders continued to be problematic.

The Exchange represents that it has effected technological enhancements to its billing system and is now able to ascertain the identity of the Clearing Member's customer who cancels orders. The Exchange states that this enhancement allows the Exchange to evaluate order cancellations beyond the aggregate cancellations cleared through a Clearing Member, thus providing the Clearing Members a vehicle for passing through any resulting charges to their customers. Therefore, the Exchange seeks to reinstate the Order Cancellation fee at $1.00 per electronically routed order cancelled and apply the fee to a Clearing Member who electronically cancels orders on behalf of its customers or on its own behalf when it self-clears in any month where both of the following conditions are satisfied: (i) The total number of orders canceled for any customer or for itself equals or exceeds 500 contracts; and (ii) the ratio of such canceled orders to executed orders equals or exceeds two to one. The Exchange represents that it will continue to bill the Clearing Member, but the Clearing Member will have the opportunity to pass the fee along to its customers.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act, in general, and section 6(b)(4) of the Act, in particular, in that it provides for the equitable allocation of reasonable fees among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] See Letter from Mai S. Shiver, Acting Director/Senior Counsel, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated May 19, 2004. In Amendment No. 1, the Exchange revised the purpose section of the proposed rule change and the rule text to clarify that the Order Cancellation fee applies to a Clearing Member who electronically cancels orders on behalf of its customers or on its own behalf when it self-clears, when the conditions specified in the rule are satisfied. Amendment No. 1 supersedes and replaces the text of the proposed rule change in its entirety.

[6] *See* Securities Exchange Act Release No. 45262 (January 9, 2002), 67 FR 2266 (January 16, 2002) (Notice of Filing and Immediate Effectiveness of SR–PCX–2001–47).

[7] *See* Securities Exchange Act Release No. 48031 (June 13, 2003), 68 FR 37189 (June 23, 2003) (Notice of Filing and Immediate Effectiveness of SR–PCX–2003–25).

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 foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act[8] and Rule 19b–4(f)(2) thereunder,[9] because it establishes a fee to be imposed by the Exchange. At any time within sixty 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.[10]

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–PCX–2004–31 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–2004–31. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2004–31 and should be submitted on or before June 30, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 04–13024 Filed 6–8–04; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] For purposes of calculating the sixty-day abrogation period, the Commission considers the period to have begun on May 21, 2004, the date on which PCX filed Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[11] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

The Ticket to Work and Work Incentives Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of meeting.

DATES: July 22, 2004, 10 a.m.—5 p.m. July 23, 2004, 9 a.m.—4 p.m.

ADDRESSES: Renaissance Washington, DC Hotel, 999 9th Street NW., Washington, DC 20001, Phone: (202) 898–9000.

SUPPLEMENTARY INFORMATION: Type of meeting: This is a meeting open to the public. The public is invited to participate by coming to the address listed above. Public comment will not be taken during this meeting. The public may submit comments in writing on the implementation of the Ticket to Work and Work Incentives Improvement Act (TWWIIA) of 1999 at any time.

Purpose: In accordance with section 10(a) (2) of the Federal Advisory Committee Act, SSA announces a meeting of the Ticket to Work and Work Incentives Advisory Panel (the Panel). Section 101(f) of Pub. L. 106–170 establishes the Panel to advise the President, the Congress and the Commissioner of Social Security on issues related to work incentives programs, planning and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the TWWIIA. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of that Act.

Interested parties are invited to attend the meeting. The Panel will use the meeting time to receive briefings and conduct full Panel deliberations on the implementation of TWWIIA.

The Panel will meet in person commencing on Thursday, July 22, 2004 from 10 a.m. to 5 p.m.; Friday, July 23, 2004 from 9 a.m. to 4 p.m.

Agenda: The Panel will hold a meeting. Briefings and full Panel deliberations and other Panel business will be held Thursday and Friday, July 22, and 23, 2004.

The full agenda for the meeting will be posted on the Internet at *http://www.ssa.gov/work/panel* approximately one week before the meeting or can be received in advance electronically or by fax upon request.

Contact Information: Anyone requiring information regarding the Panel should contact the TWWIIA Panel staff. Records are being kept of all Panel proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the Panel staff by:

- Mail addressed to Social Security Administration, Ticket to Work and Work Incentives Advisory Panel Staff, 400 Virginia Avenue, SW., Suite 700, Washington, DC, 20024.
- Telephone contact with Monique Fisher at (202) 358–6435.
- Fax at (202) 358–6440.
- E-mail to *TWWIIAPanel@ssa.gov.*

Dated: June 3, 2004.

Carol Brenner,

Designated Federal Official.

[FR Doc. 04–13022 Filed 6–8–04; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 4734]

Culturally Significant Objects Imported for Exhibition Determinations: ''From Homer to Harem: The Art of Lecomte du Nouÿ''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''From Homer to Harem: The Art of Lecomte du Nouÿ,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Dahesh Museum of Art, New York, New York, from on or about June 22, 2004 until on or about September 19, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact the Office of the Legal Adviser, U.S. Department of State, (telephone: (202) 619–6982). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: June 1, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–13195 Filed 6–8–04; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4732]

Determination Related to the Participation of the Magen David Adom Society of Israel in the Activities of the International Red Cross and Red Crescent Movement

Pursuant to the requirements contained in the Foreign Operation, Export Financing, and Related Programs Appropriations Act, 2004 (Division D, P.L. 108–199), under the heading of Migration and Refugee Assistance, I hereby determine that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement.

This Determination shall be published in the **Federal Register**, and copies shall be provided to the appropriate committees of the Congress.

Dated: May 19, 2004.

Colin L. Powell,

Secretary of State, Department of State.

[FR Doc. 04–13032 Filed 6–8–04; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending May 28, 2004

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2004–17959.
Date Filed: May 25, 2004.
Parties: Members of the International Air Transport Association.
Subject: CTC COMP 0480 dated 28 May 2004, Expedited Composite Cargo Resolutions r1–r6, Intended effective date: 1 July 2004.

Docket Number: OST–2004–17961.
Date Filed: May 25, 2004.
Parties: Members of the International Air Transport Association.
Subject: CTC COMP 0481 dated 28 May 2004, Expedited Composite Resolution 033e r1, Intended effective date: 1 July 2004.

Docket Number: OST–2004–17964.
Date Filed: May 25, 2004.
Parties: Members of the International Air Transport Association.
Subject: CTC COMP 0482 dated 28 May 2004, Expedited Worldwide Area Resolution 002m (changes to rates) except to/from USA/US Territories r1–r2, Intended effective date: 1 July 2004.

Docket Number: OST–2004–17968.
Date Filed: May 25, 2004.
Parties: Members of the International Air Transport Association.
Subject: PTC31 SOUTH 0159 dated 25 May 2004, TC31 South Pacific except between French Polynesia, New Caledonia, New Zealand and USA, PTC31 SOUTH 0160 dated 25 May 2004, TC31 South Pacific between French Polynesia, New Caledonia, New Zealand and USA r1–r36, Intended effective date: 1 July 2004.

Maria Gulczewski,

Alternate Federal Register Liaison.

[FR Doc. 04–13051 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Revision to Advisory Circular 43.13–2A, ''Acceptable Methods, Techniques, and Practices—Aircraft Alterations''

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments.

SUMMARY: The Federal Aviation Administration (FAA) is seeking advance comments on the agency's plan to update and revise Advisory Circular (AC) 43.13–2A, Acceptable Methods, Techniques, and Practices—Aircraft Alterations. The subject AC was last revised in 1977 and needs to be revised to reflect advances in aviation technology. The comments from the public will be used in developing an updated version of the AC.

DATES: Submit comments on or before June 9, 2005.

ADDRESSES: Address your comments to William O'Brien, Aircraft Maintenance Division, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: William O'Brien, Aircraft Maintenance Division, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591; telephone (202) 267–3796, facsimile (202) 267–5115, e-mail *william.o'brien@faa.gov.*

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) is seeking advance comments on the agency's plan to update and revise Advisory Circular (AC) 43.13–2A, Acceptable Methods, Techniques, and Practices—Aircraft Alterations. This AC provides information to mechanics and repair stations on how to perform simple alterations to non-pressurized, certificated aircraft weighing less than 12,500 pounds. The AC was last updated in 1977 and was published in the old U.S. Government Printing Office format with the uninterrupted running of page numbers that makes tracking changes and revisions to the AC difficult.

The FAA plans to include a new policy that would allow mechanics and repair stations to use acceptable data as approved data for major alterations to certain non-pressurized aircraft. The new policy would apply to a landplane, seaplane, or floatplane, fixed gear aircraft of 6,000 pounds or less maximum gross weight, of 4 seats or less, and with a reciprocating engine of 200 horsepower or less. This new policy would be similar to the policy on

acceptable data contained in AC 43.13–1B, Acceptable Methods, Techniques, and Practices—Aircraft Inspection and Repair. The intent of the new policy would be to reduce the need for field approvals for alterations to certain non-pressurized aircraft without reducing the level of safety. The new policy would reduce the workload on the Flight Standards Districts Office inspectors and reduce the waiting time for FAA approval.

Comments Invited

The FAA is requesting comments on the proposed policy change and on other matters related to the subject AC. Comments, recommendations, new data, or corrections should indicate the appropriate AC chapter, page, and paragraph number when possible. Indicate on your comments that they are for Advisory Circular 43.13–2A, Acceptable Methods, Techniques, and Practices—Aircraft Alterations.

An electronic copy of the current AC 43.13–2A is available on the FAA's ''Regulatory Guidance Library'' Web site at *http://www.airweb.faa.gov/rgl* or by contacting the individual under **FOR FURTHER INFORMATION CONTACT.**

Dated: Issued in Washington, DC on May 28, 2004.

John M. Allen,

Deputy Director, Flight Standards Service.

[FR Doc. 04–12987 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Land at Santa Maria Public Airport, Santa Maria, CA

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of request to release airport land.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the release of approximately 10.339 acres of airport property at Santa Maria Public Airport, Santa Maria, California, from all restrictions of the surplus property agreement. The purpose of the release is to authorize the sale of the property to permit redevelopment of the land for non-aeronautical purposes and use of the sale proceeds for airport purposes.

DATES: Comments must be received on or before July 9, 2004.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division AWP–620, Federal Register Comment, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, one copy of the comment must be mailed or delivered to Gary Rice, General Manager, Santa Maria Public Airport District, 3217 Terminal Drive, Santa Maria, CA 93455–1899, telephone (805) 922–1726.

FOR FURTHER INFORMATION CONTACT: Tony Garcia, Airports Compliance Specialist, Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale California 90261, telephone (310) 725–3634 and FAX (310) 725–6849. The Santa Maria Public Airport release request information may be reviewed in person by appointment at this same location or at the Santa Maria Public Airport, Santa Maria, California by contacting Gary Rice.

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport's interest in surplus property.

The following is a brief overview of the request:

The Santa Maria Public Airport District requested a release from surplus property agreement obligations for approximately 10.339 acres of airport land at Santa Maria Public Airport, Santa Maria, California, originally acquired from the United States for airport purposes. The land is composed of three adjoining parcels located on the north side of the airport adjacent to West Fairway Drive on the south and A Street on the west. The property is currently undeveloped, without structural improvements, and located in an area zoned for light industrial. The parcels are surrounded by non-aeronautical-use land and are separated from the airfield by several roadways, a flood control canal, and a golf course. The airport wishes to sell the land because property cannot be used for airport purposes. The property's redevelopment for non-aeronautical purposes will comply with local zoning and FAA compatible land-use requirements. The parcel will be sold at fair market value based on the land's appraised value, which will provide the airport with needed revenue for airport improvement and development, thereby providing a tangible and direct benefit to the airport and civil aviation.

Issued in Hawthorne, California, on May 13, 2004.

John Lott,

Manager, Safety and Standards Branch, Airports Division, Western-Pacific Region.

[FR Doc. 04–12990 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Prepare a Joint Environmental Impact Statement/ Environmental Impact Report and Hold Scoping Meetings for Ontario International Airport, Ontario, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice to hold one (1) public scoping meeting and one (1) governmental and public agency scoping meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that a joint Environmental Impact Statement/ Environmental Impact Report will be prepared for development recommended by the Master Plan for Ontario International Airport, Ontario, California. To ensure that all significant issues related to the proposed action are identified, one (1) public scoping meeting and one (1) governmental and public agency scoping meeting will be held.

FOR FURTHER INFORMATION CONTACT: Jennifer Mendelsohn, Environmental Protection Specialist, AWP–621.6, Southern California Standards Section, Federal Aviation Administration, Western-Pacific Region, PO Box 92007, Los Angeles, California 90009–2007, Telephone: (310) 725–3637. Comments on the scope of the EIS/EIR should be submitted to the address above and must be received no later than 5 p.m. Pacific Daylight Time, on Monday, September 13, 2004.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) in cooperation with the city of Los Angeles, California, will prepare a joint Environmental Impact Statement/ Environmental Impact Report for future development recommended by the Master Plan for Ontario International Airport (ONT). The need to prepare an Environmental Impact Statement (EIS) is based on the procedures described in FAA Order 5050.4A, *Airport Environmental Handbook.*

ONT is a commercial service airport located within a standard metropolitan statistical area and the proposed airside

development includes relocation of the runways, separation of the runways, extension of a runway and construction and/or relocation of taxiway(s). The proposed landside improvements include additional terminals, additional gates, construction and/or expansion of parking lots, construction and/or expansion of access roads, construction, expansion and/or relocation of the existing surface transportation center, construction, expansion and/or relocation of the general aviation facilities, construction, expansion and/or relocation of airport maintenance area, construction, expansion and/or relocation of an airport administration facility, construction, expansion and/or relocation of aircraft safety facility (aircraft rescue and firefighting (ARFF) facility). The proposed project also may include an airport people mover (APM). The area around the airport contains non-compatible land uses in terms of aircraft noise; and the proposed development is likely to be controversial.

Significant growth in the demand for air travel through 2030 is expected in the ONT service area. The Southern California Association of Governments (SCAG) 2004 Regional Transportation Plan (RTP) predicts a doubling of regional passenger demand by 2030 and predicts that air cargo demand will more than triple. The RTP proposes to accommodate this growth at outlying airports rather than expansion of Los Angeles International Airport (LAX). The proposed LAX Master Plan supports this concept and plans to modernize facilities but to maintain the airport capacity at about 78 Million Annual Passengers (MAP). Other airports in the region also are constrained from growth, generally by either the limitations of their facilities or by court settlements that restrict growth to control environmental impacts to surrounding residents. The RTP relies on the Ontario International Airport to accommodate a larger share of the total regional passenger and air cargo demand in the future than it currently accommodates (6 to 6.5 million passengers used ONT in 2003) to serve this growing regional demand. The ONT Master Plan development alternatives, therefore, propose airport improvements that can accommodate passenger growth to 30 million Annual Passengers or the estimated capacity of the two existing dependent runways.

The city of Los Angeles, pursuant to the California Environmental Quality Act of 1970 (CEQA) also will prepare an Environmental Impact Report (EIR) for the proposed development. In an effort to eliminate unnecessary duplication and reduce delay, the document to be prepared, will be a joint EIS/EIR in accordance with the President's Council on Environmental Quality Regulations described in 40 Code of Federal Regulations, Sections 1500.5 and 1506.2.

The Joint Lead Agencies for the preparation of the EIS/EIR will be the Federal Aviation Administration and the city of Los Angeles, California.

The following master planning development alternatives and the No Action/No Project Alternative are proposed to be evaluated in the EIS/EIR as described below:

No Action/No Project Alternative—The No Action/No project Alternative represents the conditions that would occur at ONT without comprehensive Master Plan improvements. This alternative will not include any new facilities or improvements to existing facilities other than those that have independent utility, are unconnected actions to comprehensive Master Plan improvements and have (or are) undergoing separate environmental review. When forecasted operations are realized, current facilities would not provide an acceptable level of service to accommodate this increased passenger demand.

Alternative 1—Linear expansion of existing passenger terminals and aircrafts apron (gates) on the north side of the airport, relocation of both runways to the south and east to create additional terminal area circulation, separation of the runways and construction of a center taxiway between north and south runways to improve airfield efficiency and safety, construction of structured auto parking lots, construction/expansion of terminal access roads, relocation and/or expansion of the existing ground transportation center, construction of additional economy parking lots, relocation and/or expansion of employee parking lot, expansion and/or relocation of general aviation facilities, expansion and/or relocation of airport maintenance area, construction and/or relocation of an airport administration facility, expansion/construction/relocation of aircraft safety facility (aircraft rescue and firefighting (ARFF) facility), impact to some existing south side facilities, an airport people mover (APM) system may be constructed, surface transportation improvements may be constructed, land acquisition of approximately 33 acres, construction of new parallel taxiways, relocation of existing parallel taxiways and construction/relocation of connector taxiways.

Alternative 2.—Linear expansion of the existing passenger terminals on the north side of the airport, construction of a passenger terminal on the south side of the airport, no relocation of runways, extension of south runway to the east, relocation of Taxiway S, construction of structured auto parking lots, construction/expansion of terminal access roads including new ground access facilities for the new south terminal, relocation and/or expansion of the existing ground transportation center, construction of additional economy parking lots, relocation and/or expansion of employee parking lot, expansion and/or relocation of general aviation facilities, expansion and/or relocation of airport maintenance area, construction and/or relocation of an airport transportation administration facility, expansion/construction/relocation of aircraft safety facility (aircraft rescue and firefighting (ARFF) facility), an airport people mover (APM) system may be constructed, surface transportation improvements may be constructed, impacted to many of the existing south side facilities and land acquisition of approximately 220 acres.

Comments and suggestions are invited from Federal, State, and local agencies, and other interested parties to ensure that the full range of issues related to these proposed projects are addressed and all significant issues are identified. Written comments and suggestions concerning the scope of the EIS/EIR may be mailed to the FAA informational contact listed above and must be received no later than 5 p.m. Pacific Daylight Time, on than Monday, September 13, 2004.

Public Scoping Meetings: The FAA and LWA will jointly hold one (1) public and one (1) governmental agency scoping meeting to solicit input from the public and various Federal, State and local agencies that have jurisdiction by law or have specific expertise with respect to any environmental impacts associated with the proposed projects. A scoping meeting specifically for governmental and public agencies will be held on Tuesday, July 13, 2004, from 1 p.m to 3 p.m., Pacific Daylight Time at the Ontario International Airport, Lobby of Terminal Building 1 (Old Terminal), Ontario, California 91761. The public scoping meeting will be held at the same location on Tuesday, July 13, 2004, from 6 p.m. to 9 p.m. Pacific Daylight Time.

Issued in Hawthorne, California on Friday May 28, 2004.

Mickael Agaibi,

Acting Manager, Airports Division, Western-Pacific Region, AWP–600.

[FR Doc. 04–12986 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2004–37]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of a certain petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 29, 2004.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FAA–2004–17831 by any of the following methods:

- *Web Site: http://dms.dot.gov.*

Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Pat Siegrist (425–227–2126), Transport Airplane Directorate (ANM–113), Federal Aviation Administration, 1601 Lind Ave., SW., Renton, WA 98055–4056; or John Linsenmeyer (202–267–5174), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on June 3, 2004.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2004–17831.

Petitioner: Bombardier Aerospace.

Sections of 14 CFR Affected: 14 CFR 25.813(e).

Description of Relief Sought: To allow installation of doors in partitions between compartments occupied by passengers in the BD–100–1A10 aircraft used for corporate transport.

[FR Doc. 04–12973 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2004–36]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of disposition of prior petition.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains the disposition of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Susan Boylon (425–227–1152), Transport Airplane Directorate (ANM–113), Federal Aviation Administration, 1601 Lind Ave., SW., Renton, WA 98055–4056; or John Linsenmeyer (202–267–5174), Office of Rulemaking (ARM–207), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on June 3, 2004.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Disposition of Petitions

Docket No.: FAA–2004–17909.

Petitioner: The Boeing Company.

Sections of 14 CFR Affected: 14 CFR 25.301, 25.303, 25.305, and 25.901(c).

Description of Relief Sought/Disposition: To permit type certification of the modification to the thrust reverser type design of Pratt & Whitney powered Boeing Model 777 airplanes, which is described in the background section of the exemption, without a complete showing of compliance. These requirements relate to the structural strength, deformation and failure of the thrust reverser inner wall panels during a rejected takeoff related thrust reverser deployment at high engine power.

Time-Limited Partial Grant of Exemption, 05/26/2004, Exemption No. 8329.

[FR Doc. 04–12974 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 04–03–C–00–TVC To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Cherry Capital Airport, Traverse City, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cherry Capital Airport under the provisions of the 49 U.S.C. 40117 and Part 158 of the Federal Regulations (14 CFR Part 158).

DATES: Comments must be received on or before July 9, 2004.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174.

In addition, one copy of any comments submitted to the FAA must

be mailed or delivered to Mr. Stephen Cassens, Airport Director of the Northwest Regional Airport Commission at the following address: Northwest Regional Airport Commission 1330 Airport Access Road, Traverse City, Michigan 49686.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Northwest Regional Airport Commission under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jason Watt, Program Manager, Federal Aviation Administration, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174 (734–229–2906). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cherry Capital Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 8, 2004, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Northwest Regional Airport Commission was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 7, 2004.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: January 1, 2018.

Proposed charge expiration date: April 1, 2019.

Total estimated PFC revenue: $1,190,785.

Brief description of proposed project: Environmental Assessment for New Terminal Building and Associated Projects; Pre-design for South Terminal Complex; Airport Rescue Fire Fighting (ARFF) Vehicle Procurement; Security Fencing, South Building Area; Clearing and Grubbing New Airline Terminal Complex; Reimbursement of Costs Associated with the Preparation of Previous PFC Applications; Reimbursement of Charges for Audits Performed on the PFC Program; Construct Water Main and Sanitary Sewer Utilities to New Terminal Site (Part A and B); Natural Gas Service to New Terminal, Proposed ARFF Building and Snow Removal Equipment Building; Install Multi-user Flight Inspection Display System, Premise Wiring and Public Address System; Service Road and Utilities; Design of Taxiway G, Perimeter Road, and Airport Layout Plan Update; Design of Terminal Baggage and Passenger Screening; Landscaping and Irrigation South Terminal Project; Perimeter Road; Airport Entrance Drive; Passenger Loading Bridges; Furnish and Install Part 1542 Computer Controlled Access System; Airport Boundary Survey and Update Exhibit ''A'' Property Map; and Construct Parallel Taxiway ''G''.

Class or classes of air carriers, which the public agency has requested not be required to collect PFCs: Part 135, Air Taxi/Commercial Operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the Northwest Regional Airport Commission.

Issued in Des Plaines, Illinois, on June 1, 2004.

Sandy Nazar,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 04–12989 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 04–07–C–00–CMH To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Port Columbus International Airport, Columbus, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invits public comment on the application to impose and use the revenue from a PFC at Port Columbus International Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 9, 2004.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Elaine Roberts, President and Chief Executive Officer of the Columbus Regional Airport Authority at the following address: Port Columbus International Airport, 4600 International Gateway, Columbus, Ohio 43219.

Air carriers and foreign air carriers may submit copies of written commens previously provided to the Columbus Regional Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jason K. Watt, Program Manager, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174, (734 229–2906). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Port Columbus International Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158). On May 10, 2004, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Columbus Regional Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 28, 2004.

The following is a brief overview of the application.

Proposed charge effective date: October 1, 2004.

Proposed charge expiration date: October 1, 2010.

Level of the proposed PFC: $3.00.

Total estimated PFC revenue: $3,819,158.

Brief description of proposed projects: Terminal and Curb Front Signage Improvements; Flight Information Display System and Baggage Information Display System Improvements; PFC Program Formulation and Administrative Costs.

Level of the proposed PFC: $4.50.

Total estimated PFC revenue: $73,743,756.

Brief description of proposed projects: Concourse C-Apron Expansion; Concourse C–5-Gate Expansion; Runway 10R Hold Apron Relocation; West Extension of Taxiway B; Runway 10R glide Slope Relocation; Taxiway C Rehabilitation; Antenna Farm Relocation; Terminal Apron Rehabilitation/Glycol Collection; Perimeter and Tug Roads—Phase 1; Runway 10R–28L Rehabilitation; Runway 10R–28L Safety Area Improvements; Security Fencing; Snow

Removal Equipment; East Apron Rehabilitation; Safety Are Improvements on Taxiway E; International Gate/Federal Inspection Service Expansion; Rehabilitate East Portion of Apron; Access Control System Replacement.

Class or classes of air carriers, which the public agency has requested not to be required to collect PFCs: Air Taxi/ Commercial Operators when enplaning revenue passengers in service and equipment reportable to FAA on FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Columbus Regional Airport Authority.

Issued in Des Plaines, Illinois, on June 1, 2004.

Sandy Nazar,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 04–12988 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Revised Programmatic Executive Order 11990 (EO 11990) Wetland Finding

AGENCY: Federal Highway Administration (FHWA), New York Division Office, DOT.

ACTION: Notice and request for comments.

SUMMARY: The NYDO is advising the public that it has made a programmatic EO 11990 Wetland Finding for Federally Aided Highway Projects classified as CEs under 23 CFR 771.117 with approved COE permits (excluding those projects that require Nationwide Permit 23). The Nationwide Permit 23 is issued only if it has been determined by FHWA that a project will not have significant impacts and that the project is to be classified as a CE; therefore, FHWA must review the wetlands impacts of a project prior to making this decision.

The programmatic EO 11990 evaluation and wetland finding has been prepared for transportation improvement projects which require a COE Section 404 Permit (both Nationwide adn Individual) and those that impact isolated wetlands. It satisfies the requirements of EO 11990 and US Department of Transportation (DOT) Order 5660.1A for all projects that meet the applicability criteria listed. No individual wetland findings will thus be required for such projects.

BACKGROUND: EO 11990, issued on May 24, 1977, requires each Federal agency to develop procedures for Federal actions whose impact is not significant enough to require the preparation of an EIS under Section 102(2)(c) of the National Environmental Policy Act (NEPA), as amended. The EO states that each Federal agency ''shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds:

(1) That there is no practicable alternative to such construction, and (2) that the proposed;

(2) Action includes all practicable measures to minimize harm to wetlands which may result from such use.

The US DOT Order 5660.1A states, ''In carrying out any activities (including small scale projects which do not require documentation) with a potential effect on wetlands, operating agencies should consider the following facts * * *'' this rquires USDOT agencies to consider the effects on wetlands for all projects (including categorical exclusions).

Federal-aid applicants consider these effects during the NEPA evaluation process and further consider these effects through the wetland permitting process and associated meetings with resource agencies (COE, EPA, FWS, NYDEC). The NYSDOT and FHWA routinely evaluate practicable avoidance alternatives or options. If avoidance alternatives are not practicable, then practicable measures to minimize harm are considered and included in the project.

The DOT Order 5660.1A requires USDOT agencies to make a formal wetland finding for major projects. The NYSDOT will make a formal wetland finding for all EAs and EISs. This formal wetland finding will be made in the Final EA/Finding of No Significant Impact or Final EIS/Record of Decision.

There will be a 45-day public comment period starting the day of publication and prior to the issuance of the Programatic Agreement.

FOR FURTHER INFORMATION CONTACT: Erika Thompson, Environmental Program Coordinator, Federal Highway Administration, New York Division Office, Leo W. O'Brien Federal Building 7th Floor, Albany, NY 12207 (e-mail *Erika.Thompson@fhwa.dot.gov* or telephone 518–431–4125 x 255).

FINDING: In accordance with EO 11990, and based on the following procedures, the FHWA NYDO finds that this programmatic wetland finding may be applied to any Federal-aid project classified as a Categorical Exclusion (CE) with an approved US Corps of Engineers (COE) permit (excluding Nationwide Permit 23) and/or a project classified as a CE that impacts isolated wetlands for which:

1. There will be no practicable alternative to the proposed construction in wetlands;

2. The proposed project will include all practicable measures to minimize harm to the involved wetlands which may result from such use;

3. The project will be developed in accordance with the procedure for a public involvement/public hearing program approved by FHWA pursuant to 23 CFR 771.111(h)(1); and

4. The project CE documentation shall demonstrate that avoidance and minimization issues are discussed and described for each wetland. The following information shall be documented in the New York State Department of Transportation (NYSDOT) project file:

a. Approximate wetland size;

b. Area of impact including temporary and permanent impacts;

c. Type of wetland, including the function and value of the wetland;

d. Any plan sheets that show the location of the wetland and the project boundaries.

Any Federal-aid transportation project requiring an Environmental Assessment (EA) or Environmental Impact Statement (EIS) that may impact wetlands shall require an individual wetland finding.

Dated: June 3, 2004.

Robert Arnold,

Division Administrator.

[FR Doc. 04–13011 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2004 18000]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MOON DANCE.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as

represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2004–18000 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before July 9, 2004.

ADDRESSES: Comments should refer to docket number MARAD–2004–18000. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MOON DANCE is:

Intended Use: ''Sightseeing, educational, scuba diving and other charters, and the conveyance of paying passengers.''

Geographic Region: ''Great Lakes, Western Rivers, and other inland waters of the United States, as well as the Intra Coastal Waterways, and coastal and near coastal waters of the East Coast (Atlantic Ocean) and Gulf Coast (Gulf of Mexico).''

Dated: June 2, 2004.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 04–13001 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements: Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Federal Register Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The Federal Register Notice with a 60-day comment period was published on March 3, 2004 [69 FR 10096].

DATES: OMB approval has been requested by July 9, 2004.

FOR FURTHER INFORMATION CONTACT: Samuel Daniel at the National Highway Traffic Safety Administration (NHTSA), Office of Crash Avoidance Standards (NVS–120), (202) 366–4921. 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: 49 CFR 571.116, Motor Vehicle Brake Fluids.

OMB Number: 2127—0521.

Type of Request: Extension of a currently approved collection.

Abstract: Federal Motor Vehicle Safety Standard No. 116, *Motor Vehicle Brake Fluids,* specifies performance and design requirements for motor vehicle brake fluids and hydraulic system mineral oils. Section 5.2.2 specifies labeling requirements for manufacturers and packagers of brake fluids as well as packagers of hydraulic system mineral oils. The information on the label of a container of motor vehicle brake fluid or hydraulic system mineral oil is necessary to ensure: the contents of the container are clearly stated; these fluids are used for their intended purpose only; and the containers are properly disposed of when empty. Improper use or storage of these fluids could have dire safety consequences for the operators of vehicles or equipment in which they are used.

Affected Public: Business or other for profit organizations.

Estimated Total Annual Burden: 7000 hours.

Estimated Number of Respondents: 200.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it prior to July 9, 2004.

Issued on: June 2, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04–12991 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Cooperative Agreement Program To Support Implementation of the National Strategies for Advancing Bicycle Safety Agenda

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Announcement of discretionary cooperative agreement opportunities to support efforts to implement the strategies and goals of the National Strategies for Advancing Bicycle Safety agenda.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces discretionary Cooperative Agreement opportunities to provide funding to individuals and

organizations in support of the implementation of the National Strategies for Advancing Bicycle Safety, a document designed to reduce the incidence of bicycle related fatalities and injuries. In FY02, NHTSA funded six (6) demonstration projects to support the National Strategies ''agenda.'' This year, NHTSA anticipates funding up to four (4) demonstration projects for a minimum period of one year and a maximum period of two years. These Cooperative Agreements will support projects that foster implementation of the goals and strategies under the National Strategies for Advancing Bicycle Safety.

This notice solicits applications from public and private, non-profit and not for-profit organizations, state and local governments and their agencies or a consortium of the above. Interested applicants must submit a packet as further described in the application section of this notice. The application packet will be evaluated to determine which organizations will be awarded cooperative agreements.

DATES: Applications must be received in the office designated below on or before 3 p.m. (EDT), on July 7, 2004.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NPO–220), Attention: Ms. Maxine Edwards, 400 Seventh Street SW., Room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Program Number DTNH22–04–H–05090.

Applicants shall provide a complete mailing address where Federal Express mail can be delivered.

FOR FURTHER INFORMATION CONTACT: Questions may be directed by e-mail (preferred method) to Ms. Maxine Edwards, Office of Contracts and Procurement at *Maxine.Edwards@nhtsa.dot.gov.* Alternatively, Ms. Edwards may be contacted by phone at 202–366–4843. To allow for sufficient time to address questions appropriately, all questions must be submitted by no later than June 23, 2004. All interested parties are advised that no separate application package exists beyond the contents of this announcement.

SUPPLEMENTARY INFORMATION:

Background

About 85 million adults and children ride their bicycles every year. For children and teens, the bicycle is a primary means of transportation when traveling independently. In addition, an estimated half million people bike to work in the United States every morning. Each year, more than 500,000 bicyclists of all ages sustain cycling injuries that require emergency department care. In 2002, 662 pedalcyclists were killed and an additional 48,000 were injured in traffic crashes. Pedalcyclists fatalities occurred more frequently in urban areas (68 percent), at non-intersection locations (68 percent), between the hours of 5 p.m. and 9 p.m. (33 percent), and during the months of July, August, and September (35 percent). Pedalcyclists under age 16 accounted for 24 percent of all pedalcyclists killed and 39 percent of those injured in traffic crashes in 2002 (compared to 42 percent of pedalcyclists killed in 1992). The highest fatality rate is in males 10–15 years old; overall, the highest fatality rate is also within the 10–15 year old range. Pedalcyclists 25 years of age and older have made up an increasing proportion of all pedalcyclist deaths since 1992. The proportion of pedalcyclist fatalities age 25–64 was 1.4 times as high in 2002 as in 1992 (57 percent and 40 percent, respectively). Further, the average age of those killed in 2002 was 35.7 years, and the average age of those injured was 26.7 years.

NHTSA's current and future initiatives to promote bicycle safety are almost exclusively based on implementing the coordinated ''agenda'' developed in July 2000 by a diverse group of bicycle advocates, injury prevention specialists, and government representatives. The bicycle safety ''agenda,'' a document known as The National Strategies For Advancing Bicycle Safety, represents an effort to work with the cycling community to plan significant policies and strategies to advance the safety of bicyclists, regardless of age. In review, it addresses five key goals: (1) Motorists will share the road; (2) Bicyclists will ride safely; (3) Bicyclists will wear helmets; (4) The legal system will support safe bicycling; and (5) Roads and paths will safely accommodate bicyclists. These goals are designed to be a road map for policy makers, safety specialists, educators, and the bicycling community as they undertake national, state, and local efforts to increase safe bicycling.

The strategies outlined in the National Strategies for Advancing Bicycle Safety, are considered to be those that can be initiated and completed within a three to five year time frame. Moreover, these strategies are expected to build local support and capacity for efforts to improve safe bicycling. Finally, the National Strategies for Advancing Bicycle Safety provides guidance and direction to those seeking to improve bicycle safety. To continue to facilitate implementation efforts, NHTSA proposes to support approximately four (4) projects, aimed at putting into action one or more of the strategies outlined under Goals 1–4 of the National Strategies for Advancing Bicycle Safety. Copies of the National Strategies for Advancing Bicycle Safety are available on the NHTSA website at *http://www.nhtsa.dot.gov/people/injury/pedbimot/bike/general.html*

Objective

The objective of this cooperative agreement is to provide seed monies to stakeholders for the purpose of implementing aspects of Goals 1–4 of the National Strategies for Advancing Bicycle Safety. NHTSA intends to award up to four cooperative agreements (depending on available funding) to support the goals of this initiative. Each cooperative agreement recipient will be expected to identify and coordinate an effort that supports one or more of the goals and one or more of the strategies outlined under the goals. Length of performance will vary depending on the scope of the proposed effort. However, projects will be considered for a minimum of one year and a maximum of two years.

Proposals must address at least one of the following projects:

1. Identify and document current and proposed ''Share the Road'' campaigns for motorists and bicyclists. Identify the key components of these campaigns as well as missing elements. Design and test a strong and potentially effective ''Share the Road'' campaign, which can serve as a national model that can be adapted at state and local levels. Innovative methods to implement this campaign are encouraged.

2. Identify effective strategies for reaching motorists to share the road with bicyclists. Select and pilot test a number of innovative approaches. Make specific recommendations for a model approach, which may include a combination of strategies.

3. Identify and document bicycle safety approaches specifically tailored to reach underserved, nontraditional and diverse populations (*i.e.,* low income, ethnic groups, disabilities, ages, geographic locations). Specify the key components of programs/approaches for reaching such populations/audiences, and develop promising approaches and optimum delivery mechanisms for pilot testing. If few approaches exist, select and define an underserved population. Develop and test innovative approaches.

4. Identify the most effective marketing strategies and approaches

(awareness, education and intervention) to reach the various intended audiences about bicycle safety. Consider multiple audiences including college age riders, older adults, returning riders (those who have not ridden for years). Be specific in identifying promising and effective approaches for each audience. Select one or more audiences to pilot test, comparing use of various venues. (Parents, PTA/school board members, college students, returning bicycle riders, older adults, etc.)

5. Identify and assess how bicycle crash data are collected and recorded by law enforcement. What are the data collection procedures and practices? How do these affect the determination of fault between the driver and rider? Assess the usefulness of existing data reporting systems in tracking incidents and injuries involving bicycles and motor vehicles.

6. Investigate how courts are currently adjudicating bicycle-related incidents. Include judicial outcomes.

7. Assess the availability and adequacy of bicycle-related data and reporting systems used by the courts.

NHTSA Involvement

NHTSA will be involved in all activities undertaken as part of the Cooperative Agreement program and will, for each Cooperative Agreement awarded:

1. Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of this cooperative agreement and to coordinate activities between the Grantee and NHTSA.

2. Provide information and technical assistance from government sources within available resources and as determined appropriate by the COTR.

3. Serve as a liaison between NHTSA Headquarters, Regional Offices, and others (Federal, State and local) interested in reducing bicycle-related injuries and fatalities and promoting the activities of the Grantee.

4. Review and provide comments on program content, materials, and evaluation activities.

5. Stimulate the transfer of information among Grantees and others engaged in bicycle safety activities.

Availability of Funds

Approximately $200,000 in total federal funding is available for this Cooperative Agreement project. The government will contribute federal funds up to $50,000 for each Cooperative Agreement. The total number of awards will depend on the quality of the proposals submitted. Given the limited amount of funds available for this effort, applicants are strongly encouraged to seek other funding opportunities to supplement the Federal funds. Depending on the number of Cooperative Agreements awarded, NHTSA reserves the right to fully fund Cooperative Agreements at the time of award or incrementally over the period of the Cooperative Agreement.

Period of Performance

The period of performance for Cooperative Agreements awarded under this **Federal Register** Notice is a minimum of one year and a maximum of two (2) years from the effective date of award.

Eligibility Requirements

Public and private, non-profit and not-for-profit organizations, and governments and their agencies or a consortium of the above may submit applications. Thus, universities, colleges, research institutions, hospitals, other public and private (non-or not-for-profit) organizations, and state and local governments are eligible to apply. Interested applicants are advised that no fee or profit will be allowed under this Cooperative Agreement program.

Application Procedure

Each applicant shall submit one (1) original and two (2) copies of the application package to: Ms. Maxine Edwards, DOT/NHTSA, Office of Contracts and Procurement (NPO–220), 400 Seventh Street, SW., Room 5301, Washington DC 20590. Applications must include a completed Application for Federal Assistance (Standard Form 424—Revised 4/88). An additional two copies will facilitate the review process, but are not required.

Only complete packages received on or before 3 p.m., July 7, 2004 will be considered. No facsimile transmissions will be accepted. Applications must contain a reference to NHTSA Cooperative Agreement Number DTNH22–04–H–05090. Unnecessarily elaborate applications beyond what is sufficient to present a complete and effective response to this invitation should not be submitted.

Application Contents

1. The application package must be submitted with OMB Standard Form 424, (Rev 4–88, including 424A and 424B), Application for Federal Assistance, including 424A, Budget Information-Non-construction Program, and 424B, Assurances-Non-construction Programs, with the required information provided and the certified assurances included. Forms are electronically available for downloading at: *www.whitehouse.gov/omb/grants/index.html*. While the Form 424–A deals with budget information, and Section B identifies Budget Categories, the available space does not permit a level of detail that is sufficient to provide for a meaningful evaluation of the proposed costs. Therefore, supplemental information must be provided which presents a detailed breakout of the proposed costs (detail labor, including labor category, level of effort, and rate; direct materials, including itemized equipment; travel and transportation, including projected trips and number of people traveling; subcontractors/subgrants, with similar detail, if known; and overhead), as well as any costs the Applicant proposes to contribute or obtain from other sources in support of the projects in the project plan. The Applicant shall also provide documentation supporting all costs for which federal funding is being requested. The estimated costs should be separated and proposed by year (*i.e.,* A twelve-month proposed period of performance shall require one budget; A proposed period of performance in excess of twelve months shall include one budget for the initial twelve months and a second budget for the period requested in excess of twelve months.)

2. Applicants are encouraged to seek, and use in-kind contributions or funding other than the federal funds for this Cooperative Agreement effort. Since activities may be performed with a variety of financial resources, including in-kind contributions, Applicants need to fully identify all project costs and their funding sources in the proposed budget.

3. Program Narrative Statement: The proposal shall describe fully the scope of the Cooperative Agreement and identify which of the seven projects listed under the ''Objective'' section of this announcement the proposal addresses. Also, applications for this Cooperative Agreement must include the following information in the program narrative statement:

(A) A table of contents including page number references.

(B) If applicable to the effort proposed by Applicant, the proposal shall include a description of the community in which the Applicant proposes to implement or pilot test a bicycle safety program effort in support of the selected goal identified in the National Strategies for Advancing Bicycle Safety. For the purpose of this program, a community includes a city, town or county, small metropolitan area or a group of cities, towns or counties in a particular region. It should be large enough so that the

program can have a demonstrable effect on bicycling and bicycle safety. The description of the community shall include, at a minimum: Community demographics including bicycle population; The community's bicycle safety problems; Data sources available; Existing traffic safety programs; Bicycle helmet use laws; Bicycle education programs; and Community resources.

(C) Work Plan, Technical Approach, Technical Capability: A description of the goal(s) of the project/program and how the Applicant plans to meet the goal(s). This must be specific with respect to the particular problem(s) being addressed and how the Applicant will successfully address the problem(s). For example, if the Applicant is proposing to review and evaluate existing materials, how will the materials be identified? What partnerships may be necessary? What criteria will be used to evaluate the materials? How will the results be reported? Include letters of agreement and support, as appropriate. Also include a description of the specific activity(ies) proposed by the Applicant. What partners need to be involved in the effort to ensure success? To what degree has the buy-in of these groups been secured? How does the proposed project contribute to improving bicycle safety? What is ''success'' and how will it be determined? The proposal shall include a detailed explanation of time schedules, milestones, and product deliverables, including quarterly reports and draft and final reports. The Applicant shall discuss technical problems, barriers and/or critical issues related to the successful completion of this Cooperative Agreement effort. Should this Cooperative Agreement effort build upon an existing approach or program, the Applicant shall include a discussion of how the innovative, new, or creative features associated with this Cooperative Agreement to be implemented make this project different from what has been tried in the past. The factor will also include the identification and the means to include partners and groups to participate in the proposed project, including non-traditional partners and how the project may benefit from their participation. In addition, while the technical approach may meet the needs at the local and/or state level, the proposal must include a discussion of the applicability and capability for replication at the national level. To evaluate an Applicant's Technical Capability, the proposal shall include a separately labeled section with information explaining how the Applicant meets the following special competencies:

(1) Expertise in traffic safety, program development and implementation, and knowledge and experience in bicycle safety issues, especially related to the specific goal(s) addressed by applicant. If proposing a community intervention, demonstrate knowledge and familiarity with data sources (including local data) needed to determine the incidence of bicycle-related injuries.

(2) Capacity to:

a. Design, implement and evaluate innovative approaches for addressing difficult problems related to issues associated with bicycle safety, crashes and injuries.

b. Work successfully with bicycling and other community groups.

c. Collect and analyze both quantitative and qualitative data.

d. Synthesize, summarize, and report results, which are useable and decision-oriented.

e. Demonstrate experience in working in partnership with others, for example, law enforcement, health care systems, government agencies, the media, etc.

(3) Commitment and Support: When other sources and organizations are required to complete the proposed effort, the Applicant shall provide proof of said organizations' willingness to cooperate on the effort. Proof may be presented in the form of Letters of Support, or Letters of Commitment indicating the support to be provided to the Grantee.

(D) Evaluation Plan: A description of the Evaluation Plan, including how information (data) will be obtained, compiled, analyzed, and reported. The work plan must clearly describe, from the onset of the project, how ''an outcome-oriented result'' will be measured. This should be articulated in an evaluation plan that defines the project's potential to make a significant impact on improving bicycle safety or reducing bicycle crashes and associated injuries and fatalities on roadways and/or enforcement initiatives to improve traffic safety related to bicycles. The evaluation plan may differ depending on whether the focus of the effort is a community or examination of data. Issues that need to be considered in the evaluation plan include how the information/data collected in the project will be compiled, analyzed, interpreted and reported, and by whom? When information is qualitative, what criteria will be used to analyze it? Are there sufficient data/information sources and is access ensured from appropriate owners or collectors of data to obtain and appropriately analyze the quantitative and qualitative information needed on the proposed project? Applicants shall dedicate a minimum of five (5) percent of the total amount of federal money awarded under this cooperative agreement to evaluate the proposed project. This shall be noted in the applicants proposed budget.

(E) Qualifications of Project Personnel and Project Management Experience: A description of human resources to be used in this Cooperative Agreement effort. The Application shall identify the proposed project manager and other personnel considered critical to the successful accomplishment of the project, including a brief description of their qualifications and respective organizational responsibilities. The role and responsibilities of the applicant and any others included in the application package shall be specified. The proposed level of effort in performing the various activities shall also be identified. The applicant must furnish an organizational chart and résumés of each proposed staff member.

(F) Problem Identification: In describing the problem, the applicant shall include:

(1) Local data to support the issue, including but not limited to the size of the community (census data) or crash data (injuries and fatalities among bicyclists);

(2) Ridership;

(3) Other characteristics of the local problem as it relates to the National Strategies for Advancing Bicycle Safety;

(4) A list of bicycle facilities;

(5) Information on existing programs; and

(6) Identification of noteworthy gaps.

(G) Past Performance and Financial Responsibility. To evaluate this information adequately, the Applicant shall provide the following information:

(1) Identify at least three references who can attest to the past performance history and quality of work provided by the Applicant on previous assistance agreements and/or contracts. In doing so, the Applicant shall provide the following information for each reference:

(a) Assistance Agreement/Contract Number;

(b) Title and brief description of Assistance Agreement/Contract;

(c) Name of organization, name of point of contact, telephone number, and e-mail address of point of contact at the organization with which the Applicant entered into an Assistance Agreement/Contract;

(d) Dollar value of Assistance Agreement/Contract;

(e) Any additional information, which the Applicant may provide to address

the issue of past performance and financial responsibility.

(2) The Applicant shall indicate if it has ever appeared on the General Service Administration's (GSA) List of Parties Excluded From Federal Procurement and Nonprocurement Programs or on GSA's ''Excluded Parties List.'' If so, the Applicant shall discuss the circumstances leading up to its inclusion in either of these listings and its current status to enter into Assistance Agreements and/or Contracts.

(3) The Applicant shall indicate if it has ever filed for bankruptcy, or has had any financial problems, which may affect, negatively, its ability to perform under this Assistance Agreement.

Application Review Process and Criteria

Each application package will be reviewed initially to confirm that the applicant is an eligible candidate (as described under Eligibility Requirements) and has included all of the items specified in the Application Procedure section of this announcement. A NHTSA Evaluation Committee will then evaluate applications submitted by eligible candidates. The applications will be evaluated using the following criteria (listed in descending order of importance).

(1) Past Performance and Financial Responsibility.

The extent to which the proposed Grantee has fulfilled its performance and financial obligations on previous Assistance Agreements and/or Contracts will be evaluated.

This evaluation will include:

(a) The proposed Grantee's record of complying with milestone and performance schedules applicable to previous Assistance Agreements and/or Contracts;

(b) The proposed Grantee's record of cooperation with the awarding agency under previous Assistance Agreements and/or Contracts;

(c) The degree to which the proposed Grantee efficiently and effectively utilized Assistance Agreement and/or Contract funding;

(d) The degree to which the proposed Grantee complied with the terms and conditions of previous Assistance Agreements and/or Contracts;

(e) The degree to which the proposed Grantee complied with applicable Office of Management and Budget (OMB) Circulars and/or the Federal Acquisition Regulation, on previous Assistance Agreements and/or Contracts;

(f) The level of financial stability possessed by the proposed Grantee;

(2) Work Plan, Technical Approach, and Technical Capability.

The Applicant's proposal will be evaluated on:

(a) The extent to which the Applicant's goals are clearly articulated and the objectives are time-phased, specific, action-oriented, measurable, and achievable;

(c) The feasibility of the Applicant's approach to the development and implementation of this Cooperative Agreement project;

(d) The reasonableness, completeness, clarity and feasibility of the proposed project, including start and completion dates for major milestones/tasks associated with the Applicant's proposal.

(e) The extent to which the applicant has met the special competencies including organizational knowledge and familiarity with bicycle safety issues associated with the proposed intervention or effort; technical expertise with the intended audiences, technical and management skills needed to successfully design, administer and execute the proposed effort; ability to work with various organizations and the bicycling community to implement programs or compile data; ability to design and implement approaches for addressing bicycle safety related problems; and experience in fostering new partnerships with nontraditional partners.

(f) The degree to which the Applicant's plan may be replicated at the national level.

(3) Applicant's Evaluation Plan.

The Applicant's Evaluation Plan will be reviewed with respect to its feasibility, realism, and ability to achieve desired outcomes.

(4) Qualifications of Project Personnel and Project Management Experience.

This evaluation will measure the extent to which: (a) The proposed staff and/or contractors are clearly described, appropriately assigned, and have adequate skills and experience; (b) the level of effort (person-hours) and labor category composition for each person being proposed is reasonable for accomplishing the objectives of the project within the time frame set forth in the announcement.

(5) Problem Identification.

The extent to which the applicant clearly identifies a problem and explains creative approaches to address the problem and relates it to the National Strategies for Advancing Bicycle Safety.

Upon completion of review of those factors listed in (1) through (5) above, the Applicant's proposed budget will then be reviewed. In particular, the review will determine the fairness, reasonableness, allowability, and allocabillity of the proposed costs, the amount of any contribution (either ''in-kind'' or other), the degree to which the Applicant's budget reflects a prudent use of federal funds. Applicants are strongly urged to seek funds from other Federal, State, local, and private sources to augment those available under this announcement. Among proposals of equal merit, preference may be given to those that have proposed cost-sharing strategies and/or other proposed funding sources in addition to those in this announcement.

Terms and Conditions of Award

Prior to award, each applicant shall comply with the certification requirements of 49 CFR part 20, Department of Transportation New Restrictions on Lobbying, and 49 CFR part 29, Department of Transportation government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirement for Drug Free Work Place (Grants).

Reporting Requirements and Deliverables/Milestones of the Cooperative Agreement

An awarded Cooperative Agreement will include the following requirements:

(a) Monthly or Quarterly Progress Reports (which will be agreed upon at time of award) to include a summary of the previous month or quarter's activities and accomplishments, challenges experienced and resolutions to these challenges, as well as the proposed activities for the upcoming reporting period. Any decisions and actions required in the upcoming reporting period should be included in the report. Any problems and issues that may arise and need the COTR or Contracting Officer's (CO) attention should be clearly identified in the report in a specific section. The grantee shall supply the progress report to the COTR, at a minimum, every ninety-days (90), following date of award.

(b) Initial and Subsequent Meetings with COTR: Prior to commencement of any billable activity, the Grantee shall meet with the COTR and appropriate NHTSA staff via a ''kick-off'' conference call within fifteen (15) days of award to discuss and refine the development, implementation, and evaluation of the project. Additional conference calls with Grantees will occur on an as needed basis. For each of the Cooperative Agreements, it is anticipated that each Grantee will need to include in their proposed budget, one (1) trip, towards the conclusion of this project, to either NHTSA headquarters

or a national conference, to deliver a presentation of the project and its effectiveness. The trip destination will be decided upon by the COTR and the Grantee.

(c) Revised Project Plan: If needed, the Grantee shall submit a revised project plan incorporating verbal and written comments from the COTR based on the initial conference call. This revised plan is due no more than two (2) weeks from date of the initial meeting with the COTR.

(d) Draft Final Report: The Grantee shall prepare a Draft Final Report that includes a description of the project, issues addressed, program implementation (if relevant), analytic strategies, findings and recommendations. With regard to technology transfer, it is important to know what worked and what did not work, under what circumstances, what can be done to enhance replication in similar communities, and what can be done to avoid potential problems for future replication of the project. This is true even if the applicant reviewed and documented existing programs. The Grantee will submit the Draft Final Report to the COTR 45 days prior to the end of the performance period. The COTR will review the Draft Final Report and provide comments to the Grantee within 15 working days of receipt of the document.

(e) Final Report: The Grantee shall revise the Draft Final Report to reflect the COTR's comments. The revised final report shall include a 1–2 page Executive Summary which will be delivered to the COTR at least 15 days before the end of the performance period.

(f) Requirements for Printed Material: The print materials shall be provided to NHTSA in both laser copy and appropriate media formats (disk, CD-rom) with graphics and printing specifications to guide NHTSA's printing office and any outside organization implementing the program. Specifications follow.

(1) Digital artwork for printing shall be provided to NHTSA on diskette (100 meg Zip disk or CD rom). Files should be in current desktop design and publication programs, for example Adobe Pagemaker, or QuarkXPress, with supporting files in Adobe Illustrator, Adobe Photoshop, or Macromedia Freehand, (Corel Wordperfect and Microsoft Word are not acceptable formats). The Grantee shall provide all supporting files and fonts (both screen and printers) needed for successful output, black and white laser separations of all pages, disk directory(s) with printing specifications provided to the Government Printing Office (GPO) on GPO Form 952 to guide NHTSA's printing office, GPO, and any outside organizations assisting with program production. The Grantee shall confer with the COTR to verify all media format and language.

• Text—only documents shall be submitted in Word. Data used to develop tables or graphs, included in the Word document must be submitted as an Excel file

(2) Additionally, the program materials shall be submitted in the following format for placement on NHTSA's homepage of the world wide web.

- Original application format, for example, *pm5; *.doc; *.ppt; etc
- Section 508 compliant HTML level 3.2 or later
- Section 508 compliancy checklist
- A PDF file for viewing with Adobe Acrobat

(3) All HTML deliverables must be delivered on either a standard 3.5″ floppy disk or on a Windows 95/98 compatible formatted Iomega zip disk and labeled with the following information:

- Grantee's name and phone number
- Names of relevant files
- Application program and version used to create the file(s)
- If the files exceed the capacity of a high density floppy, a Windows 95 compatible formatted Iomega zip disk is acceptable

(4) Graphics must be saved in Graphic Interchange Format (GIF) or Joint Photographic Expert Group (JPEG). Graphics should be prepared in the smallest size possible, without reducing the usefulness or the readability of the figure on the screen. Use GIF for solid color or black and white images, such as bar charts, maps, or diagrams. Use JPEG (highest resolution and lowest compression) for photographic images having a wider range of color or grey-scale tones. When in doubt, try both formats and use the one that gives the best image quality for the smallest file size. Graphic files can be embedded in the body of the text or linked from the body text in their own files: the latter is preferable when a figure needs to be viewed full screen (640 × 480 pixels) to be readable.

• Tabular data must be displayed in HTML table format.

• List data must be displayed in HTML list format.

• Pre-formatted text is not acceptable.

• Currently, frames are not acceptable.

• JAVA, if used, must not affect the readability or usefulness of the document, rather, only enhance it.

• Table background colors may be used, but must not be relied upon (for example, a white document background with a table with colored background may look nice with white text, but the colored background doesn't show up on the user's browser the text shall be white against white and unreadable).

• All HTML documents must be saved in PC format and tested on a PC before delivery.

• During all phases of program development, draft program content and materials shall be provided to the COTR, as appropriate, for approval and coordination within NHTSA. Draft materials shall also be used for program message testing (the method of testing chosen in consultation with and approved by the COTR) to ensure that the content and messages are clear, easily understood and produce the desired effect with intended audiences. The Final and Summary Reports shall also be submitted in PDF format.

(g) Guidelines for Contractors: Contractors preparing publications for the NHTSA must submit them so that they are ready for posting onto the Web. All documents must be provided in HTML format (PDF format is optional or whenever requested) and submitted along with a completed web-based Internet information and Application Section 508 Checklist (see below). All documents must be Section 508 compliant and both Netscape (versions 4.0 or later) and Internet Explorer (versions 5.0 or later) compliant.

• All Web/HTML documents must comply with the 36 CFR 1194.22 accessibility standards that implement Section 508 of the Rehabilitation Act of 1973. These standards and guidelines are available for viewing in greater detail at the Access Board Web Site at: *http://www.access-board.gov/sec508/guide/1194.22.htm.*

• Summary of Section 508

• A text equivalent for all images shall be provided (e.g., via ''alt'', ''longdesc'', or in element content).

• Equivalent alternatives (e.g., captioning, transcripts) for any multimedia presentation shall be synchronized with the presentation.

■ Web pages shall be designed so that all information conveyed with color is also available without color.

■ Documents shall be organized so they are readable without requiring an associated style sheet.

■ Client-side image maps shall be provided instead of server-side image maps except where the regions cannot be defined with an available geometric shape.

■ Row and column headers shall be identified for data tables. Markup shall

be used to associate data cells and header cells for data tables that have two or more logical levels of row or column headers. The ''scope'' attribute for simple data tables and the ''ID'' and ''Headers'' attribute for more complex data tables.

■ Frames are not acceptable on the NHTSA site.

■ Pages shall be designed to avoid causing the screen to flicker at a high intensity rate.

■ When pages utilize scripting languages to display content, or to create interface elements, the information provided by the script shall be identified with functional text that can be read by assistant technology.

■ When a web page requires that an applet, plug-in or other application be present on the client system to interpret page content, the page must provide a link to a plug-in or applet that complies with § 1194.21(a) through (l).

■ When designing electronic forms to be completed on-line, the form shall allow people using assistant technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues.

■ A method shall be provided that permits users to skip repetitive navigation links.

■ When a timed response is required, the user shall be alerted and given sufficient time to indicate more time is required. (NHTSA prefers that no HTML page require a ''timed response'' time limit).

• Checking pages for Accessibility Compliance—You may find many tools and resources for checking and learning more about Section 508 compliancy at *http://www.section508.gov/*

• Images: All images should comply with Section 508 standards and be provided in either Graphic Interchange Format (GIF) or in Joint Photographic Experts Group (JPEG) format. Images should be prepared in the smallest size possible, without reducing the usefulness or readability of the figure on the screen.

• PDF: Use Adobe Acrobat Distiller to prepare PDF files that are converted from desktop published materials. Set up bookmarks for the main headings to aid navigation whenever applicable. Use the ''make accessible'' (available at *http://access.adobe.com/*) plug-in to make all PDFs accessible. The optimum size for PDF files is between 50K and 500K, and should be no more than 1.5MB. Files larger than 1.5MB require excessive downloading time. Divide large files into multiple smaller files as necessary.

• Structure/Format Issues: All HTML documents submitted for placement on NHTSA's web site must be written in ''standard'' HTML coding. All HTML's must also conform to the following file structure:

• Title Pages—The Title page of any HTML document must be saved as ''index''. This page, at a minimum, must contain both the full title of the publication and the DOT HS number, if any, in the <title> tag. The index page must also contain adequate links to navigate throughout the HTML document. The most common way to accomplish this objective is to provide a ''Table of Contents'' from which users can navigate to any part of the HTML document.

• Links—No ''dead'' links should exist on the NHTSA Web site. All links existing on a NHTSA web page that points to a URL outside of the NHTSA Web site must be routed through the NHTSA ''Disclaimer Page''. The hyper link ''markup'' format used for accessing this disclaimer page is: *http://www.nhtsa.dot.gov/exit.cfm?link=http://www.*''wherever'' (''wherever'' represents the ''outside'' URL).

Note: All electronic files, including the transportation media (*e.g.,* Iomega zip discs or CD–ROM discs) are to be considered property of the National Highway Traffic Safety Administration. Additionally: Unless arranged in advance, all physical, electronic, intellectual and transport media provided to NHTSA shall be considered as property of the government. Consequently, arrangements for use of intellectual property, such as digital photo or copyrighted items must be agreed to, before starting a project, clearly defined in writing and accompany each job. The name, address, and contact information of the supplier of the proprietary information must clearly be spelled out and supplied to NHTSA. The contractor is responsible for the cost of ''first use'' charges by NHTSA with the supplier of proprietary media, based on the initial nature of the project. NHTSA will be responsible for subsequent use charges. Optimally, properly obtained ''royalty-free'' images should be used. If a ''photo shoot'' is conducted, all photos and materials generated from the shoot must contain signed releases from all photographers and models involved in the shoot.

• Section 508 Checklist—Checkpoints:

(1) A text equivalent for every non-text element shall be provided (e.g., via ''alt'', ''longdesc'', ''d-link'' or in element content).

(2) Equivalent alternatives for any multimedia presentation shall be synchronized with the presentation.

(3) Web pages shall be designed so that all information conveyed with color is also available without color, for example from context or markup.

(4)Documents shall be organized so they are readable without requiring an associated style sheet.

(5)Redundant text links shall be provided for each active region of a server-side image map.

(6) Client-side image maps shall be provided instead of server-side image maps except where the regions cannot be defined with an available geometric shape.

(7) Row and column headers shall be identified for data tables.

(8) Markup shall be used to associate data cells and header cells for data tables that have two or more logical levels of row or column headers.

(9) Frames shall be titled with text that facilitates frame identification and navigation. (The use of frames on the NHTSA site is strongly prohibited)

(10) Pages shall be designed to avoid causing the screen to flicker with a frequency greater than 2 Hz and lower than 55 Hz.

(11) A text-only page, with equivalent information or functionality, shall be provided to make a web site comply with the provisions of these standards, when compliance cannot be accomplished in any other way. The content of the text-only page shall be updated whenever the primary page changes.

(12) When a web page requires that an applet, plug-in or other application be present on the client system to interpret page content, the page must provide a link to a plug-in or applet that complies with § 1194.21(a) through (l).

(13) When designing electronic forms to be completed on-line, the form shall allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues.

(14) A method shall be provided that permits users to skip repetitive navigation links.

(15) When a timed response is required, the user shall be alerted and given sufficient time to indicate more time is required.

(h) Final Project Briefing: The Grantee shall present a Final Project Briefing. Specifically:

(1) The Grantee shall brief NHTSA staff via conference call. The briefing shall last no less than 30 minutes and the Grantee shall be prepared to answer questions from the briefing's attendees.

(2) In consultation with the COTR, the Grantee should prepare to select and deliver a presentation of their project and its effectiveness at a national meeting/conference (Adjust budgets to accommodate these potential presentations.)

(3) The Grantee shall prepare a brief Microsoft PowerPoint Summary Presentation. The Grantee shall provide an electronic copy of the Microsoft PowerPoint (97) presentation so that NHTSA staff shall be able to brief senior staff or bicycle partners about grant project results (similar to a written Executive Summary).

NHTSA General Provisions

During the effective performance period of the awarded cooperative agreement, the Grantee shall be subject to the National Highway Traffic Safety Administration's General Provisions for Assistance Agreement, dated July 1995.

Susan D. Ryan,

Director, Office of Safety Programs, Program Development and Delivery.

[FR Doc. 04–13058 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Cooperative Agreement To Support a Teen Occupant Protection Campaign

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Announcement of Cooperative Agreement(s) to support Teen Occupant Protection Campaign.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a discretionary Cooperative Agreement program under Section 403 to provide funding for one or two States to support a Teen Occupant Protection Campaign. NHTSA anticipates funding this Cooperative Agreement for a period of three years. This notice solicits applications from applicable State agencies (*e.g.*, highway safety offices, motor vehicle administrations, law enforcement agencies, and others), traffic safety organizations, or a consortium of agencies/organizations, for funds to be made available in fiscal year (FY) 2004. Interested applicants must submit an application packet that meets the requirements set forth in the application section of this notice. NHTSA will review the applications to determine which State agency will receive funding under this announcement.

DATES: Applications must be received by the office designated below on or before July 9, 2004, at 3 p.m., e.d.t.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NPO–220), Attn: Ross S. Jeffries, Contract Specialist, 400 7th Street, SW., Room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Number: DTNH22–04–H–05111.

SUPPLEMENTARY INFORMATION:

Background

Scope of the Problem

The National Highway Traffic Safety Administration (NHTSA) is the Federal agency assigned to implement the *National Initiative for Increasing Seat Belt Use Nationwide,* being carried out under the *Buckle Up America* Campaign. Safety belts have proven to be the most effective occupant protection device in saving lives and preventing injuries in motor vehicle crashes. Restraint use, while crucial for any vehicle occupant, is especially critical for young people between the ages of 16 and 20. Motor vehicle crashes are the leading cause of death for 16 to 20 year olds in the United States. In 2002, the fatality rate in motor vehicle crashes for 16–20-year-olds was approximately twice the rate for all other ages. There are many reasons; for instance, while teens are learning the new skills needed for driving, many frequently engage in high-risk behaviors, such as speeding, underage drinking, and/or not using their safety belt. In 2002, 5,625 teens were killed in passenger vehicles involved in motor vehicle crashes, and more than 60 percent of those killed were not buckled up.

Effective Strategies To Increase Safety Belt Use for Teens

A comprehensive review of the scientific literature, State and Federal Government reports, and other sources of information was recently conducted by NHTSA to determine the scope of teen fatalities and injuries due to the non-use of safety belts and to identify and summarize programs, interventions, and strategies that can potentially increase safety belt usage by teens. According to this review, proven effective strategies that increase safety belt usage in the general population have the most immediate and greatest potential for increasing teen safety belt usage. These include upgrading State safety belt laws to primary enforcement and conducting highly publicized enforcement of these laws. Strategies that were identified as possibly being effective for teens included enforcement of Graduated Driver Licensing (GDL) laws that explicitly include requirements for safety belt usage in all three phases of licensure and provide sanctions that prohibit ''graduation'' to the next licensing phase if there is a safety belt citation. The review also found that a combination of strategies seems to work better than one alone. A community program including education, diversity outreach, highly publicized enforcement, and parental involvement would likely have a substantial effect on teen belt use. However, these strategies would probably need to be sustained for the effect to last over time.

GDL has proven to be effective at reducing high-risk driving behaviors and reducing crashes involving young drivers. GDL is a system for phasing in on-road driving, allowing beginner drivers to get their initial experience under conditions that involve lower risk and introducing them in stages to more complex driving situations. GDL addresses young risk takers by limiting their driving privileges for driving violations. In some States, failure to wear a safety belt is considered a driving violation and may be subject to a sanction, such as an increased fine or delayed progress through the GDL levels.

High-visibility enforcement has been effective in increasing safety belt use in the general population through the *Click It or Ticket* Campaign. In jurisdictions where license advancement is contingent on maintaining a violation-free driving record, general high-visibility enforcement can be particularly beneficial. In addition to the documented deterrent effect of such programs, these efforts should also discourage violation of GDL restrictions, since detection of such an infraction would then delay progression to the next licensing level.

While many GDL laws either include safety belt use as a provision, or provide for a sanction if a safety belt violation occurs, most teens and most parents are not aware of this requirement in GDL. For example, in a recent North Carolina study (Foss *et al.*, 2004 in press) only 5 percent of parents and 3 percent of teenagers were aware of the safety belt requirement. If safety belt requirements and consequences for safety belt violations were publicized, this element of GDL could substantially increase safety belt usage by teens in the future, especially because teens believe that they are relatively likely to be cited for traffic violations.

Law enforcement officers also are often unaware of the GDL law in their State and do not enforce it vigorously. Priority research needs identified at the *Symposium on Graduated Drivers*

Licensing: Documenting the Science of GDL (Journal of Safety Research 34 (1), 2003) included a recommendation to study methods to increase GDL enforcement by police, and ascertain if a stronger connection between GDL and other traffic laws could make GDL enforcement easier. Safety belt and zero Blood Alcohol Concentration (BAC) laws appeared to be especially relevant.

Campaign Objective

The objective of this Cooperative Agreement is to increase safety belt use among young drivers. This will be accomplished by testing the benefit of a safety belt provision within a State's GDL law, and demonstrating under which conditions the provision is most effective. It is hypothesized that having a safety belt provision and a related penalty/sanction within the GDL law will increase safety belt use among teens/young drivers because they will not want to risk receiving a fine or delaying ''graduation'' to their intermediate or full license.

Thus, to be eligible for this cooperative agreement, the applicant's State must have a safety belt provision and related sanction in its GDL law, or have such a provision by the time of the award. For example, in North Carolina, before graduating to Level Two (the intermediate license), a young driver must keep their permit for at least 12 months and have no moving violation convictions or safety belt infractions within the preceding six months.

Campaign Strategies

To increase safety belt use among young drivers, this Cooperative Agreement will support the implementation of three primary strategies: (1) a social marketing campaign that highlights the State's GDL safety belt provision; (2) promotion of the State's safety belt provision within the GDL law; and (3) education of law enforcement about GDL laws and increased participation of law enforcement in high-visibility enforcement of the law; thus, increase the awareness of young drivers that there are consequences when they violate GDL provisions and, in the process, reduce their perception that they are immune to such consequences.

The applicant may consider a variety of program designs utilizing the above strategies. However, the first strategy—a social marketing campaign—shall be included in all of the designs.

Preference will be given to applicants who design their program to have an experimental condition and a control condition. For instance, the applicant may decide to test some or all of the strategies (*e.g.*, promotion of the safety belt provision, implementation of a social marketing campaign, and high-visibility enforcement) in one part of the State (or in selected communities) and have a control site where there are no strategies implemented in another part of the State. A State also may decide to enhance a strategy in one condition, such as adding checkpoints to the heightened enforcement. This will allow comparison of strategies and the ability to identify which strategy, or combination of strategies, works best. Some conditions to consider in the program design are:

1. Social marketing campaign/media, promotion of safety belt provision, and heightened law enforcement.
2. Social marketing campaign with no extra enforcement.
3. Social marketing campaign/media and checkpoints added to heightened enforcement.

To be considered for an award under this Cooperative Agreement, the applicant shall include in its application a detailed plan and timeline for how they will implement all or a combination of these strategies and how the strategies will be designed and evaluated in the State. It is anticipated that project activities/implementation will occur over a period of six-months to a year.

(1) Social Marketing Campaign

Social marketing suggests that to change behavior(s), one must identify the core values of the target audience and develop messages and delivery mechanisms that will resonate with this audience. In the case of increasing safety belt use for young drivers, the value they regard the most may not necessarily be ''safety.'' More likely young drivers value the influence of their peers, or the importance of independence and autonomy.

The purpose of the campaign is to promote the safety belt provision and its related sanction. The messaging developed for this initiative must reflect this provision. To be considered for an award under this Cooperative Agreement, the messaging developed for this initiative by applicants also must concentrate on a core value of teens and how to influence that value to create behavior change (*i.e.*, increase safety belt use). For instance, young drivers place a very high value on independence and freedom. One way to achieve increased independence is to have a driver's license. Messaging would then emphasize that the freedom and independence (the core value) that comes with a license can be achieved if young drivers adhere to the safety belt provision in the GDL law of their state. The messaging also must highlight that the law is being enforced, and that violation of the law can result in delay of licensure. Messages must be pre-tested to ensure they are reaching the intended young driver audience.

Applicants shall develop a social marketing process that consists of, at a minimum: Planning; Message and Materials Development; Pre-testing; Implementation; and, Evaluation and Feedback. A major component of marketing the campaign will be the use of media. Applicants shall include in their implementation plan the use of earned and paid media, and submit an outline of the media channels/media buy plan that will be used.

(2) Promote Graduated Driver Licensing (GDL) Safety Belt Provision

Raising awareness about and promoting the State's safety belt provision is a potential strategy for this initiative. If applicants propose this strategy, they must address how they will build awareness about the safety belt provision, through strategies such as: providing information to new drivers as they apply for their license; adding information to the driver's license exam study guides; disseminating information through high schools; disseminating information to parents/caregivers; and, including information about the GDL law provisions and sanction in driver's education classes, etc.

(3) High-Visibility Enforcement

Although most young drivers will generally adhere to the constraints placed on their license, there is a need to ensure that there are enforcement mechanisms in place. This helps to underscore the societal expectation of responsible driving behavior. It also provides a source of external motivation to comply for those individuals who are less concerned about general social expectations. It is well documented that the visible presence of active enforcement will increase compliance.

GDL, however, appears to be a low priority for law enforcement and available information suggests that law enforcement and motor vehicle departments do not enforce GDL vigorously. Some GDL provisions are inherently difficult to enforce, since violations are difficult to detect (such as nighttime driving restrictions). However, law enforcement could check on possible GDL violations when they stop a young driver's vehicle for some other reason, such as speeding *(Foss and Goodwin, Journal of Safety Research 34(2003) 79–84)*.

If applicants propose this strategy, they must address how law enforcement officers will be educated about GDL in their State (and the safety belt provision within the GDL law), and how law enforcement will be educated about the importance of enforcing this law. Applicants must submit an enforcement plan that demonstrates increased, intensive enforcement (such as that applied in the Click It or Ticket Model). To be considered for an award under this Cooperative Agreement using this strategy, the applicant also shall demonstrate how the messaging/media will coincide with the enforcement component to create a high-visibility campaign.

Evaluation of Programs

Meaningful and timely evaluations of the State's Teen Occupant Protection Campaign are essential for its success. Possible evaluation measures for this campaign include: safety belt use among young drivers in the State (pre- and post-implementation of strategies), using a mini-statewide survey; safety belt citations issued to young drivers in the targeted age group, and if available, Department of Motor Vehicle (DMV) or court/adjudication data (pre- and post-education of law enforcement); young driver awareness of GDL law and attitudes (pre- and post-implementation of strategies), using DMV or telephone surveys; law enforcement attitudes and awareness of GDL in State (pre- and post-education of law enforcement).

If selected for award of this Cooperative Agreement, the applicant must be willing to cooperate with a NHTSA evaluator, who will help the State identify the most appropriate and effective data collection sources and evaluation methods, as well as assist with the implementation of the evaluation.

Availability of Funds and Period of Performance

Contingent on the availability of funds and satisfactory performance, Cooperative Agreement(s) awarded under this announcement will extend for a performance period not to exceed 36 months (three-years), with 30 months of planning and implementation, and six months for evaluation and preparation of the final report. A total of $650,000 is currently available to provide funding for one or two States to support a Teen Occupant Protection Campaign. The Government reserves the right to make multiple awards under this announcement. Applicants should submit projects and associated budgets for three-years of the performance period. It is estimated that any award under this announcement will occur in September 2004.

NHTSA Involvement

In support of the activities undertaken by this grant program, NHTSA will:

1. Provide a Contracting Officer's Technical Representative (COTR) to coordinate activities between the Grantee and NHTSA during the performance of the resultant Cooperative Agreement, and to serve as a liaison between NHTSA Headquarters, NHTSA Regional offices and the Grantee.

2. Provide information and technical assistance from other government sources and available resources as determined appropriate by the COTR.

3. Serve as a liaison between NHTSA Headquarters, Regional Offices, and others (Federal, State, and local) interested in occupant protection for young drivers, and/or interested in the activities of the Grantee(s) as appropriate.

4. Stimulate the transfer of information among Cooperative Agreement recipients and others engaged in occupant protection programs.

5. Review and approve draft and final versions of the deliverables.

Successful Applicant Responsibilities

NHTSA intends to replicate successful strategies and activities conducted pursuant to this Cooperative Agreement in other States. Therefore, this project will be closely monitored and its results shared with other programs and constituencies. NHTSA will work with the successful applicant(s) to ensure that the necessary components of the project are in place to fulfill this goal. Successful applicant responsibilities include:

1. *Briefing*—Participate with key NHTSA staff in the initial briefing/start-up meeting, which will take place after the Cooperative Agreement is awarded. The meeting will take place at NHTSA Headquarters in Washington, DC within (30) days after award of the resultant Cooperative Agreement. The purpose of the meeting will be to review the project's objectives, planned course of action, responsibilities, milestones and deliverables, and to resolve any differences between the government's approach and the successful applicant's approach. The successful applicant shall first conduct a short briefing (20–30 minutes) describing the organization's planned approach and provide attendees with appropriate briefing materials. After the prepared briefing, the successful applicant and NHTSA personnel will discuss specific details of the project.

2. *Site Selection for Strategy Implementation*—The successful applicant (s) shall select the appropriate sites for the strategies to be implemented. The sites shall be in mid-sized communities (avoiding very small or large urban communities) and teens should represent approximately six (6) to ten (10) percent of the overall population.

3. *Form a Project Task Force*—To foster collaboration with new and existing partners, the successful applicant(s) will organize a project task force. The task force will meet quarterly, at minimum, to discuss and plan project strategies, identify opportunities for collaboration and resource sharing, identify significant deliverables and milestones within the deliverable/milestone schedule, and coordinate other project related activities. Potential key members for the task force shall include social marketing/media consultants, law enforcement representatives, public health/injury prevention professionals, representatives from research and/or academic institutions, and State and local government representatives (State Highway Safety Office, Department of Motor Vehicles, Department of Health, Department of Education, *etc.*).

4. *Personnel and Equipment*—Provide necessary skilled personnel and equipment needed for performing the work under this Agreement. Assign a project officer as the point of contact for NHTSA's COTR for the purpose of ongoing coordination and review of the day-to-day work under this Agreement.

5. *Campaign Oversight*—Provide ongoing project oversight, including oversight of any sub-grantee(s), the project task force and related project staff.

6. *Evaluation*—The successful applicant(s) shall be responsible for collecting information about project activities, resources and outcomes. In partnership with NHTSA, the successful applicant(s) shall develop a process evaluation plan to document materials, marketing, media, education, and enforcement activities, as applicable. The evaluation plan shall include how the ultimate success of this project will be measured, *i.e.*, what outcome data will be necessary. The successful applicant(s) shall work with a NHTSA evaluator, who will be available to assist with the design and evaluation of the project.

7. *Report and Written Deliverables*—Provide quarterly reports, annual summary reports, and a final report to the NHTSA COTR. Maintain records of

internal and management discussions on planning, implementation, and evaluation activities related to this project. Accurate project records will assist in the replication of the successful approaches and processes identified as a result of this Cooperative Agreement.

Allowable Uses of Federal Funds

Allowable uses of Federal funds shall be governed by the relevant allowable cost section and cost principles referenced in OMB Circular A–87 ''— Cost Principles for State, Local or Indian Tribal Governments. Additional administrative requirements can be found in 49 CFR Part 18—Department of Transportation Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Funds provided under this Cooperative Agreement shall be used to carry out the activities described in the project plan for which the Cooperative Agreement is awarded. A maximum of 15 percent of funds may be used for the purchase of equipment to assist in carrying out project activities.

Eligibility Requirements

Applicants are limited to key State agencies (*e.g.*, highway safety offices, motor vehicle administrations, law enforcement agencies, and others) and traffic safety organizations, or a consortium of agencies/organizations. State level or national organizations shall demonstrate an understanding of safety belt use and related initiatives, such as *Buckle Up America* and the *Click It or Ticket* Campaign, and they shall demonstrate their capacity and commitment to administer/oversee the project.

To be eligible for award of the resultant Cooperative Agreement, documentation shall be provided that verifies that the State has a safety belt provision within the GDL law, or will have such a provision by the time of the award.

Applicants must be able to provide financial support to State and local law enforcement agencies that have jurisdiction within the community or county. Financial support might include funding overtime enforcement activities or other incentives to participate in the project.

All primary applicants and/or sub-grantees that will be conducting activity within a specific State or Tribal community using this funding shall include a letter of support from the applicable State Highway Safety Office with their application. To fulfill this requirement, applicants or grantees conducting activities within specific Tribal communities shall provide a letter from the Bureau of Indian Affairs, Indian Highway Safety Program. In addition, the applicant shall include letters of cooperation and participation from key partners who will be involved in the project. These partners shall include law enforcement agencies, marketing and media contractors/consultants, research institutions, the judicial branch of government, public health personnel, and other public and private sector partners.

Specifically, successful applicants shall have:

1. Demonstrated understanding and expertise in the development and implementation of traffic safety programs and substantial knowledge of safety belt issues, particularly for young drivers in the targeted age group;

2. Organizational infrastructure with adequate staff and resources to handle the day-to-day logistical needs of the program;

3. Staff with adequate writing skills to prepare press releases, reports, articles and other methods of promotion and communication;

4. Demonstrated ability to work with the media (*e.g.*, develop media buy plans, place media buys, etc.) or coordinate this effort with an appropriate firm;

5. Demonstrated ability to work with law enforcement to develop a high-visibility enforcement campaign, or coordinate this effort with the appropriate agency;

6. Demonstrated capacity and experience with program planning, design and data collection and analysis; and

7. The capability to outline strategies and successes and challenges of the project to serve as a model for other States.

Application Procedures

Each applicant shall submit one (1) original and four (4) copies of the application package to: Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA), Office of Contracts and Procurement (NPO–220), 400 7th Street, SW., Room 5301, Washington, DC 20590, Attention: Ross S. Jeffries, Contract Specialist. Applications may be single spaced, typed on one side of the page only, must not exceed 25 pages, and must include a reference to NHTSA Cooperative Agreement No DTNH22–04–H–05111. Appendices, which may be included, are not counted in the 25-page limit.

Only complete packages received on or before 3 p.m. e.d.t. on June 28, 2004 will be considered.

Note: All questions concerning this announcement shall be directed to Ross S. Jeffries, Contract Specialist. Mr. Jeffries may be reached by telephone at (202) 366–6283 or by E-mail: *ross.Jeffries@nhtsa.dot.gov.* It is preferred that any and all such questions be sent via E-mail to Mr. Jeffries.

Application Contents

Applicant(s) must include all of the contents listed below in their application package:

1. The application package must be submitted with OMB Standard Form 424, (Rev. 7–97 or 4–88, including 424A and 424B), Application for Federal Assistance, with the required information provided and the certified assurances included. While the Form 424–A deals with budget information, and section B identifies Budget Categories, the available space does not permit a level of detail that is sufficient to provide for a meaningful evaluation of the proposed costs. A supplemental sheet should be provided which presents a detailed cost breakdown of the proposed total project effort, including evaluation and reporting, (direct labor, including labor category, level of effort, and rate; direct materials, including itemized equipment; travel and transportation, including projected trips and number of people traveling; sub-contracts/sub-grants, with similar detail, if known; and overhead) and since activities may be performed with a variety of financial resources, applicants need to fully identify all project cost and their funding sources in the proposed budget. The proposed budget must identity all funding sources in sufficient detail to demonstrate that the overall objectives of the project will be met. The estimated costs should be separated and proposed by year. Applicants may obtain the required forms from Web site: *http://www.whitehouse.gov/omb/grants/.*

2. The application shall include a project narrative not to exceed 25 pages that provides the following information in separately labeled sections:

A. *Introduction:* Brief general description of the State's geographic and demographic population distribution, including population estimates for teens in the State, any unique characteristics of the State relevant to the applicant's plan to increase safety belt use, and a summary of available information on teen motor vehicle injuries and fatalities in the State, young drivers safety belt use rates and trends, and young driver awareness and attitudes toward belt use and the State's GDL law.

B. *The State's GDL Law:* A description of the State's GDL law and the safety belt provision within the law (including

the sanction/penalty for violating the safety belt provision). If available, this section should also include recent data regarding how many young drivers are cited for a safety belt violation while in GDL, and how many of these young drivers then received the associated sanction (such as increased fine or delayed ''graduation'').

C. *Goals and Objectives:* A discussion section that presents the principal goals and objectives of the proposed plan and articulates the potential to increase safety belt use rates within the young drivers in target age group, with supporting rationale. This section must identify any proposed partnerships and key members of the project task force. Documentation of existing public and/or political support may also be included (*e.g.* endorsement of the Governor, Community Police or Patrol, Association of Chiefs of Police, Community Medical Society, etc).

D. *Project Description.* This section shall include a detailed description of the activities to be implemented in the plan, including:

1. Key strategies to be employed;
2. Key features (*e.g.* participants, design, methodology); and
3. A project plan that includes a listing of milestones in chronological order, to show the schedule of expected accomplishments and their target dates.

The project plan must include a comprehensive social marketing strategy that includes the following information:

1. Planning;
2. Message and Materials Development;
3. Pre-testing;
4. Implementation; and
5. Evaluation and Feedback.

When describing messaging and materials development, applicants shall also discuss the following:

1. Product: What is the behavior that young drivers are being asked to adopt?
2. Price: What do young drivers have to give up to adopt the behavior, what will they gain?
3. Place: What distribution channels will be used to get the message to young driver (paid and earned media)?
4. Promotion: How will teens be reached and motivated with the message (public relations, promotions, media advocacy, special events, etc.)?

In a project plan that includes promotion of the State's GDL safety belt provision, the applicant shall provide the following information:

1. The strategies planned to build awareness about the safety belt provision, such as: providing information to new drivers as they apply for their license; adding information to the driver's license exam study guides; disseminating information through high schools; disseminating information to parents/caregivers; peer-to-peer awareness activities; and, including information about the GDL law provisions and sanction in driver's education classes, etc.
2. Community or other partners that will be involved in this effort; and,
3. Measures (process and outcome) that will be used to evaluate success of promotional/awareness strategies.

In a project plan that includes a comprehensive enforcement strategy, the applicant shall provide the following information:

1. Strategies that will be used to educate law enforcement about GDL (*e.g.*, roll call videos, workshops, etc.) and number of officers expected to participate in education;
2. The number of law enforcement agencies that are expected to participate in heightened enforcement;
3. The kinds of law enforcement activities and strategies that will take place (*e.g.*, checkpoints, saturation patrols, foot patrols at selected intersections, etc.);
4. The number of officers that will participate;
5. The percentage of contacts with the young drivers in the targeted age group, on average, that are expected to result in a citation for a safety belt violation; and
6. The full extent that other community partners will be involved, such as educators, business owners, the judicial branch of government, public health personnel, and other public and private sector partners.

E. *Personnel:* This section shall identify the proposed project officer and other proposed key personnel considered critical to the successful accomplishment of the activities under this project. A brief description of their qualifications and respective responsibilities shall be included. The proposed level of their effort and contributions to the various activities in the plan shall also be identified. Each organization, corporation, or consultant who will work on the project shall be identified, along with a short description of the nature of the effort or contribution and relevant experience.

F. *Evaluation:* This section shall describe how the project will be evaluated and what measures will be used to determine the outcomes of the activities in the project plan. This section shall demonstrate the applicant's willingness to work with a NHTSA evaluator, who will be available to assist the successful applicant with the evaluation design and implementation. It is critically important that the resultant Cooperative Agreement be carefully evaluated so that other States may learn the relative strengths and weaknesses of the strategies and approaches undertaken and what effects they have on safety belt use rates. The evaluation section shall describe the methods for assessing actual results achieved under the plan. Outcomes can be documented in a number of ways. Increases in observed safety belt use and reductions in motor vehicle crash fatalities and injuries provide the ultimate measure of success. However, intermediate measures, such as changes in enforcement policies and procedures, as well as increases in citations for young drivers for non-safety belt use may be utilized to measure progress.

In particular, the applicant's proposal shall describe how it intends to assess the effectiveness of its project with respect to:

1. Safety belt use among young drivers (pre- and post-implementation of strategies);
2. Safety belt citations issued to young drivers (pre- and post-education of law enforcement);
3. Young driver awareness of GDL law and attitudes (pre- and post-implementation of strategies); and
4. Law enforcement attitudes and awareness of GDL in State (pre- and post-education of law enforcement).

G. *Past Performance and Financial Responsibility.* To evaluate this information adequately, the Applicant shall provide the following information:

(1) Identify at least three references who can attest to the past performance history and quality of work provided by the Applicant on previous assistance agreements and/or contracts. In doing so, the Applicant shall provide the following information for each reference:

(a) Assistance Agreement/ Contract Number;

(b) Title and brief description of Assistance Agreement/ Contract;

(c) Name of organization, name of point of contact, telephone number, and e-mail address of point of contact at the organization with which the Applicant entered into an Assistance Agreement/ Contract;

(d) Dollar value of Assistance Agreement/ Contract;

(e) Any additional information, which the Applicant may provide to address the issue of past performance and financial responsibility.

(2) The Applicant shall indicate if it has ever appeared on the General Service Administration's (GSA) List of Parties Excluded From Federal Procurement and Non-procurement Programs or on GSA's ''Excluded Parties

List.'' If so, the Applicant shall discuss the circumstances leading up to its inclusion in either of these listings and its current status to enter into Assistance Agreements and/or Contracts.

(3) The Applicant shall indicate if it has ever filed for bankruptcy, or has had any financial problems, which may affect, negatively, its ability to perform under this Assistance Agreement.

Review Procedures, Criteria and Evaluation Factors

Each application package will be reviewed initially to confirm that the applicant is an eligible candidate (as described under *Eligibility Requirements*) and has included all of the items specified in the *Application Procedure* section of this announcement. A NHTSA Evaluation Committee will then evaluate applications submitted by eligible candidates. It is anticipated that awards will be made in September 2004. The applications will be evaluated using the following criteria (listed in descending order of importance).

1. *Past Performance and Financial Responsibility*—The extent to which the proposed Grantee has fulfilled its performance and financial obligations on previous Assistance Agreements and/or Contracts will be evaluated. This evaluation will include:

(a) The proposed Grantee's record of complying with milestone and performance schedules applicable to previous Assistance Agreements and/or Contracts;

(b) The proposed Grantee's record of cooperation with the awarding agency under previous Assistance Agreements and/or Contracts;

(c) The degree to which the proposed Grantee efficiently and effectively utilized Assistance Agreement and/or Contract funding;

(d) The degree to which the proposed Grantee complied with the terms and conditions of previous Assistance Agreements and/or Contracts;

(e) The degree to which the proposed Grantee complied with applicable Office of Management and Budget (OMB) Circulars and/or the Federal Acquisition Regulation, on previous Assistance Agreements and/or Contracts;

(f) The level of financial stability possessed by the proposed Grantee.

2. *Organizational Capabilities*—The applicant shall provide and will be evaluated on the degree to which it has a viable organizational entity with sufficient demonstrated commitment and experience in performing the tasks required for successful implementation of this Cooperative Agreement. Specifically, the applicant shall demonstrate: an understanding and knowledge of traffic safety initiatives (*e.g., Buckle Up America, Click It or Ticket* Campaign, etc.); knowledge of strategies to increase safety belt use, particularly for the teen population; ability to organize/oversee a social marketing campaign with a strong media component; and, research and evaluation capacity, or affiliation with an academic/research institution or other entity that possesses these critical capabilities.

3. *Project Plan/Approach*—The applicant shall provide and will be evaluated on the degree to which it has a sound and feasible plan for the development of program activities. The approach shall demonstrate: a clear and comprehensive understanding of young drivers traffic safety issues (including applicable data on the scope of the problem for teens in the State); knowledge of GDL laws and specific elements of the GDL law in the State; and, understanding of effective strategies to increase safety belt use in the targeted age group of 16 to 20.

4. *Evaluation Plan*—The applicant shall provide and will be evaluated on the degree to which it has a sound and feasible plan for how the project will be evaluated and what measures will be used to determine the outcomes of the activities in the project plan. The applicant shall demonstrate a willingness to work with NHTSA evaluators to ensure a comprehensive evaluation plan. It is critically important that the resultant Cooperative Agreement be carefully evaluated so that other state may learn the relative strengths and weaknesses of the strategies and approaches undertaken and what effects they have on safety belt use rates. The evaluation section shall describe the methods for assessing actual results achieved under the plan.

5. *Partnerships/Collaboration*—The applicant shall demonstrate and will be evaluated on the degree to which it has the ability (through examples of current and prior activities) to form effective partnerships with other organizations, coalitions, and community leaders/officials, etc. The applicant shall develop a preliminary structure and membership for the Project Task Force and address the rationale for the membership and their roles and responsibilities.

6. *Project Management*—The applicant shall demonstrate and will be evaluated on the degree to which it has a sound program management structure and delineation of responsibility for different parts of the project. NHTSA will assess the qualifications and expertise of project personnel. The applicant's staffing should be adequate to manage and implement the project.

7. *Budget*—The applicant shall include a budget that clearly identifies, itemizes and explains project costs. NHTSA will give a preference to applicants who identify resources from within or outside their organization to support the project during and beyond the grant period. Additionally, the applicant will be evaluated on how it efficiently utilizes the requested Government funds.

Terms and Conditions of Award

1. Prior to award, each applicant must comply with the certification requirements of 49 CFR Part 20, Department of Transportation New Restrictions on Lobbying, and 49 CFR Part 29, Department of Transportation Government wide Debarment and Suspension (Non procurement) and Government wide Requirements for Drug Free Workplace (Grants).

2. Reporting Requirements and Deliverables:

a. *Quarterly Progress Reports:* A summary of the previous quarter's activities and accomplishments, significant problems encountered or anticipated, an itemization of expenditures made during the quarter, and proposed activities for the upcoming quarter. Press clips and highlights from activities should be included in each quarterly report. Any decisions and actions required in the upcoming quarter should also be in the report.

b. *Annual Summary Report:* At the completion of each year of the Cooperative Agreement, the Grantee will be required to submit an annual summary report. The reports will include a list of partners, materials developed and disseminated, and feedback from the field, as well as document and review the notable accomplishments of the year, evaluation results and recommendations for the future years' efforts.

c. *Draft Final Report:* The Grantee will be required to prepare a Draft Final Report that includes a complete description of the projects conducted, including partners, overall program implementation, evaluation methodology and findings from the program evaluation. In terms of information transfer, it is important to know what worked and what did not work, under what circumstances, and what can be done to avoid potential problems in future projects. The Grantee will be required to submit the Draft Final Report to the COTR 60 days prior to the end of the performance period.

The COTR will review the draft report and provide comments to the Grantee within 15 days of receipt of the document.

d. *Final Report:* The revised Final Report will be delivered to the COTR one (1) month before the end of the performance period and reflect the COTR's comments. The comprehensive report will detail the major activities, events, data collection, methodology, and best practices/strategies that can be replicated in other States. The Grantee shall supply the COTR with:

- Four hard copies of the final document;
- A disk (or CD–ROM) of the report in Microsoft Word Format; and
- A redlined version of the Final Report reflecting changes made in response to the COTR's comments.

e. *Briefings and Presentations:* The Grantee will be required to conduct a final briefing with NHTSA officials and other invited parties in Washington, DC upon the completion of the project. An initial briefing and an interim briefing, approximately midway through the period of performance, may be required. The Grantee will be required to prepare an article and submit it for publication in a professional journal. All articles and briefings shall be submitted to NHTSA initially in draft format for review and comment. The Grantee will be required to submit drafts to the COTR 30 days before the event date or publication submission date.

3. During the effective performance period of Cooperative Agreements awarded as a result of this announcement, the agreement shall be subject to NHTSA's General Provisions for Assistance Agreements, dated July 1995.

Issued on: May 4, 2004.

Sue D. Ryan,

Director, Office of Safety Programs, Program Development and Delivery.

[FR Doc. 04–13057 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA–02–13847]

Insurer Reporting Requirements; Reports Under 49 U.S.C. on Section 33112(c)

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of availability.

SUMMARY: This notice announces publication by NHTSA of the annual insurer report on motor vehicle theft for the 1998 reporting year. Section 33112(h) of Title 49 of the U.S. Code, requires this information to be compiled periodically and published by the agency in a form that will be helpful to the public, the law enforcement community, and Congress. As required by section 33112(c), this report provides information on theft and recovery of vehicles; rating rules and plans used by motor vehicle insurers to reduce premiums due to a reduction in motor vehicle thefts; and actions taken by insurers to assist in deterring thefts.

ADDRESSES: Interested persons may obtain a copy of this report and appendices by contacting the U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours are from 10 a.m. to 5 p.m.]. Requests should refer to Docket No. 2002–13847. This report without appendices may also be viewed on-line at: *http://www.nhtsa.dot.gov/cars/rules/theft.*

FOR FURTHER INFORMATION: Ms. Rosalind Proctor, Office of Planning and Consumer Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: The Motor Vehicle Theft Law Enforcement Act of 1984 (Theft Act) was implemented to enhance detection and prosecution of motor vehicle theft (Pub. L. 98–547). The Theft Act added a new Title VI to the Motor Vehicle Information and Cost Savings Act, which required the Secretary of Transportation to issue a theft prevention standard for identifying major parts of certain high-theft lines of passenger cars. The Act also addressed several other actions to reduce motor vehicle theft, such as increased criminal penalties for those who traffic in stolen vehicles and parts, curtailment of the exportation of stolen motor vehicles and off-highway mobile equipment, establishment of penalties for dismantling vehicles for the purpose of trafficking in stolen parts, and development of ways to encourage decreases in premiums charged to consumers for motor vehicle theft insurance.

Title VI (which has since been recodified as 49 U.S.C. Chapter 331), was designed to impede the theft of motor vehicles by creating a theft prevention standard which required manufacturers of designated high-theft car lines to inscribe or affix a vehicle identification number onto major components and replacement parts of all vehicle lines selected as high theft. The theft standard became effective in Model Year 1987 for designated high-theft car lines.

The Anti Car Theft Act of 1992 (Pub. L. 102–519) amended the law relating to the parts-marking of major component parts on designated high-theft vehicles. One amendment made by the Anti Car Theft Act was to 49 U.S.C. 33101(10), where the definition of ''passenger motor vehicle'' now includes a ''multipurpose passenger vehicle or light-duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight.'' Since ''passenger motor vehicle'' was previously defined to include passenger cars only, the effect of the Anti Car Theft Act is that certain multipurpose passenger vehicle (MPV) and light-duty truck (LDT) lines may be determined to be high-theft vehicles subject to the Federal motor vehicle theft prevention standard (49 CFR Part 541).

Section 33112 of Title 49 requires subject insurers or designated agents to report annually to the agency on theft and recovery of vehicles, on rating rules and plans used by insurers to reduce premiums due to a reduction in motor vehicle thefts, and on actions taken by insurers to assist in deterring thefts. Rental and leasing companies also are required to provide annual theft reports to the agency. In accordance with 49 CFR 544.5, each insurer, rental and leasing company to which this regulation applies must submit a report annually not later than October 25, beginning with the calendar year for which they are required to report. The report would contain information for the calendar year three years previous to the year in which the report is filed. The report that was due by October 25, 2001 contains the required information for the 1998 calendar year. Interested persons may obtain a copy of individual insurer reports for CY 1998 by contacting the U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours are from 10 a.m. to 5 p.m.]. Requests should refer to Docket No. 2002–13847.

The annual insurer reports provided under section 33112 are intended to aid in implementing the Theft Act and fulfilling the Department's requirements to report to the public the results of the insurer reports. The first annual insurer report, referred to as the Section 612 Report on Motor Vehicle Theft, was prepared by the agency and issued in December 1987. The report included theft and recovery data by vehicle type,

make, line, and model which were tabulated by insurance companies, and rental and leasing companies. Comprehensive premium information for each of the reporting insurance companies was also included. This report, the fourteenth, discloses the same subject information and follows the same reporting format.

Issued on: June 4, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04–13054 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Recall Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for an investigation into the adequacy of a safety recall.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30120(e) by Mr. Philip N. McBroom, requesting that the agency commence a proceeding to determine the adequacy of the remedy utilized by DaimlerChrysler Corporation to address a safety-related defect in Safety Recall 98V–184. After a review of the petition and other information, NHTSA has concluded that further expenditure of the agency's investigative resources on the issues raised by the petition does not appear warranted. The agency accordingly has denied the petition. The petition is hereinafter identified as RP04–001.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan White, Chief, Defect Assessment Division, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–5226.

SUPPLEMENTARY INFORMATION: On February 6, 2004, Mr. Philip N. McBroom submitted a petition requesting that the agency investigate the adequacy of the remedy used by DaimlerChrysler in Safety Recall 98V–184. The petition alleges his model year (MY) 1997 Dodge Intrepid had an engine compartment fire after the recall repairs had been made to his vehicle prior to his ownership. He further alleges that he smelled fuel fumes and did not observe any exterior fuel leakage from the vehicle prior to the fire. The vehicle was a total loss and has been salvaged. The specific cause of this alleged fire is not known.

On August 6, 1998, DaimlerChrysler filed a Defect Information Report, Recall No. 98V–184, concerning engine compartment fuel rail leaks and potential fire in approximately 722,600 vehicles built with 3.5L V6 engines, including the MY 1997 Dodge Intrepid. DaimlerChrysler reported that a fuel leak could result from deteriorated nitrile rubber fuel rail o-rings or hairline cracks in the outlet (passenger) side thermoset plastic fuel injection rail. The recall remedy involved replacement of the fuel rail nitrile o-rings with new o-rings of fluorocarbon composition and reinforcement of the outlet fuel rail. Those vehicles that exhibit fuel leakage of the outlet fuel rail, as determined by a leak test, would have the outlet fuel rail replaced.

On July 10, 1998, NHTSA opened a recall query (RQ98–018), to examine the adequacy of the remedy DaimlerChrysler used in recall 98V–184. At its closing on July 8, 2002, it concluded approximately 80 percent of the recall population has been remedied by March 2002, and that 99.7 percent of alleged remedy failures were corrected after two dealer visits using DaimlerChrylser's modified remedy procedures. Since the closing of RQ98–018 ODI has received a total of 38 complaints of engine compartment fuel leakage in the entire recall population after the recall remedy was performed, including 11 complaints on the 1997 Dodge Intrepid. Of these 11 reports, three concerned a part failure unrelated to the recall remedy, two concerned the same part, and six reports concerned unknown or unspecified fuel component failures. Two of these 11 complaints reported an engine compartment fire, including Mr. McBroom's vehicle. Mr. McBroom's vehicle was investigated by the local North Star Fire Department, which stated that the cause of the engine compartment fire was undetermined.

On September 11, 2000, ODI was petitioned (RP00–001) to investigate the effectiveness of DaimlerChrysler's remedy procedure in recall 98V–184. On October 23, 2000, the petitioner was informed that the information she provided would be considered as part of RQ98–018. The information obtained in the investigation has shown that while post-repair leakage complaints have leveled off to approximately 20 per year, most are unrelated to the recall remedy. There is no new information obtained since the closing of RQ98–018 that would indicate any basis for reopening it.

For the foregoing reasons, further expenditure of the agency's investigative resources on the issues raised by the petition does not appear to be warranted. Therefore, the petition is denied.

Authority: 49 U.S.C. 30120(e); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 3, 2004.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

[FR Doc. 04–13053 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2003–15819; Notice 2]

Mitsubishi Motors North America, Inc.; Grant of Application for Decision of Inconsequential Noncompliance

Mitsubishi Motors North America, Inc. (MMNA) has determined that approximately 25,832 vehicles equipped with new pneumatic tires failed to comply with certain provisions mandated by Federal Motor Vehicles Safety Standard (FMVSS) No. 110, ''Tire selection and rims,'' regarding the vehicle normal load.

Pursuant to 49 U.S.C. 30118(d) and 30120(h), MMNA has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and had filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.''

Notice of receipt of the application was published, with a 30-day comment period, on September 15, 2003, in the **Federal Register** (68 FR 54047). NHTSA received no comment on this application.

Mitsubishi Motors Sales Caribbean, Inc., and DaimlerChrysler Corporation (at that time, Chrysler Corporation) imported and distributed approximately 25,832 vehicles (Mitsubishi Mirages and Chrysler Eagle Summits), during the periods of September 22, 1994, through May 9, 1996. FMVSS No. 110, ''Tire selection and rims,'' S4.2.2, mandates that the vehicle's normal load on each tire must not exceed the test load for the high speed performance test as specified in FMVSS No. 109, ''New pneumatic tires,'' paragraph S5.5. Paragraph S5.5.1 requires that the tire and wheel assembly be mounted and pressed against the test wheel with a load of 88 percent of the tire's maximum load rating as marked on the tire sidewall.

As reported by MMNA, the tires on the front axle of each affected vehicle,

when loaded at the vehicle normal load, slightly exceed 88 percent of the respective tires maximum load rating. Specifically, the vehicle's normal load exceeds 88 percent of the maximum load rating by approximately 6kg, which means that the normal load is 89.5 percent of the maximum load rating. The noncompliance resulted from a running change during the 1995 model year that added a three-speed automatic transmission that increased the curb weight by 15kg resulting in a front axle load increase of 12kg and a rear axle load increase of 3kg. FMVSS No. 110 requires that the vehicle's normal load on each tire must not be greater than the high speed performance test load, which is 88 percent of the maximum load rating as stated on the tire sidewall. Compliance with FMVSS No. 110, S4.2.2, was calculated, by MMNA, based on the original curb weight (without the three-speed transmission) at the vehicle normal load.

Noting that the noncompliance occurred with vehicles manufactured prior to August of 1995, NHTSA agrees that motor vehicle safety would not be adversely impacted since the original equipment tires fitted to the affected vehicles have more than likely been replaced with a larger tire size. This is because the original equipment P145/80R13 size tire is no longer being manufactured by most tire manufacturers and has been eliminated from the Tire and Rim Association Year Book after 1998 causing its availability to drop significantly. MMNA believes, and the agency agrees, that most consumers would have likely replaced their original equipment tires with P155/80R13 size tires, which have a high enough load carrying capacity to meet the requirements of FMVSS No. 110 when fitted to the affected vehicles.

NHTSA believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The fact that most of these vehicles have been in operation for close to nine years and likely have worn out the original equipment tires leads the agency to believe that the original noncompliance has no effect on the performance of the subject vehicles today.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance is inconsequential to motor vehicle safety. Accordingly, its application is granted and the applicant is exempted from providing the notification of the noncompliance as required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

(Authority: 49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: June 4, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04–13055 Filed 6–8–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Office of Thrift Supervision

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities; Proposed Revision of Information Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint notice and request for comment.

SUMMARY: The OCC, Board, FDIC, and OTS (Agencies), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on proposed revisions to a continuing information collection, as required by the Paperwork Reduction Act of 1995. The Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Agencies are soliciting comments on proposed revisions to the information collections titled: ''Interagency Biographical and Financial Report'' and ''Interagency Notice of Change in Control.'' Additionally, the OCC is making other clarifying changes to the Comptroller's Licensing Manual. Also, the Board is proposing to extend, without revision, the Interagency Notice of Change in Director or Senior Executive Officer.

DATES: You should submit written comments by August 9, 2004.

ADDRESSES: Interested parties are invited to submit comments to any or all of the Agencies and the OMB Desk Officer. All comments, which should refer to the OMB control number, will be shared among the Agencies:

OCC: Office of the Comptroller of the Currency, Public Information Room, 250 E Street, SW., Mail Stop 1–5, Attention: 1557–0014, Washington, DC 20219. Due to delays in paper mail delivery in the Washington area, commenters are urged to fax comments to (202) 874–4448, or e-mail comments to *regs.comments@occ.treas.gov.* You may make an appointment to inspect and photocopy comments by calling (202) 874–5043.

Board: Comments may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. However, because paper mail in the Washington area and at the Board of Governors is subject to delay, please consider submitting your comments by e-mail to *regs.comments@federalreserve.gov,* or faxing them to the Office of the Secretary at 202–452–3819 or 202–452–3102. Members of the public may inspect comments in Room MP–500 between 9 a.m. and 5 p.m. on weekdays pursuant to 261.12, except as provided in 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FDIC: Comments may be mailed to Tom Nixon, Paperwork Clearance Officer, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments also may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. or submitted by e-mail to *tnixon@fdic.gov.* Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC between 9 a.m. and 4:30 p.m. on business days.

OTS: Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: 1550–0005, –0015, –0032, –0047, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–

5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a fax to (202) 906–7755.

OMB Desk Officer for the Agencies: Mark Menchik, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, or e-mail to *mmenchik@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: You may request additional information from:

OCC: John Ference, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. For subject matter information, you may contact Cheryl Martin at (202) 874–4614, Licensing Activities, Licensing Department, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Michelle Long, Acting Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Tom Nixon, Paperwork Clearance Officer, (202) 898–3907, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Marilyn K. Burton, OTS Clearance Officer, (202) 906–6467; Frances C. Augello, Senior Counsel, Business Transactions Division, (202) 906–6151; Patricia D. Goings, Regulatory Analyst, Supervision Policy, (202) 906–5668; or Damon C. Zaylor, Regulatory Analyst, Supervision Policy, (202) 906–6787, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Proposal to extend for three years, with revision, the following currently approved collections of information:

Report Titles: Interagency Biographical and Financial Report and Interagency Notice of Change in Control.

OCC's Title: Comptroller's Licensing Manual (Manual). The specific portions of the Manual covered by this notice are those that pertain to the ''Background Investigations'' and ''Change in Bank Control'' booklets of the Manual and various portions to which the OCC is making technical and clarifying changes.

Board's Additional Title: Interagency Notice of Change in Director or Senior Executive Officer. The Board also is proposing to extend this form, without revision, which is part of this information collection.

OMB Numbers:

OCC: 1557–0014.

Board: 7100–0134.

FDIC: Interagency Biographical and Financial Report, 3064–0006; Interagency Notice of Change in Control, 3064–0019.

OTS: Interagency Biographical and Financial Report,1550–0005, 1550–0015, 1550–0047; Interagency Notice of Change in Control, 1550–0032.

Form Numbers:

OCC: None.

Board: FR 2081a, b, c.

FDIC: Interagency Biographical and Financial Report, Form 6200–06; Interagency Notice of Change in Control, Form 6822–01

OTS: Interagency Biographical and Financial Report, Form 1623; Interagency Notice of Change in Control, Form 1622.

Affected Public: Individuals or households; Businesses or other for-profit.

Type of Review: Revision of a currently approved collection.

Estimated Number of Respondents:

OCC: Interagency Biographical and Financial Report—450; Interagency Notice of Change in Control—17; Satisfaction Survey—680; Conversion—20; Capital—150.

Board: Interagency Biographical and Financial Report—850; Interagency Notice of Change in Control—120; and Interagency Notice of Change in Director or Senior Executive Officer—121.

FDIC: Interagency Biographical and Financial Report—1,769; Interagency Notice of Change in Control—27.

OTS: Interagency Biographical and Financial Report—886; Interagency Notice of Change in Control—35.

Frequency of Response: On occasion.

Estimated Annual Burden Hours per Response:

OCC: Interagency Biographical and Financial Report—4; Interagency Notice of Change in Control—30; Satisfaction Survey—0.50; Conversion—4.5; Capital—1.

Board: Interagency Biographical and Financial Report—4; Interagency Notice of Change in Control—30; Interagency Notice of Change in Director or Senior Executive Officer—2.

FDIC: Interagency Biographical and Financial Report—4 ; Interagency Notice of Change in Control—30.

OTS: Interagency Biographical and Financial Report—4; Interagency Notice of Change in Control—30.

Estimated Total Annual Burden Hours:

OCC: Interagency Biographical and Financial Report—1,800; Interagency Notice of Change in Control—510; Satisfaction Survey—340; Conversion—90; Capital—150.

Board: Interagency Biographical and Financial Report—3,400; Interagency Notice of Change in Control—3,600; and Interagency Notice of Change in Director or Senior Executive Officer—242.

FDIC: Interagency Biographical and Financial Report—7,076; Interagency Notice of Change in Control—810.

OTS: Interagency Biographical and Financial Report—3,544; Interagency Notice of Change in Control—1,050.

General Description of Report: This information collection is mandatory. 12 U.S.C. 1828(c) (OCC, FDIC, and OTS), and 12 U.S.C. 1817(j), and 12 U.S.C. 1813(q) (Board). Except for select sensitive items, this information collection is not given confidential treatment. Small businesses, that is, small institutions, are affected.

Abstract: This submission covers a revision to the Agencies' Interagency Biographical and Financial Report. The biographical information is used to evaluate the competence, experience, character, and integrity of the persons proposed as organizers, senior executive officers, directors, or principal shareholders of depository institutions or their holding companies. The financial information is used to evaluate the financial ability of those persons. This form also is used to evaluate proposed acquisitions.

This submission also covers a revision to the Agencies' Interagency Notice of Change in Control. An individual, a group, or a company that proposes to acquire control of a depository institution or its holding company must submit prior notice of that intent to the appropriate Agency pursuant to the Change in Bank Control Act and the Agencies' applicable regulations.

The Agencies need the information from both of these forms to ensure that the proposed transactions are permissible under law and regulation and are consistent with safe and sound banking practices. For example, the Agencies are required to consider the financial and managerial resources and future earnings prospects of an institution and its acquirers, directors, and executive management. Accordingly, the Agencies use the information to evaluate specific individuals' qualifications. Individuals organizing, acquiring control of, or managing a financial institution must provide this information.

This submission also covers the OCC's Satisfaction Survey, and the Conversion and Capital sample application. The OCC sends a Satisfaction Survey to applicants after

the processing of a filing asking for information about the process. The survey is voluntary, but information received enables the OCC to refine its application process. The Conversion and Capital sample document have been reformatted from a letter submission to a numbered question type of submission that will facilitate the OCC's development of an electronic submission.

This submission also covers the Board's Interagency Notice of Change in Director or Senior Executive Officer (FR 2081b), which is being extended without revision. The FR 2081b is used by an insured depository institution or its parent holding company(ies) to notify the appropriate regulatory agency of a proposed change in the board of directors or senior executive officer of such institution or holding company(ies). A notice of change is required if the depository institution is viewed to be in troubled condition by its primary federal regulatory agency. The requirement is applicable to a depository institution or its holding company that is not in compliance with all minimum capital requirements, is in troubled condition or, otherwise, is required by the Board to provide such notices.

Current Actions: The Agencies modified certain sections of the Interagency Biographical and Financial Report, especially section 5, to improve the Agencies' capacity to evaluate the character and integrity of a filer. The Agencies also amended the form to make it easier to understand the type and scope of information that must be provided. For example, the Agencies made each question in section 5 more descriptive to clarify for filers the circumstances under which further explanatory information should be provided with the Report.

In addition, the Agencies made changes to comply with Section 508 of the Rehabilitation Act, which requires Federal departments and agencies, when developing and using electronic and information technology, to ensure that the relevant information and technology is accessible to individuals with disabilities. Specifically, the Agencies amended the report to improve the ability of the form to be read by screen reader software applications used by individuals with visual impairments.

The Agencies modified the Interagency Notice of Change in Control to gather relevant information to comply with Section 307(c) of the Gramm-Leach-Bliley Act (GLBA). This section of GLBA requires the appropriate Agency to consult with the appropriate state insurance regulator prior to making any determination relating to the affiliation of a depository institution with a company engaged in insurance activities. As a result, the Agencies propose to add an item to the Interagency Notice of Change in Control to collect information regarding the name of an affiliated insurance company, a description of its insurance activities, and the name of the state in which the company is domiciled or in which it has a resident license. *Exception:* The OTS requires a company filing for a change in control of a federal savings bank or savings and loan association to use the appropriate holding company application and therefore, it will not have any company filing this form.

The Agencies made technical corrections to the General Instructions for both forms to make them uniform with revisions to other recently issued interagency forms and to ensure consistency, where appropriate, with other forms the Agencies use. The Agencies also added definitions for certain essential terms to the General Instructions for the Interagency Biographical and Financial Report to make it easier for filers to determine whether a given request for information is applicable.

Further, the OCC is changing its ''General Policies and Procedures'' booklet of the Manual by adding questions to its Satisfaction Survey (survey). The OCC sends a survey to applicants after the processing of the filing is final. This survey, which is voluntary, provides the OCC with information that enables the agency to refine and improve its application process. The additional questions relate to the electronic submission of certain types of applications and the effectiveness of the electronic system. The OCC also is changing to the format of the conversion and capital applications that are part of the ''Conversions'' and ''Capital and Dividends'' booklets of the Manual. Previously the OCC used a letter format. The OCC is changing that format to an application type of filing so that it will be able to accept the submission electronically. The changes to these documents are not material and are technical in nature. These changes are an administrative adjustment, and do not change the requirements on national banks.

Comments: Comments submitted in response to this notice will be summarized in each Agency's request for OMB approval, and analyzed to determine the extent to which the collection should be modified. All comments will become a matter of public record.

Written comments are invited on:

a. Whether the information collection is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimates of the burden of the information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 2, 2004.

Stuart E. Feldstein,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, May 27, 2004.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 27th day of February, 2004.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

Dated: February 26, 2004.

By the Office of Thrift Supervision.

Richard M. Riccobono,

Deputy Director.

[FR Doc. 04–12999 Filed 6–8–04; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

Federal Register

Wednesday,
June 9, 2004

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations for the 2004–05 Hunting Season; Notice of Meetings; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AT53

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations for the 2004–05 Hunting Season; Notice of Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter, Service or we) proposed in an earlier document to establish annual hunting regulations for certain migratory game birds for the 2004–05 hunting season. This supplement to the proposed rule provides the regulatory schedule; announces the Service Migratory Bird Regulations Committee and Flyway Council meetings; provides Flyway Council recommendations resulting from their March meetings; and provides regulatory alternatives for the 2004–05 duck hunting seasons.

DATES: The Service Migratory Bird Regulations Committee will meet to consider and develop proposed regulations for early-season migratory bird hunting on June 23 and 24, 2004, and for late-season migratory bird hunting and the 2005 spring/summer migratory bird subsistence seasons in Alaska on July 28 and 29, 2004. All meetings will commence at approximately 8:30 a.m. Following later **Federal Register** notices, you will be given an opportunity to submit comments for proposed early-season frameworks by July 30, 2004, and for proposed late-season frameworks and subsistence migratory bird seasons in Alaska by August 30, 2004.

ADDRESSES: The Service Migratory Bird Regulations Committee will meet in room 200 of the U.S. Fish and Wildlife Service's Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Send your comments on the proposals to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240. All comments received, including names and addresses, will become part of the public record. You may inspect comments during normal business hours in room 4107, Arlington Square Building, 4501 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, at: Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2004

On March 22, 2004, we published in the **Federal Register** (69 FR 13440) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. This document is the second in a series of proposed, supplemental, and final rules for migratory game bird hunting regulations. We will publish proposed early-season frameworks in early July and late-season frameworks in early August. We will publish final regulatory frameworks for early seasons on or about August 20, 2004, and for late seasons on or about September 15, 2004.

Service Migratory Bird Regulations Committee Meetings

The Service Migratory Bird Regulations Committee will meet June 23–24, 2004, to review information on the current status of migratory shore and upland game birds and develop 2004–05 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands. The Committee will also develop regulations recommendations for special September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, the Committee will review and discuss preliminary information on the status of waterfowl.

At the July 28–29, 2004, meetings, the Committee will review information on the current status of waterfowl and develop 2004–05 migratory game bird regulations recommendations for regular waterfowl seasons and other species and seasons not previously discussed at the early-season meetings. In addition, the Committee will develop recommendations for the 2005 spring/summer migratory bird subsistence season in Alaska.

In accordance with Departmental policy, these meetings are open to public observation. You may submit written comments to the Service on the matters discussed.

Announcement of Flyway Council Meetings

Service representatives will be present at the individual meetings of the four Flyway Councils this July. Although agendas are not yet available, these meetings usually commence at 8 a.m. on the days indicated.

Atlantic Flyway Council: July 22–23, Sheraton Dover Hotel, Dover, Delaware.

Mississippi Flyway Council: July 24–25, Radisson Hotel, Duluth, Minnesota.

Central Flyway Council: July 22–23, Radisson Hotel and Suites, Austin, Texas.

Pacific Flyway Council: July 23, Sun Valley Lodge, Sun Valley, Idaho.

Review of Public Comments

This supplemental rulemaking describes Flyway Council recommended changes based on the preliminary proposals published in the March 22, 2004, **Federal Register**. We have included only those recommendations requiring either new proposals or substantial modification of the preliminary proposals. This supplement does not include recommendations that simply support or oppose preliminary proposals and provide no recommended alternatives. We will consider these recommendations later in the regulations-development process. We will publish responses to all proposals and written comments when we develop final frameworks. In addition, this supplemental rulemaking contains the regulatory alternatives for the 2004–05 duck hunting seasons. We have included all Flyway Council recommendations received relating to the development of these alternatives.

We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items identified in the March 22, 2004, proposed rule. Only those categories requiring your attention or for which we received Flyway Council recommendations are discussed below.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) General Harvest Strategy, (B) Regulatory Alternatives, including specification of framework dates, season length, and bag limits, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management.

A. General Harvest Strategy

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended limiting regulation changes to one step annually.

Service Response: We appreciate the continuing desire of the Mississippi Flyway Council to limit changes in annual regulations to one step. This constraint is expected to significantly reduce temporal variability in hunting regulations, as well as lower the prospect of closed hunting seasons. These benefits are expected to accrue with little or no impact to the size of the mallard population or harvest. However, the Central and Pacific Flyway Councils are on record as opposing the ''one-step'' constraint, principally because it would reduce the expected frequency of ''liberal'' seasons. We believe a consensus among the Flyway Councils regarding implementation of a constraint that would affect all Flyways is desirable. Currently, a task force of the International Association of Fish and Wildlife Agencies (*http://www.iafwa.org/Attachments/IAFWA%20AHM%20TF%20Status%20Report% 209–12–03.pdf*) is reviewing this and other strategic aspects of the adaptive-harvest management protocol and is expected to make its recommendations prior to the 2005 hunting season. We may be willing to reconsider our position on the one-step constraint in light of those recommendations and their acceptability to the Flyway Councils.

B. Regulatory Alternatives

Council Recommendations: The Atlantic and Pacific Flyway Councils and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that regulatory alternatives for duck-hunting seasons remain the same as those used in 2003.

The Central Flyway Council recommended that if the status of pintails and canvasbacks results in prescriptions for seasons-within-seasons or closed seasons for these species, the Service adopt regulatory alternatives that are the same as those used in 2003, accounting for other Central Flyway Council recommended modifications to the pintail and canvasback harvest strategies (*see* D. Special Seasons/Species Management sections on iv. Canvasbacks and v. Pintails). If season-long harvest of pintails and canvasbacks is permitted for the 2004–2005 duck season, the Council recommended the adoption of duck hunting frameworks for the Central Flyway that provides for a ''Hunters Choice Bag Limit'' with the following modifications to duck regulations packages for the Central Flyway:

Within the ''liberal'' and ''moderate'' regulatory alternatives, the daily bag limit would be 5 ducks, with species and sex restrictions as follows: scaup—3; redhead and wood duck—2; only 1 duck from the following group—hen mallard, mottled duck, pintail, canvasback. Within the ''restrictive'' regulatory alternative, the daily bag limit would be 3 ducks, with species and sex restrictions as follows: redhead and wood duck—2; only 1 duck from the following group—hen mallard, mottled duck, pintail, canvasback. The possession limit in all alternatives would be twice the daily bag limit.

The Council also recommended the cooperative development, by March 2005, of an evaluation plan to assess the effectiveness of this approach in reducing harvests of pintails, mottled ducks, and canvasbacks. This plan would be implemented as an experimental season for a period of 5 years, beginning with the 2005–2006 hunting season.

Service Response: With regard to the ''Hunters Choice Bag Limit,'' we believe that it is a concept that warrants further exploration. In particular, we are interested in: (a) Seeing additional details concerning the predicted effects on duck harvests and how those effects would be evaluated; (b) hearing whether the other three Flyways believe that the concept is desirable and practicable; and (c) understanding how the concept fits within larger strategic considerations for multiple-species management. We intend to work with Flyway Councils and the task force of the International Association of Fish and Wildlife Agencies over the next year to address these issues.

After considering all recommendations, we have concluded that it would be premature at this time to modify the regulatory alternatives for adaptive harvest management. Therefore, all aspects of the 2004 regulatory alternatives will remain as proposed in the March 22 **Federal Register**.

We will respond to specific aspects of the pintail and canvasback harvest strategies in supplemental **Federal Register** documents.

D. Special Seasons/Species Management

i. September Teal Seasons

Council Recommendations: The Central Flyway Council recommended that the Service change the status of the Nebraska September teal season from experimental to operational beginning with the 2004–05 hunting season. Criteria for Nebraska's September teal season would be the same as for other non-production Central Flyway states and confined to that area opened to teal hunting during the experimental phase. The Council believes that pre-sunrise shooting hours are justified given results from evaluation of non-target attempt rates.

iv. Canvasbacks

Council Recommendations: The Atlantic Flyway Council and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended modifying the current Canvasback Harvest Strategy to allow partial seasons within the regular duck season. The harvest management strategy would include 3 levels: closed, restrictive season length, and full season.

The Central Flyway Council recommended managing canvasbacks with the ''Hunters Choice Bag Limit'' (aggregate daily bag limit of 1 hen mallard, mottled duck, pintail, or canvasback). The Council further recommends that until the ''Hunter Choice Bag Limit'' becomes available the current strategy should be modified to include three levels of harvest opportunity: full, closed, and partial seasons. The partial season would consist of the restrictive season length (39 days in the Central Flyway).

The Pacific Flyway Council recommended modifying the current canvasback harvest management strategy to allow partial canvasback seasons within regular duck season frameworks. The harvest management strategy would include four levels for the Pacific Flyway: Liberal–107 days, Moderate–86 days, Restrictive–60 days, and Closed seasons. The Council also recommended that the strategy include a statement specifying that Alaska's season will maintain a fixed restriction of 1 canvasback daily in lieu of the annual prescriptions from the strategy.

v. Pintails

Council Recommendations: The Atlantic Flyway Council recommended modifying the Interim Strategy for Northern Pintail Harvest Management to allow partial seasons within the regular duck season. The Council recommended using partial seasons to allow hunting opportunity for this species when (1) a full season is predicted to return a breeding population below 1.5 million (the threshold for season closure) and (2) when a partial season is expected to return a breeding population at or above 1.5 million.

The Upper- and Lower-Region Regulations Committees of the

Mississippi Flyway Council recommended that the current interim pintail harvest management strategy be modified to allow partial seasons within the regular duck hunting season. The harvest management strategy would include 3 levels: closed, restrictive season length, and full season.

The Central Flyway Council recommended that the interim pintail harvest strategy be revised as follows:

In the Central Flyway, pintails will be included in a ''Hunters Choice'' daily bag limit (hen mallard, or mottled duck, or pintail, or canvasback—daily bag of 1). When the interim pintail harvest strategy model projections allow for a daily bag of ≥2, pintails will be removed from the 1-bird aggregate bag and the prescribed daily bag limit will be selected.

If this recommendation is not approved, the Council recommended the following modification to the existing harvest strategy:

When the May Breeding Population Survey in the traditional survey areas is below 1.5 million or the projected fall flight is predicted to be below 2 million (as calculated by the models in the interim strategy), adopt the Restrictive AHM package season length (39 days in the Central Flyway) with a daily bag limit of 1, if these regulations are projected to produce harvest at levels that would provide for the 6% annual growth identified as an objective in the strategy. If the Restrictive package regulations are expected to provide for <6% population growth, the season on pintails will be closed.

The Pacific Flyway Council recommended maintaining the Interim Northern Pintail Harvest Strategy as originally adopted by the Service.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council recommended that Connecticut's September goose season framework dates of 1 September to 25 September become operational.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that Michigan be granted operational status for the September 1–10 early Canada goose season with a 5–bird daily limit within Huron, Tuscola, and Saginaw Counties.

The Central Flyway Council recommended allowing a 3–year experimental late September Canada goose season in eastern Nebraska. The Council also recommended that South Dakota's 2000–02 3–year Experimental Late-September Canada Goose Hunting Season (September 16–30) become operational in 20 eastern South Dakota counties beginning with the September 2004 hunting season.

The Pacific Flyway Council recommended expanding the September season in Wyoming to include the entire Pacific Flyway portion of Wyoming, reducing the daily bag limit from 3 to 2, and eliminating the quota on the number of geese harvested.

B. Regular Seasons

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the framework opening date for all species of geese for the regular goose seasons be September 16 in 2004 and future years. If this recommendation is not approved, the Council recommended that the framework opening date for all species of geese for the regular goose seasons in Michigan and Wisconsin be September 16, 2004.

9. Sandhill Cranes

Council Recommendations: The Central Flyway Council recommended using the 2004 Rocky Mountain Population sandhill crane harvest allocation of 656 birds as proposed in the allocation formula using the 2001–2003 three year running average.

The Central and Pacific Flyway Councils recommended that Colorado be allowed to establish a season on Rocky Mountain sandhill cranes in the San Luis Valley (Saguache, Rio Grande, Alamosa, Conejos, and Costilla Counties).

16. Mourning Doves

Council Recommendations: The Pacific Flyway Council recommended that the daily bag limit in Utah be changed from 10 mourning doves to 10 mourning and white-winged doves in the aggregate.

18. Alaska

Council Recommendations: The Pacific Flyway Council recommends that the tundra swan season in Unit 17 become operational.

Public Comment Invited

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. We intend that adopted final rules be as responsive as possible to all concerned interests and, therefore, seek the comments and suggestions of the public, other concerned governmental agencies, nongovernmental organizations, and other private interests on these proposals. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations to the address indicated under the caption **ADDRESSES.**

Special circumstances involved in the establishment of these regulations limit the amount of time that we can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) the need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, we believe that to allow comment periods past the dates specified is contrary to the public interest.

Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments received. Such comments, and any additional information received, may lead to final regulations that differ from these proposals.

You may inspect comments received on the proposed annual regulations during normal business hours at the Service's office in room 4107, 4501 North Fairfax Drive, Arlington, Virginia. For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments received during the comment period and respond to them after the closing date.

NEPA Consideration

NEPA considerations are covered by the programmatic document ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the address indicated under the caption **ADDRESSES.**

In a proposed rule published in the April 30, 2001, **Federal Register** (66 FR 21298), we expressed our intent to begin the process of developing a new Supplemental Environmental Impact Statement for the migratory bird hunting

program. We plan to begin the public scoping process in 2005.

Endangered Species Act Consideration

Prior to issuance of the 2004–05 migratory game bird hunting regulations, we will comply with provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; hereinafter the Act), to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with conservation programs for those species. Consultations under section 7 of this Act may cause us to change proposals in this and future supplemental proposed rulemaking documents.

Executive Order 12866

The migratory bird hunting regulations are economically significant and were reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. As such, a cost/benefit analysis was initially prepared in 1981. This analysis was subsequently revised annually from 1990–96, and then updated in 1998. We have updated again this year. It is further discussed below under the heading Regulatory Flexibility Act. Results from the 2004 analysis indicate that the expected welfare benefit of the annual migratory bird hunting frameworks is on the order of $734 million to $1.064 billion, with a mid-point estimate of $899 million. Copies of the cost/benefit analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.migratorybirds.gov.*

Executive Order 12866 also requires each agency to write regulations that are easy to understand. We invite comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections?

(5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule?

(6) What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov.*

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis discussed under Executive Order 12866. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, and 2004. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2004 Analysis was based on the 2001 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $481 million and $1.2 billion at small businesses in 2004. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.migratorybirds.gov.*

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808 (1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995 (PRA). There are no new information collections in this proposed rule that would require OMB approval under the PRA. OMB has approved the information collection requirements of the surveys associated with the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 10/31/2004). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Survey and assigned clearance number 1018–0023 (expires 10/31/2004). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of the harvest, and the portion it constitutes of the total population. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform-Executive Order 12988

The Department, in promulgating this proposed rule, has determined that this proposed rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant

energy action and no Statement of Energy Effects is required.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2004–05 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: May 28, 2004.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

BILLING CODE 4310–55–P

REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 2004-05 SEASON

	ATLANTIC FLYWAY			MISSISSIPPI FLYWAY			CENTRAL FLYWAY (a)			PACIFIC FLYWAY (b)(c)		
	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB
Beginning Shooting Time	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset
Opening Date	Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24
Closing Date	Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.
Season Length (in days)	30	45	60	30	45	60	39	60	74	60	86	107
Daily Bag/ Possession Limit	3 6	6 12	6 12	3 6	6 12	6 12	3 6	6 12	6 12	4 8	7 14	7 14
Species/Sex Limits within the Overall Daily Bag Limit												
Mallard (Total/Female)	3/1	4/2	4/2	2/1	4/1	4/2	3/1	5/1	5/2	3/1	5/2	7/2
Pintail	<----------ACCORDING TO THE PINTAIL INTERIM HARVEST STRATEGY ----------											
Black Duck	1	1	1	1	1	1	-	-	-	-	-	-
Scaup (d)	<----------TO BE DETERMINED BASED ON CURRENT SCAUP STATUS INFORMATION ----------											
Canvasback	<----------0 OR 1, ACCORDING TO THE CANVASBACK HARVEST STRATEGY ----------											
Redhead	2	2	2	1	2	2	1	2	2	2	2	2
Wood Duck	2	2	2	2	2	2	2	2	2	-	-	-
Whistling Ducks	1	1	1	-	-	-	-	-	-	-	-	-
Harlequin	Closed	Closed	Closed	-	-	-	-	-	-	-	-	-
Mottled Duck	1	1	1	3	3	3	1	1	1	-	-	-

(a) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway, with the exception of season length. Additional days would be allowed under the various alternatives as follows: restrictive - 12, moderate and liberal - 23. Under all alternatives, additional days must be on or after the Saturday nearest December 10.

(b) In the Columbia Basin Mallard Management Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all alternatives except the liberal alternative, an additional 7 days would be allowed.

(c) In Alaska, framework dates, bag limits, and season length would be different from the remainder of the Pacific Flyway. The bag limit would be 5-7 under the restrictive alternative, and 8-10 under the moderate and liberal alternatives. There would be no restrictions on pintails, and canvasback limits would follow those for the remainder of the Pacific Flyway. Under all alternatives, season length would be 107 days and framework dates would be Sep 1 - Jan 26.

(d) Scaup daily bag limits will be based on current scaup status information until an agreed upon harvest strategy is completed and implemented.

[FR Doc. 04–13040 Filed 6–8–04; 8:45 am]
BILLING CODE 4310–55–C

Federal Register

Wednesday,
June 9, 2004

Part III

The President

Proclamation 7795—Great Outdoors Month, 2004

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Presidential Determination No. 2004–33 of June 3, 2004—Continuation of Waiver Authority for the Republic of Belarus

Presidential Determination No. 2004–34 of June 3, 2004—Continuation of Waiver Authority for Vietnam

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Presidential Documents

Title 3—

The President

Proclamation 7795 of June 4, 2004

Great Outdoors Month, 2004

By the President of the United States of America

A Proclamation

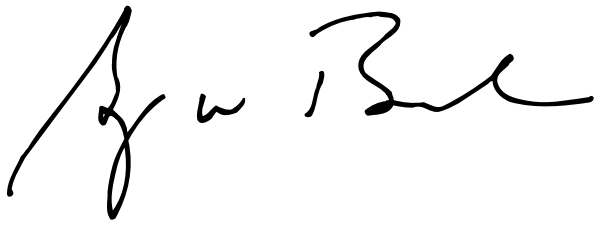
More than 200 years ago, Captains Meriwether Lewis and William Clark embarked upon an expedition to explore uncharted lands and find passage across the Rocky Mountains to the Pacific Ocean. During the Captains' journey, their Corps of Discovery encountered remarkable landscapes, observed wildlife, and traded with American Indians. Two years into his experience, Captain Lewis was inspired by the beauty of a waterfall along the Missouri River that he called in his journal, ''the grandest sight I ever beheld.'' Today, the splendor of the great outdoors continues to inspire our citizens, and a love of outdoor recreation remains a fundamental part of the American character. By observing Great Outdoors Month, we celebrate our commitment to appreciating and protecting our natural wealth.

Outdoor recreation is an ideal way to exercise and enjoy memorable experiences with family and friends, and all across our country are scenic places that sports and nature enthusiasts can explore and help keep beautiful. During Great Outdoors Month and throughout the year, I encourage Americans to go camping, fishing, hunting, hiking, bird watching, boating, or to participate in other outdoor activities that are part of a healthy lifestyle.

The true strength of our Nation lies in the hearts and souls of our citizens, and I urge all Americans not only to visit our parks and recreation areas, but also to volunteer their time and talents to help maintain the beauty of our environment. Good stewardship of the environment is not just a personal responsibility, it is a public value; and citizens who lend a hand to local parks and public lands are vital to the preservation of our Nation's many special places. Americans can take pride in the remarkable progress we continue to make in conserving our environment and natural resources.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2004 as Great Outdoors Month. I call upon the people of the United States to observe this month with appropriate ceremonies and activities and to participate in safe and enjoyable outdoor recreation.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of June, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred and twenty-eighth.



[FR Doc. 04–13242
Filed 6–8–04; 9:36 am]
Billing code 3195–01–P

Presidential Documents

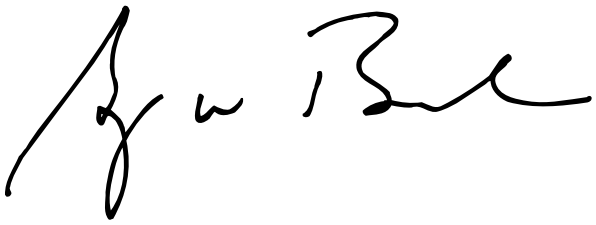
Presidential Determination No. 2004–32 of June 3, 2004

Determination Under Subsection 402(d)(1) of the Trade Act of 1974, as Amended—Continuation of Waiver Authority for Turkmenistan

Memorandum for the Secretary of State

Pursuant to the authority vested in me under the Trade Act of 1974, as amended, Public Law 93–618, 88 Stat. 1978 (hereinafter the ''Act''), I determine, pursuant to section 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by section 402 of the Act will substantially promote the objectives of section 402 of the Act. I further determine that continuation of the waiver applicable to Turkmenistan will substantially promote the objectives of section 402 of the Act.

You are authorized and directed to publish this determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, June 3, 2004.

[FR Doc. 04–13243
Filed 6–8–04; 9:36 am]
Billing code 4710–10–P

Presidential Documents

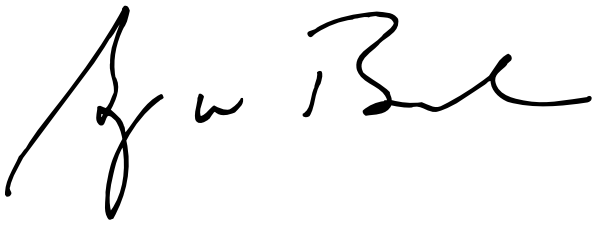
Presidential Determination No. 2004–33 of June 3, 2004

Determination Under Subsection 402(d)(1) of the Trade Act of 1974, as Amended—Continuation of Waiver Authority for the Republic of Belarus

Memorandum for the Secretary of State

Pursuant to the authority vested in me under the Trade Act of 1974, as amended, Public Law 93–618, 88 Stat. 1978 (hereinafter the ''Act''), I determine, pursuant to section 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by section 402 of the Act will substantially promote the objectives of section 402 of the Act. I further determine that continuation of the waiver applicable to the Republic of Belarus will substantially promote the objectives of section 402 of the Act.

You are authorized and directed to publish this determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, June 3, 2004.

[FR Doc. 04–13244
Filed 6–8–04; 9:36 am]
Billing code 4710–10–P

Presidential Documents

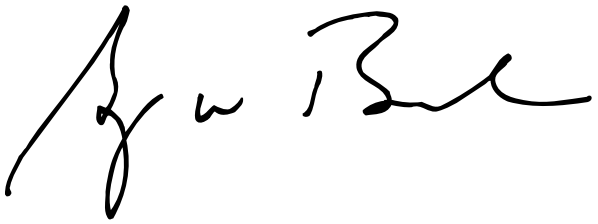
Presidential Determination No. 2004–34 of June 3, 2004

Determination Under Subsection 402(d)(1) of the Trade Act of 1974, as Amended—Continuation of Waiver Authority for Vietnam

Memorandum for the Secretary of State

Pursuant to the authority vested in me under the Trade Act of 1974, as amended, Public Law 93–618, 88 Stat. 1978 (hereinafter the ''Act''), I determine, pursuant to subsection 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by section 402 of the Act will substantially promote the objectives of section 402 of the Act. I further determine that continuation of the waiver applicable to Vietnam will substantially promote the objectives of section 402 of the Act.

You are authorized and directed to publish this determination in the **Federal Register**.



THE WHITE HOUSE,
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[FR Doc. 04–13245
Filed 6–8–04; 9:36 am]
Billing code 4710–10–P

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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 408/P.L. 108–229

To provide for expansion of Sleeping Bear Dunes National Lakeshore. (May 28, 2004; 118 Stat. 645)

H.R. 708/P.L. 108–230

To require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes. (May 28, 2004; 118 Stat. 646)

H.R. 856/P.L. 108–231

To authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water and Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes. (May 28, 2004; 118 Stat. 648)

H.R. 923/P.L. 108–232

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Irvine Basin Surface and Groundwater Improvement Act of 2004 (May 28, 2004; 118 Stat. 654)

H.R. 3104/P.L. 108–234

To provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom. (May 28, 2004; 118 Stat. 655)

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