AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

# Federal Register

2–18–05 Friday
Vol. 70 No. 33 Feb. 18, 2005

Pages 8229–8500

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 7 CFR Part 319

**[Docket No. 02–057–2]**

**RIN 0579–AB74**

## Karnal Bunt; Revision of Regulations for Importing Wheat

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending our regulations regarding the importation of wheat from regions affected with Karnal bunt. Our amendments, among other things, list such regions, as well as articles regulated for Karnal bunt; increase the flexibility of the regulations so that they provide more readily for the recognition of areas where Karnal bunt is not known to occur within regions where Karnal bunt is known to be present; describe conditions, including requirements for phytosanitary certificates, under which wheat and related articles from regions affected with Karnal bunt are imported into the United States; and specify cleaning and/or disinfection requirements for imported farm machinery and other equipment used to handle or store Karnal bunt-positive seed or host crops. The changes make our regulations regarding the importation of wheat and related articles from regions affected with Karnal bunt substantively equivalent to our domestic Karnal bunt regulations and make the former consistent with international agreements to which the United States is a party.

**EFFECTIVE DATE:** March 21, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jeanne Van Dersal, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

**SUPPLEMENTARY INFORMATION:**

### Background

Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* × *Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores, primarily through the movement of infected seed. Our Karnal bunt-related import regulations are contained in Subpart—Wheat Diseases (7 CFR 319.59 through 319.59–2).

On March 3, 2004, we published in the **Federal Register** (69 FR 9976–9982, Docket No. 02–057–1) a proposal to amend the regulations by listing regions affected with Karnal bunt, as well as articles that would be regulated for Karnal bunt; increasing the flexibility of the regulations so that they could provide more readily for the recognition of areas where Karnal bunt is not known to occur within regions where Karnal bunt is known to be present; describing conditions, including requirements for phytosanitary certificates, under which wheat and related articles from regions affected with Karnal bunt could be imported into the United States; and specifying cleaning and/or disinfection requirements for imported farm machinery and other equipment used to handle or store Karnal bunt-positive seed or host crops. The proposed changes would make our regulations regarding the importation of wheat and related articles from regions affected with Karnal bunt substantively equivalent to our domestic Karnal bunt regulations and would make the former consistent with international agreements to which the United States is a party.

We solicited comments concerning our proposal for 60 days ending May 3, 2004. We received two comments by that date, both from representatives of domestic wheat industry groups. Both commenters were in favor of the proposed rule.

However, one commenter offered suggestions for changes to the background information contained in the preamble of the proposed rule. These suggestions are discussed below.

The commenter noted that the proposed rule's economic analysis mentioned, but did not identify, five durum-producing Mexican States in addition to the States of Sonora and Baja California (*i.e.*, the States where the Mexicali Valley, a Karnal bunt-free area already recognized in the regulations, is located). The commenter identified four of the five Mexican States and offered relative per-State percentages for durum production in Mexico and suggested that, due to transportation costs and other considerations within Mexico, more wheat originating in the Mexican State of Sonora may be exported to the United States than had been explored in the economic analysis.

While increased Mexican wheat imports from Mexico may occur, as the commenter suggests, our economic analysis concludes that the effects are likely to be small relative to the value of the domestic industry. The commenter did not provide evidence to the contrary. We are making no changes in response to this comment.

With respect to the five durum-producing Mexican States mentioned but not specifically identified in the proposed rule, we have updated the economic analysis for this final rule to identify these five States, which are Chihuahua, Guanajuato, Jalisco, Michocan, and Queretaro.

The commenter pointed out that Karnal bunt has been reported in additional countries not mentioned in the background information in the preamble of the proposed rule. These countries are Nepal, Iran, and South Africa.

The countries we mentioned in the proposed rule are those countries that have been listed in the wheat import regulations as countries where Karnal bunt is known to exist. In this final rule, we have updated the regulatory text of § 319.59–4(b)(1) to include those additional countries on that paragraph's list of countries where Karnal bunt is known to occur.

In addition to that change, we are also amending the definition of *inspector* in this final rule to reflect the reassignment of certain responsibilities from the Animal and Plant Health Inspection Service to the Department of Homeland Security's Bureau of Customs and Border Protection by the Homeland Security Act of 2002.

**Other Changes**

In addition to the changes discussed above, we have also made two other changes in this final rule in order to ensure that the regulations are internally consistent. First, in § 319.59–4(a)(2) of the proposed rule, we listed *Triticum* spp. (wheat) plants among the articles designated as regulated articles for Karnal bunt, and in paragraph (c) of that section we described the conditions under which regulated articles could be imported from regions where Karnal bunt is known to occur. However, under § 319.59–2(a), the importation of *Triticum* spp. plants into the United States from any country except Canada is prohibited. In order to avoid any potential confusion between the provisions in §§ 319.59–2 and 319.59–4, we have removed wheat plants from the list of regulated articles for Karnal bunt so it does not appear that wheat plants could be imported into the United States under the conditions described in § 319.59–4(c).

The other change is similar in nature. Specifically, in § 319.59–4(b)(1) we list regions where Karnal bunt is known to occur, and paragraph (c) of that section describes the conditions under which regulated articles, including articles of *Triticum* spp., could be imported from those regions. However, several of the regions listed in § 319.59–4(b)(1) are also listed in § 319.59–3(b) as regions from which the importation of certain articles, including articles of *Triticum* spp., is prohibited due to flag smut. In order to prevent a conflict between those two sets of provisions, we have amended the conditions for the importation of regulated articles from regions where Karnal bunt exists (§ 319.59–4[c]) to provide that the regulated articles will be eligible for importation only if they are not otherwise prohibited under § 319.59–3.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

**Executive Order 12866 and Regulatory Flexibility Act**

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

This rule amends the import regulations pertaining to Karnal bunt to make them substantively equivalent to the domestic Karnal bunt regulations and will help the United States meet its obligations under international agreements to which it is a party.

For this rule, we have prepared an economic analysis. The economic analysis provides a cost-benefit analysis as required by Executive Order 12866, as well as an analysis of the potential economic effects of this rule on small entities, as required under the Regulatory Flexibility Act. The economic analysis is summarized below. Copies of the full analysis are available by writing or calling the person listed under **FOR FURTHER INFORMATION CONTACT**.

The economic analysis investigates the potential economic effects in the United States that may result from the removal of Karnal bunt-related restrictions on wheat imports. It is anticipated that any additional wheat imports that do occur as a result of this rule would be from Mexico. There are five Mexican States that appear to meet the requirements in this rule for Karnal bunt-free status. These States are Chihuahua, Guanajuato, Jalisco, Michocan, and Queretaro. The Mexicali Valley in Sonora [1] and Baja California was declared Karnal bunt-free in 1998 and is therefore not directly affected by this rule. Other countries affected with Karnal bunt which may be eligible to export wheat to the United States under the regulations may still be precluded from doing so for a number of reasons, including the presence of other wheat pests.

Any new wheat imports into the United States from Mexico are likely to be durum wheat. In Mexico, demand for durum wheat is limited because the demand for pasta is limited. However, Mexican wheat producers favor durum wheat due to its higher yield and disease resistance, creating a small surplus of durum for export. Mexican wheat exports since 1995 have been almost exclusively durum wheat. Because Mexican wheat exports have been so concentrated in durum wheat, it is expected that any additional imports into the United States from any new Karnal bunt-free areas in Mexico would also be durum wheat. For the period 1998–2001, the annual average durum wheat production in the United States was about 3 million metric tons (MT). Imports of durum wheat from all sources averaged about 458,000 MT. Approximately 2 percent of those imports were from the Karnal bunt-free area of Mexico.[2]

Our economic analysis considers two scenarios for expanded U.S. wheat imports from Mexico, assuming no displacement of other imports. The first scenario analyzes the impact of additional Mexican durum wheat exports to the United States of an amount equal to 1 percent of total wheat production in the five additional Mexican States cited previously (about 7,000 MT). This reflects the fact that about 1 percent of the wheat production in the Mexicali Valley, which is already eligible to be shipped to the United States, is indeed exported to the United States.[3] The second scenario analyzes the impact of additional Mexican durum wheat exports of an amount equal to 12 percent of total wheat production in those five States (about 87,000 MT). For the period 1998–2001, Mexican wheat exports to the world represented on average approximately 11.6 percent of total Mexican wheat production annually.[4]

There are reasons to believe that new imports would be limited and that the first scenario more closely approximates the amount of Mexican wheat that may eventually enter the U.S. market. Under this scenario, the new imports are estimated to be an addition of 7,280 MT, which approximates the 1 percent share of Mexican wheat production in the Mexicali Valley that was exported to the United States between 1998 and 2001. The Mexicali Valley is one of Mexico's largest wheat producing areas. It is also closer to the United States than the Mexican population centers in central and southern Mexico. Transportation costs to the Mexican population centers from this area are high because rail lines must traverse mountains. Despite the fact that the U.S. market has been open to imports of wheat from this area since 1998, Mexican wheat exports directed to the United States between 1998 and 2001 have averaged less than 5 percent of all Mexican wheat exports.

Another reason to believe that the quantity of new wheat imports from Mexico that may occur as a result of this rule would be small is due to the fact that the five additional Mexican States identified previously are producing less than 25 percent of all Mexican wheat, and little durum wheat. At present,

[1] Total Mexican wheat production and exports declined considerably in 2002 and 2003 due to a severe water shortage for crop irrigation in the principal wheat producing State of Sonora.

[2] Sources: Economic Research Service, USDA, Department of Commerce (DOC), U.S. Census Bureau, Foreign Trade Statistics, and Food and Agriculture Organization of the United Nations (FAO).

[3] Mexico produced an average annual 3.2 million MT of wheat for the period 1998–2001. Wheat grown in the Mexicali Valley in Sonora and Baja California accounted for about 18.6 percent of that total. Over the same time period, an average of 8,754 MT of durum wheat was exported to the United States annually, presumably from the Karnal bunt-free Mexicali Valley. Sources: DOC and FAO.

[4] FAO.

durum wheat production in Mexico is concentrated in the northwestern portion of the country. It has been estimated that 75 percent of Mexican durum wheat production occurs in Sonora, 13 percent in Baja California, and 5 percent in Sinoloa.[5]

In addition, Mexico's population consumes far more wheat than the country produces, as is evident in its status as a net importer. The Mexican population is concentrated in the central and southern part of the country. With the exception of Chihuahua, the five Mexican States considered in the analysis are in the central part of Mexico. The transportation of wheat from these States to the United States would be more difficult and more costly than to closer Mexican population centers. This makes it likely that the shift to production for export in the five States will be limited.

The entry of additional durum wheat from Mexico into U.S. markets would induce producer losses for U.S. producers of durum wheat and consumer gains. Under the most likely scenario of new wheat imports of 7,280 MT, and assuming a demand elasticity of ·0.35 and a supply elasticity of 0.34, prices of durum wheat could potentially decrease by about 0.3 percent. Producers would potentially lose about $1.122 million while consumers potentially gain $1.123 million. The net benefit in this scenario would be about $1,000. Under the less likely scenario of a new import quantity of approximately 87,000 MT, durum wheat prices could decline by 4 percent. Consumer gains of $13.539 million would offset producer losses of $13.353 million, resulting in a net benefit of $186,000. In both cases, consumer benefits would be slightly higher than producer losses, which would lead to a net positive impact on the overall economy. To put the producer surplus reductions in perspective, the average annual value of durum wheat production in the United States for 1998–2001 was $326.3 million. Thus, while the additional imports from Mexico would affect domestic producers of durum wheat, those effects are expected to be small relative to the value of the industry. It should also be noted that the actual loss to domestic producers is likely to be smaller than the magnitudes estimated, as the analysis does not consider the displacement of other imports.

The Small Business Administration (SBA) has established guidelines for determining which establishments are to be considered small under the Regulatory Flexibility Act. According to the standard established by the SBA for agricultural producers, a producer with less than $0.75 million in annual sales is considered a small entity. Of the 241,334 U.S. wheat farms in 1997, at least 92 percent were considered small.[6] The number of durum wheat producers is not known. It is likely that durum wheat producers affected by the rule would be considered small entities. However, as was discussed above, increased Mexican wheat imports from Mexico would likely have a small adverse impact on domestic producers.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

### Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0240.

### Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

### List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Honey, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

n Accordingly, we are amending 7 CFR part 319 as follows:

## PART 319—FOREIGN QUARANTINE NOTICES

n 1. The authority citation for part 319 continues to read as follows:

**Authority:** 7 U.S.C. 450 and 7701–7772; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

n 2. Subpart—Wheat Diseases, §§ 319.59 through 319.59–2, is revised to read as follows:

### Subpart—Wheat Diseases

Sec.
319.59–1 Definitions.
319.59–2 General import prohibitions; exceptions.
319.59–3 Flag smut.
319.59–4 Karnal bunt.

#### § 319.59–1 Definitions.

*Administrator.* The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

*Animal and Plant Health Inspection Service (APHIS).* The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

*Foreign strains of flag smut.* Plant diseases caused by foreign strains of highly infective fungi, *Urocystis agropyri* (Preuss) Schroet., which attack wheat and substantially reduce its yield, and which are new to, or not widely prevalent or distributed within and throughout, the United States.

*From.* An article is considered to be ''from'' any country or locality in which it was grown.

*Grain.* Wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*) used for consumption or processing.

*Hay.* Host crops cut and dried for feeding to livestock. Hay cut after reaching the dough stage may contain mature kernels of the host crop.

*Host crops.* Plants or plant parts, including grain, seed, or hay, of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*).

*Inspector.* Any individual authorized by the Administrator of APHIS or the Commissioner of the Bureau of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this subpart.

*Karnal bunt.* A plant disease caused by the fungus *Tilletia indica* (Mitra) Mundkur.

*Plant.* Any plant (including any plant part) for or capable of propagation,

[5] U.S. Wheat Associates.

[6] 1997 Census of Agriculture, USDA–NASS. Breakdown shows 2.4 percent of wheat farms with sales in excess of $1 million, and 5.2 percent with sales between $0.5 and $0.999 million.

including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

*Seed.* Wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* × *Secale cereale*) used for propagation.

*Spp. (species).* All species, clones, cultivars, strains, varieties, and hybrids, of a genus.

*Straw.* The vegetative material left after the harvest of host crops. Straw is generally used as animal feed or bedding, as mulch, or for erosion control.

*United States.* The States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

**§ 319.59–2 General import prohibitions; exceptions.**

(a) Except as provided in paragraph (b) of this section, importation of *Triticum* spp. plants into the United States from any country except Canada is prohibited. This prohibition does not include seed.

(b) *Triticum* spp. plants, articles prohibited because of flag smut in § 319.59–3(a), and articles regulated for Karnal bunt in § 319.59–4(a) may be imported by the U.S. Department of Agriculture for experimental or scientific purposes if:

(1) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Center East, Beltsville, MD 20705, or at any port of entry with an asterisk listed in § 319.37–14(b) of this part;

(2) Imported pursuant to a departmental permit issued for such article and kept on file at the Plant Germplasm Quarantine Center;

(3) Imported under conditions of treatment, processing, growing, shipment, or disposal specified on the departmental permit and found by the Administrator to be adequate to prevent the introduction into the United States of tree, plant, or fruit diseases (including foreign strains of flag smut), injurious insects, and other plant pests, and

(4) Imported with a departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a departmental permit number corresponding to the number of the departmental permit issued for such article.

**§ 319.59–3 Flag smut.**

The articles listed in paragraph (a) of this section from the regions listed in paragraph (b) of this section are prohibited articles because of foreign strains of flag smut and are prohibited from being imported or offered for entry into the United States except as provided in § 319.59–2(b).

(a) The following articles of *Triticum* spp. (wheat) or of *Aegilops* spp. (barb goatgrass, goatgrass):

(1) Seeds, plants, and straw (other than straw, with or without heads, which has been processed or manufactured for use indoors, such as for decorative purposes or for use in toys); chaff; and products of the milling process (*i.e.*, bran, shorts, thistle sharps, and pollards) other than flour; and

(2) Seeds of *Melilotus indica* (annual yellow sweetclover) and seeds of any other field crops that have been separated from wheat during the screening process.

(b) Afghanistan, Algeria, Armenia, Australia, Azerbaijan, Bangladesh, Belarus, Bulgaria, Chile, China, Cyprus, Egypt, Estonia, Falkland Islands, Georgia, Greece, Guatemala, Hungary, India, Iran, Iraq, Israel, Italy, Japan, Kazakhstan, Kyrgyzstan, Latvia, Libya, Lithuania, Moldova, Morocco, Nepal, North Korea, Oman, Pakistan, Portugal, Romania, Russia, Spain, Tajikistan, Tanzania, Tunisia, Turkey, Turkmenistan, South Africa, South Korea, Ukraine, Uzbekistan, and Venezuela.

**§ 319.59–4 Karnal bunt.**

(a) *Regulated articles.* The following are regulated articles for Karnal bunt:

(1) Conveyances, including trucks, railroad cars, and other containers used to move host crops from a region listed in paragraph (b)(1) of this section that test positive for Karnal bunt through the presence of bunted kernels;

(2) Plant parts, including grain, seed, straw, or hay, of all varieties of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* × *Secale cereale*) from a region listed in paragraph (b)(1) of this section, except for straw/stalks/seed heads for decorative purposes that have been processed or manufactured prior to movement and are intended for use indoors;

(3) *Tilletia indica* (Mitra) Mundkur;

(4) Mechanized harvesting equipment that has been used in the production of wheat, durum wheat, or triticale that has tested positive for Karnal bunt through the presence of bunted kernels; and

(5) Seed conditioning equipment and storage/handling equipment that has been used in the production of wheat, durum wheat, or triticale seed found to contain the spores of *Tilletia indica.*

(b)(1) Karnal bunt is known to occur in the following regions: Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan, and South Africa.

(2) The Administrator may recognize an area within a region listed in paragraph (b)(1) of this section as an area free of Karnal bunt whenever he or she determines that the area meets the requirements of the International Standard for Phytosanitary Measures (ISPM) No. 4, ''Requirements for the establishment of pest free areas.'' The international standard was established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization and is incorporated by reference in § 300.5 of this chapter. APHIS will publish a notice in the **Federal Register** and maintain on an APHIS Web site a list of the specific areas that are approved as areas in which Karnal bunt is not known to occur in order to provide the public with current, valid information. Areas listed as being free from Karnal bunt are subject to audit by APHIS to verify that they continue to merit such listing.

(c) *Handling, inspection and phytosanitary certificates.* Unless otherwise prohibited under § 319.59–3 of this subpart, any articles described in paragraph (a)(2) of this section that are from a region listed in paragraph (b)(1) of this section may be imported into the United States subject to the following conditions:

(1) The articles must be from an area that has been recognized, in accordance with paragraph (b)(2) of this section, to be an area free of Karnal bunt, or the articles have been tested and found to be free of Karnal bunt;

(2) The articles have not been commingled prior to arrival at a U.S. port of entry with articles from areas where Karnal bunt is known to occur;

(3) The articles offered for entry must be made available to an inspector for examination and remain at the port until released, or authorized further movement pending release, by an inspector; and

(4) The articles must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the region of origin that includes the following additional declaration: ''These articles originated in an area where Karnal bunt is not known to occur, as attested to either by survey results or by testing for bunted kernels or spores.''

(d) *Treatments.* (1) Prior to entry into the United States, the following articles

must be cleaned by removing any soil and plant debris that may be present.

(i) All conveyances and mechanized harvesting equipment used for storing and handling wheat, durum wheat, or triticale that tested positive for Karnal bunt based on bunted kernels.

(ii) All grain storage and handling equipment used to store or handle seed that has tested spore positive or grain that has tested bunted-kernel positive.

(iii) All seed-conditioning equipment used to store or handle seed that has tested spore-positive.

(2) Articles listed in paragraphs (d)(1)(i) and (d)(1)(ii) of this section will require disinfection in addition to cleaning prior to entry into the United States if an inspector or an official of the plant protection organization of the country of origin determines that disinfection is necessary to prevent the spread of Karnal bunt. Disinfection is required for all seed conditioning equipment covered under paragraph (d)(1)(iii) prior to entry into the United States.

(3) Items that require disinfection prior to entry into the United States must be disinfected by one of the methods specified in paragraphs (d)(3)(i) through (d)(3)(iii) of this section, unless a particular treatment is designated by an inspector or by an official of the plant protection organization of the country of origin:

(i) Wetting all surfaces to the point of runoff with a 1.5 percent sodium hypochlorite solution and letting stand for 15 minutes, then thoroughly washing down all surfaces after 15 minutes to minimize corrosion;

(ii) Applying steam to all surfaces until the point of runoff, and so that a temperature of 170 °F is reached at the point of contact; or

(iii) Cleaning with a solution of hot water and detergent, applied under pressure of at least 30 pounds per square inch, at a minimum temperature of 170 °F.

(Approved by the Office of Management and Budget under control number 0579–0240.)

Done in Washington, DC, this 14th day of February 2005.

**Elizabeth E. Gaston,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 05–3141 Filed 2–17–05; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

## Grain Inspection, Packers and Stockyards Administration

## 7 CFR Parts 810

**RIN 580–AA86**

## United States Standards for Wheat

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Grain Inspection, Packers and Stockyards Administration (GIPSA) is revising the United States Standards for Wheat. GIPSA is amending the grain standards to change the definition of contrasting classes in Hard Red Winter wheat and Hard Red Spring wheat such that Hard White wheat is not a contrasting class but is considered as wheat of other classes. GIPSA also is amending the grain standards by adding the sample size used to determine sample grade factors, because the standards should transmit this information. These actions are necessary to ensure market-relevant standards and grades and facilitate the marketing of grain.

**EFFECTIVE DATE:** May 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** Patrick McCluskey at GIPSA, USDA, STOP 3604, 1400 Independence Avenue, SW., Washington, DC 20250–3604; Telephone (202) 720–4684; faxed to (202) 720–7883.

**SUPPLEMENTARY INFORMATION:**

### Executive Order 12866

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

### Executive Order 12988

Executive Order 12988, Civil Justice Reform, instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. The final rule was reviewed under this Executive Order and no additional related information has been obtained since then. This final rule is not intended to have a retroactive effect. The United States Grain Standards Act provides in Section 87g that no State or subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this final rule will not preempt any State or local laws, regulations, or policies, unless they present any irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this final rule.

### Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) requires agencies to consider the economic impact of each rule on small entities. GIPSA has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act. Under the provisions of the United States Grain Standards Act, grain exported from the United States must be officially inspected and weighed. Mandatory inspection and weighing services are provided by GIPSA at 33 export facilities. All of these facilities are owned by multi-national corporations, large cooperatives, or public entities that do not meet the requirements for small entities established by the Small Business Administration. GIPSA is amending the grain standards to change the definition of contrasting classes in Hard Red Winter wheat and Hard Red Spring wheat such that Hard White wheat is not a contrasting class but is considered as wheat of other classes. GIPSA also is amending the grain standards by adding the sample size used to determine sample grade factors, because the standards should transmit this information. The two changes made to the wheat standards in this final rule are needed to ensure market-relevant standards and grades. Further, the regulations are applied equally to all entities.

The U.S. wheat industry, including producers (approximately 240,000), handlers (approximately 6,800 domestic elevators), traders (approximately 200 active wheat futures traders), processors (approximately 184 flour mills), merchandisers, and exporters, are the primary users of the U.S. Standards for Wheat and utilize the official standards as a common trading language to market wheat. We assume that some of the entities may be small. Further, the United States Grain Standards Act (USGSA) (7 U.S.C. 87f–1) requires the registration of all persons engaged in the business of buying grain for sale in foreign commerce. In addition, those individuals who handle, weigh, or transport grain for sale in foreign commerce must also register. The USGSA regulations (7 CFR 800.30) define a foreign commerce grain business as persons who regularly engage in buying for sale, handling, weighing, or transporting grain totaling 15,000 metric tons or more during the

preceding or current calendar year. At present, there are 90 registrants who account for practically 100 percent of U.S. wheat exports, which for fiscal year (FY) 2002 totaled approximately 24,073,138 metric tons (MT). While most of the 90 registrants are large businesses, we assume that some may be small.

**Paperwork Reduction Act**

Pursuant to the Paperwork Reduction Act of 1995, the existing information collection requirements are approved under OMB Number 0580–0013. No additional collection or recordkeeping requirements are imposed on the public by this final rule. Accordingly, OMB clearance is not required by section 350(h) of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, or OMB's implementing regulation at 5 CFR part 1320.

GIPSA is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

**Background**

GIPSA established the class Hard White wheat on May 1, 1990. In the Final Rule (54 FR 48735), GIPSA stated ''that classification by varietal kernel characteristics rather than vitreousness of the kernel is practicable at this time for HWW (sic) and SWW (sic) since only a few hard endosperm white * * * varieties are being produced. GIPSA recognizes that if more hard endosperm varieties are released into the marketplace in the future, the classification system may become less practical.'' GIPSA further stated ''* * * if clear quality or market distinctions develop * * * it would consider subclasses at a future date''. At that time, a minimum visual color line was established, which was subsequently replaced with a new color line in 1999 (Program Bulletin 99–8). In 2001, environmental conditions caused a darker visual appearance in some varieties of hard white, resulting in a GIPSA decision to suspend the color line for classification purposes (Program Notice 01–06). Under Program Notice 01–06, ''All Hard White wheat varieties are considered Hard White wheat regardless of color.''

On June 4, 2003, GIPSA proposed in the **Federal Register**, (68 FR 33408) to amend the standards for wheat to create subclasses in the class hard white. GIPSA proposed the subclass names of Hard White wheat and Hard Amber White wheat, for wheat meeting and exceeding (darker than) the interpretive color line, respectively. Further, GIPSA proposed changing the definition of Contrasting Classes for Hard Red Winter wheat and Hard Red Spring wheat such that Hard White wheat is not a contrasting class in these two red wheat classes. Further, due to inquiries about the portion size used to determine Maximum Count Limits of Other Material, GIPSA proposed amending the standard to transmit this information.

**Comment Review**

GIPSA published the proposed rule in the **Federal Register** on June 4, 2003 (68 FR 33408) with a 60-day comment period ending August 4, 2003. GIPSA received four comments during the comment period. One comment was submitted on behalf of the Hard White Wheat Working Group and the Hard White Wheat Advisory Committee (an aggregated wheat industry group comprised of wheat boards, committees, or commissions of the top ten Hard White wheat producing states; large grain merchandisers; not for profit wheat industry groups; and a private wheat breeding company). One comment each was received from the Kansas Wheat Commission, one wheat producer cooperative, and one individual wheat producer.

On the basis of the comments received and other available information, GIPSA is implementing two of the proposed changes to the wheat standards. The following paragraphs address comments received regarding the proposed changes.

*1. Subclass Designation*

GIPSA received four comments (one aggregated industry comment in support and three comments in opposition) on the proposal to establish subclasses. The aggregated wheat industry comment supported subclasses. This commenter did note that the proposal concerning adding a subclass to the Hard White wheat class was met with a spirited discussion, both pro and con. The commenter (1) supported the establishment of a subclass within the Hard White Wheat class; (2) recommended changing the subclass names to Bright Hard White Wheat for all hard white wheat that is equal to or lighter than the interpretive color line and Hard White Wheat for all hard white wheat that is darker than the interpretive color line, and continue the use of an interpretive color line and (3) recommended the use of an objective test to determine color line rather than a subjective approach.

One comment opposed to establishment of subclasses in Hard White wheat was received from the Kansas Wheat Commission which represents producers responsible for production of more than 50 percent of all Hard White wheat grown in the United States. The comment stated that since Hard White wheat is moving in the marketplace under the current method of grading, establishing a subclass would create a perception that wheat does not meet the established color line is of lower quality, resulting in discounts to producers. The commenter stated that establishing a subclass would create supply problems in Hard White wheat and also objected to the word ''Amber'' in the subclass name.

Another opposing commenter felt that because the color differences are environmentally induced, and occur sporadically, grain producers and marketers would be damaged by subclasses, vis-a-vis not having product available to sell to the markets they had worked to develop. Another comment opposing the proposed rule predicted ''marketing disruption and chaos resulting in economic loss to American wheat producers is the inevitable result whenever Mother Nature gives us a darker colored crop if these arbitrary rule changes are allowed to become law''.

Taking into account the lack of consensus among stakeholders, GIPSA believes that creating subclasses in Hard White wheat would not be in the best interest of the industry. There is no market need at this time. Based on the comments received and other available information, GIPSA will not establish subclasses in Hard White wheat. GIPSA will, however, maintain the Hard White wheat color line and, as currently done, continue to certify, upon request, that the sample color exceeds or is lighter than the color line. This provides additional information about sample color to satisfy those customers for whom color is important.

*2. Contrasting Classes*

GIPSA proposed changing the definition of Contrasting Classes for Hard Red Winter wheat and Hard Red Spring wheat such that Hard White wheat is not a contrasting class in these two red wheat classes. One comment was received from the aggregated industry group in support of the proposal. No comment was received opposing the proposal. Therefore as set forth in the proposal, GIPSA is amending the grain standards to change the definition of contrasting classes in Hard Red Winter wheat and Hard Red

Spring wheat such that Hard White wheat is not a contrasting class but is considered as wheat of other classes. The grade limit will remain unchanged. For kernel identification, Hard White wheat kernels would be determined by visual assessment and would include the dark colored, amber, white wheat kernels, per the Grain Inspection Handbook, Book II, Chapter 13, Section 13.26. In the case where samples challenge the normal visual inspection process, the alkali test would be utilized to determine kernel color (FGIS-Program Notice 01–07).

*3. Sample Size*

GIPSA proposed to amend the wheat standard to specify the amount of wheat upon which sample grade factor determinations are made. No comment was received either supporting or opposing the proposal. Earlier versions of the standard contained this information and GIPSA believes the standard should transmit this information. Therefore, as set forth in the proposal, GIPSA will amend the wheat standards to include this information.

**Final Action**

On the basis of these comments and other available information, GIPSA has decided to revise the wheat standards as proposed with the exception of establishing subclasses in Hard White wheat. This final rule is effective on May 1, 2006, the beginning of the 2006 wheat harvest, and will facilitate domestic and export marketing of wheat.

**List of Subjects in 7 CFR Part 810**

Export, grain.

n For reasons set out in the preamble, 7 CFR Part 810 is amended as follows:

## PART 810—OFFICIAL UNITED STATES STANDARDS FOR GRAIN

n 1. The authority citation for Part 810 continues to read as follows:

**Authority:** Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 et. seq.)

n 2. Section 810.2202 is amended by revising paragraph (b) (1) to read as follows:

**810.2202 Definition of other terms.**

* * * * *

(b) * * *

(1) Durum wheat, Soft White wheat, and Unclassed wheat in the classes Hard Red Spring wheat and Hard Red Winter wheat.

* * * * *

n 3. Section 810.2204 is amended by revising paragraph (a) to read as follows:

**§ 810.2204 Grades and grade requirements for wheat.**

(a) Grades and grade requirements for all classes of wheat, except Mixed wheat.

GRADES AND GRADE REQUIREMENTS

| Grading factors | Grades U.S. Nos. | | | | |
|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 |
| **Minimum pound limits of:** | | | | | |
| Test weight per bushel: | | | | | |
| Hard Red Spring wheat or White Club wheat | 58.0 | 57.0 | 55.0 | 53.0 | 50.0 |
| All other classes and subclasses | 60.0 | 58.0 | 56.0 | 54.0 | 51.0 |
| **Maximum percent limits of:** | | | | | |
| Defects: | | | | | |
| Damaged kernels. | | | | | |
| Heat (part of total) | 0.2 | 0.2 | 0.5 | 1.0 | 3.0 |
| Total | 2.0 | 4.0 | 7.0 | 10.0 | 15.0 |
| Foreign material | 0.4 | 0.7 | 1.3 | 3.0 | 5.0 |
| Shrunken and broken kernels | 3.0 | 5.0 | 8.0 | 12.0 | 20.0 |
| Total [1] | 3.0 | 5.0 | 8.0 | 12.0 | 20.0 |
| Wheat of other classes: [2]. | | | | | |
| Contrasting classes | 1.0 | 2.0 | 3.0 | 10.0 | 10.0 |
| Total [3] | 3.0 | 5.0 | 10.0 | 10.0 | 10.0 |
| Stones | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 |
| **Maximum count limits of:** | | | | | |
| Other material in one kilogram: | | | | | |
| Animal filth | 1 | 1 | 1 | 1 | 1 |
| Castor beans | 1 | 1 | 1 | 1 | 1 |
| Crotalaria seeds | 2 | 2 | 2 | 2 | 2 |
| Glass | 0 | 0 | 0 | 0 | 0 |
| Stones | 3 | 3 | 3 | 3 | 3 |
| Unknown foreign substances | 3 | 3 | 3 | 3 | 3 |
| Total [4] | 4 | 4 | 4 | 4 | 4 |
| Insect-damaged kernels in 100 grams | 31 | 31 | 31 | 31 | 31 |

U.S. Sample grade is Wheat that:

GRADES AND GRADE REQUIREMENTS—Continued

| Grading factors | Grades U.S. Nos. | | | | |
|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 |
| (a) Does not meet the requirements for U.S. Nos. 1, 2, 3, 4, or 5; or<br>(b) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or<br>(c) Is heating or of distinctly low quality. | | | | | |

[1] Includes damaged kernels (total), foreign material, shrunken and broken kernels.
[2] Unclassed wheat of any grade may contain not more than 10.0 percent of wheat of other classes.
[3] Includes contrasting classes.
[4] Includes any combination of animal filth, castor beans, crotalaria seeds, glass, stones, or unknown foreign substance.

* * * * *

Dated: February 15, 2005.

**David R. Shipman,**

*Deputy Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. 05–3140 Filed 2–17–05; 8:45 am]

BILLING CODE 3410–EN–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Parts 13 and 14

## Rules of Practice in FAA Civil Penalty Actions

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The FAA is amending the procedural regulations governing the assessment of civil penalties against persons other than individuals acting as pilots, flight engineers, mechanics or repairmen. The rules establish a clear separation of functions between those agency employees who prosecute civil penalty actions and those who advise the Administrator, acting as FAA decisionmaker, about appeals of decisions by Department of Transportation (DOT) administrative law judges (ALJs). Recent organizational changes in the Office of the Chief Counsel necessitate updating these regulations so they accurately reflect the Office's current structure and division of functions. We are also amending the rules to provide the FAA Civil Penalty Hearing Docket's new address, new instructions on filing of documents, and information about the availability of documents and FAA decisions via the Internet. We are amending the procedural rule governing appeals from initial decisions regarding applications for fees under the Equal Access to Justice Act (EAJA) to reinsert language that was inadvertently omitted during a previous revision.

**DATES:** This rule is effective on February 18, 2005.

**FOR FURTHER INFORMATION CONTACT:** Vicki Leemon, Office of the Chief Counsel, Adjudication Branch, 800 Independence Avenue, SW., Washington, DC 20591; telephone 202/385–8227.

**SUPPLEMENTARY INFORMATION:**

### Background

The Administrator may impose a civil penalty against a person other than an individual acting as a pilot, flight engineer, mechanic, or repairman, after notice and an opportunity for a hearing on the record, for violations cited in 49 U.S.C. 46301(d)(2) or 47531. 49 U.S.C. 46301(d)(7)(A) and 47531. These violations, in general, involve aviation safety issues. Also, under 49 U.S.C. 5123 and 49 CFR 1.47(k), the Administrator may, after notice and an opportunity for a hearing, assess a civil penalty against any person who knowingly violates the Federal hazardous materials transportation law, 49 U.S.C. chapter 51, or any of its implementing regulations.

The rules governing proceedings in these civil penalty cases are set forth in 14 CFR 13.16 and 14 CFR part 13, subpart G. Briefly, under these rules, these proceedings are conducted ''in-house'' as follows: (1) An ''agency attorney'' prosecutes a civil penalty case (14 CFR 13.203(a)); (2) a DOT ALJ conducts the hearing and issues an initial decision (14 CFR 13.205); and (3) the Administrator, acting as the FAA decisionmaker, issues a decision resolving any appeal from an initial decision (14 CFR 13.233).

To ensure that this process operates fairly and in accordance with the Administrative Procedure Act (APA), 5 U.S.C. 554(d), the FAA has issued rules requiring a separation of the functions performed by (1) ''agency attorneys,'' who prosecute civil penalty actions, and (2) attorneys who advise the Administrator on appeals from initial decisions. Separating these functions insulates the Administrator from any advice or influence by an FAA employee engaged in the investigation or prosecution of civil penalty actions. It also insulates the prosecutors from possible influence by the advisers to the Administrator on appeals.

### Changes in Position Titles in the Separation of Functions Rules

On March 3, 2004, the FAA published Notice 1100.290, announcing the creation of two Deputy Chief Counsel positions: the Deputy Chief Counsel for Policy and Adjudication, and the Deputy Chief Counsel for Operations. As a result, it s no longer accurate to refer only to the ''Deputy Chief Counsel'' in the rules that provide for the separation of functions in the Chief Counsel's Office, 14 CFR 13.202 (Definition of agency attorney) and 13.203.

To describe accurately the current division of functions within the Chief Counsel's Office, we are revising the rules to add: (1) The Deputy Chief Counsel for Operations to the list of attorneys who prosecute civil penalty actions as specified in 14 CFR 13.202's definition of ''agency attorney,'' and (2) the Deputy Chief Counsel for Policy and Adjudication to 14 CFR 13.203(c)'s list of lawyers who advise the Administrator regarding the resolution of appeals. We are also revising 14 CFR 13.202 to add the Deputy Chief Counsel for Policy and Adjudication to the list of attorneys who may not prosecute civil penalty actions.

Under the current organization of the Chief Counsel's Office, the Deputy Chief Counsel for Policy and Adjudication supervises the Assistant Chief Counsel for Regulations. The Assistant Chief Counsel for Regulations and members of her staff occasionally provide advice to agency attorneys, but are otherwise uninvolved in prosecuting civil penalty cases. The Deputy Chief Counsel for Policy and Adjudication does not and will not supervise the Assistant Chief Counsel for Regulations or any member of her staff in connection with providing advice to an agency attorney engaged in the prosecution of any civil penalty case. The Assistant Chief Counsel for

Regulations and the members of her staff do not and shall not consult or discuss with the Deputy Chief Counsel for Policy and Adjudication any issue on which their advice is sought by an agency attorney. Thus, the Deputy Chief Counsel for Policy and Adjudication will be kept ''out of the loop'' when either the Assistant Chief Counsel for Regulations or an attorney on her staff is consulted by agency attorneys prosecuting a civil penalty action. As a result, this division of functions within the Office of the Chief Counsel does not, and will not, contravene 14 CFR 13.202(3), which provides that an attorney supervised in a civil penalty action by an adviser to the Administrator in that civil penalty (or a factually related) action shall not prosecute that action.

Also, to ensure that the Assistant Chief Counsel for Regulations and her staff do not prosecute civil penalty cases but limit their role to that of occasional advisors to agency attorneys, we are revising the definition of ''agency attorney'' in Section 13.202 to omit the Assistant Chief Counsel for Regulations, as well as attorneys in the Regulations Division. This revision will make the rule consistent with the current practice within the Office of the Chief Counsel. Also, this revision will make 14 CFR 13.202's list of attorneys who may prosecute civil penalty actions consistent with the Administrator's current delegation of authority in civil penalty actions in 14 CFR 13.16(e) to certain FAA attorneys. The Assistant Chief Counsel for Regulations and members of her staff are not included in the list of attorneys to whom the Administrator has delegated the authority to (1) Initiate actions and assess civil penalties; (2) refer cases to the United States Attorney General or a delegate of the Attorney General for collecting civil penalties; and (3) compromise the amount of a civil penalty.

The position of the Special Counsel and Director of Civil Penalty Adjudications was eliminated several years ago. As a result, we are removing all references to this position in 14 CFR 13.202 and 13.203.

**The Hearing Docket**

The FAA Civil Penalty Hearing Docket is now located in Room 2014 of the Wilbur Wright Building, 600 Independence Avenue, SW., Washington, DC 20591. Anyone hand-delivering a document for filing—or wishing to review any docket materials in person—should go to the Wilbur Wright Building at the above address. Packages sent by expedited courier to the Hearing Docket should be addressed as follows: Hearing Docket, Federal Aviation Administration, 600 Independence Avenue, SW., Wilbur Wright Building—Room 2014, Washington, DC 20591; Att: Hearing Docket Clerk, AGC–430.

All envelopes and packages sent by U.S. Mail to individuals in the Wilbur Wright Building are processed by the FAA Headquarters' mail room staff located at 800 Independence Avenue, SW., Washington, DC 20591. Consequently, anyone using U.S. Mail to file a document should use the following address: Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Att: Hearing Docket Clerk, AGC–430, Wilbur Wright Building—Room 2014.

Accordingly, this amendment revises the following regulations: 14 CFR 13.16(h) (filing a request for hearing); 14 CFR 13.209 (filing an answer); 14 CFR 13.210 (filing documents, generally); 14 CFR 13.230(b) (examination and copying of the record); and 14 CFR 13.233 (filing appeals from initial decisions).

**On-Line Accessibility of Documents Filed in the Hearing Docket**

The Secretary of Transportation directed the Office of the Secretary and eight of the DOT operating administrations, including the FAA, to consolidate their separate paper-based docket facilities into a single centralized facility and convert to an electronic image-based system. 61 FR 29282, June 10, 1996. Documents in non-security civil penalty cases (governed by the procedural rules in 14 CFR part 13, subpart G) in which the complaint was filed on or after December 1, 1997, have been scanned into the Docket Management System (DMS). 63 FR 19559, 19570–19571, April 20, 1998. (The Hearing Docket remains the official docket, and continues to retain the original documents.) The documents in these civil penalty cases are available on the Internet at *http://dms.dot.gov*. While the availability of these documents on the Internet was announced in the **Federal Register** on April 20, 1998, 14 CFR part 13, subpart G was not amended to reflect the availability of documents on the DMS website. The FAA is adding a new 14 CFR 13.210(e) to inform the parties about the availability of documents through the DMS website. Also, we are revising 14 CFR 13.230 to notify members of the public that they may review and copy the documents in the record at the Docket Management Facility, located on the Plaza Level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590.

The decisions of the Administrator, indexes of the decisions, and other useful information are available on the FAA civil penalty adjudication Web site at *http://www.faa.gov/agc/cpwebsite*. The new Section 13.210(e) also describes the FAA civil penalty adjudication Web site.

**Review by FAA Decisionmaker of an Initial Decision in an EAJA Action**

Part 14 of Title 14 of the Code of Federal Regulations applies to actions under the EAJA. Originally 14 CFR 14.28 provided that either the applicant or the FAA counsel may appeal from the initial decision issued by an ALJ regarding an application for fees under the EAJA in a civil penalty proceeding under subpart G of part 13 of the Federal Aviation Regulations. When 14 CFR 14.28 was revised in 1999, creating paragraphs (a) and (b), the phrase ''in accordance with subpart G of part 13 of the Federal Aviation Regulations, specifically 14 CFR 13.233'' was inadvertently omitted from the new paragraph (a). 64 FR 32936, June 18, 1999. This amendment reinserts the language. By reinserting this phrase, it will be clear to the parties that the procedural rules in 14 CFR part 13, subpart G, govern any appeal from an initial decision concerning a fee application under the EAJA when the underlying action was governed by 14 CFR part 13, subpart G.

**Procedural Matters**

In general, under the APA, 5 U.S.C. 553, agencies must publish regulations for public comment and give the public at least 30 days notice before adopting regulations. There is an exception to these requirements if the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. In this case, the FAA finds that notice and comment requirements are unnecessary due to the administrative nature of the changes. The revisions simply update 14 CFR 13.202 and 13.203 regarding recent office changes. It is in the public interest that these revisions take effect promptly so that members of the public will understand how the FAA does business. Also, it is in the public interest that the revisions to 14 CFR 13.16, 13.209, 13.210, 13.230 and 13.233 take effect promptly so that members of the public know how to file documents and how to gain access to the Hearing Docket. The revision to 14 CFR 14.28(a) merely reinserts language that was inadvertently omitted during a

previous revision. The amendments set forth in this notice do not affect the rights or duties of any regulated entity.

**List of Subjects**

*14 CFR Part 13*

Administrative practice and procedure, Air transportation, Aviation safety, Hazardous materials transportation, Investigations, Law enforcement, Penalties.

*14 CFR Part 14*

Claims, Equal access to justice, Lawyers, Reporting and recordkeeping requirements.

**The Amendments**

n Accordingly, the Federal Aviation Administration amends parts 13 and 14, chapter 1 of title 14, Code of Federal Regulations as follows:

## PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

n 1. The authority citation for part 13 continues to read as follows:

**Authority:** 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 106(g), 5121–5124, 40113–40114, 44103–44106, 44702–44703, 44709–44710, 44713, 46101–46110, 46301–46316, 46318, 46501–46502, 46504–46507, 47106, 47111, 47112, 47122, 47306, 47531–47532; 49 CFR 1.47.

n 2. Amend § 13.16 by revising the second sentence of paragraph (h) to read as follows:

**§ 13.16 Civil penalties.**

Administrative assessment against a person other than an individual acting as a pilot, flight engineer, mechanic, or repairman. Administrative assessment against all persons for hazardous materials violations.

* * * * *

(h) * * * A person requesting a hearing shall file a written request for a hearing with the hearing docket clerk, using the appropriate address set forth in § 13.210(a) of this part, and shall mail a copy of the request to the agency attorney. * * *

* * * * *

n 3. Amend the definition of ''Agency attorney'' in § 13.202 by revising the introductory text and paragraphs (1) and (2) to read as follows:

**§ 13.202 Definitions.**

* * * * *

*Agency attorney* means the Deputy Chief Counsel for Operations, the Assistant Chief Counsel, Enforcement, the Assistant Chief Counsel, Europe, Africa, and Middle East Area Office, each Regional Counsel, the Aeronautical Center Counsel, or the Technical Center Counsel, or an attorney on the staff of the Assistant Chief Counsel, Enforcement, the Assistant Chief Counsel, Europe, Africa, and Middle East Area Office, each Regional Counsel, the Aeronautical Center Counsel, or the Technical Center Counsel who prosecutes a civil penalty action. An agency attorney shall not include:

(1) The Chief Counsel, the Deputy Chief Counsel for Policy and Adjudication, or the Assistant Chief Counsel for Litigation;

(2) Any attorney on the staff of the Assistant Chief Counsel for Litigation;

* * * * *

n 4. Amend § 13.203 by revising paragraph (c) to read as follows:

**§ 13.203 Separation of functions.**

* * * * *

(c) The Chief Counsel, the Deputy Chief Counsel for Policy and Adjudication, and the Assistant Chief Counsel for Litigation, or an attorney on the staff of the Assistant Chief Counsel for Litigation will advise the FAA decisionmaker regarding an initial decision or any appeal of a civil penalty action to the FAA decisionmaker.

n 5. Amend § 13.209 by revising the first sentence of paragraph (b) to read as follows:

**§ 13.209 Answer.**

* * * * *

(b) *Filing and address.* A person filing an answer shall personally deliver or mail the original and one copy of the answer for filing with the hearing docket clerk, not later than 30 days after service of the complaint to the Hearing Docket at the appropriate address set forth in § 13.210(a) of this subpart. * * *

* * * * *

n 6. Amend § 13.210 by revising paragraph (a) and adding paragraph (e) to read as follows:

**§ 13.210 Filing of documents.**

(a) *Address and method of filing.* A person tendering a document for filing shall personally deliver or mail the signed original and one copy of each document to the Hearing Docket using the appropriate address:

(1) *If delivery is in person, or via expedited courier service:* Federal Aviation Administration, 600 Independence Avenue, SW., Wilbur Wright Building—Room 2014, Washington, DC 20591; Att: Hearing Docket Clerk, AGC–430.

(2) *If delivery is via U.S. Mail:* Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Att: Hearing Docket Clerk, AGC–430, Wilbur Wright Building—Room 2014.

* * * * *

(e) *Internet accessibility of documents filed in the Hearing Docket.* (1) Unless protected from public disclosure by an order of the ALJ under § 13.226, all documents filed in the Hearing Docket are accessible through the DOT's Docket Management System (DMS): *http://dms.dot.gov*. To access a particular case file, use the DMS number assigned to the case.

(2) Decisions and orders issued by the Administrator in civil penalty cases, as well as indexes of decisions and other pertinent information are available through the FAA civil penalty adjudication Web site at *http://www.faa.gov/agc/website*.

n 7. Amend § 13.230 by removing the first sentence of paragraph (b) and adding two sentences in its place to read as follows:

**§ 13.230 Record.**

* * * * *

(b) *Examination and copying of record.* Any person may examine the record at the Hearing Docket, Federal Aviation Administration, 600 Independence Avenue, SW., Wilbur Wright Building—Room 2014, Washington, DC 20591. Documents may also be examined and copied at the Docket Management Facility, Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590. * * *

## PART 14—RULES IMPLEMENTING THE EQUAL ACCESS TO JUSTICE ACT OF 1980

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

**Authority:** 5 U.S.C. 504; 49 U.S.C. 106(f), 40113, 46104 and 47122.

n 2. Amend § 14.28(a) by revising the first sentence to read as follows:

**§ 14.28 Review by FAA decisionmaker.**

(a) In proceedings other than those under part 17 of this chapter and the AMS, either the applicant or the FAA counsel may seek review of the initial decision on the fee application in accordance with subpart G of part 13 of this chapter, specifically § 13.233. * * *

* * * * *

Issued in Washington, DC on February 10, 2005.

**Rebecca MacPherson,**

*Assistant Chief Counsel for Regulations*

[FR Doc. 05–3113 Filed 2–17–05; 8:45 am]

BILLING CODE 4910–13–M

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2004–18999; Directorate Identifier 2003–NM–259–AD; Amendment 39–13975; AD 2005–04–03]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 747–400, –400D, and –400F Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 747–400, –400D, and –400F series airplanes. This AD requires replacing at least one flap control unit (FCU) in the main equipment center with a new or modified FCU. This AD is prompted by a report indicating that, after takeoff, an airplane was required to return to the airport because the autopilot disengaged. The report also indicated that, after selecting flaps for landing, the flaps indication display did not indicate the flap setting, requiring the airplane to land in alternate flap mode. We are issuing this AD to prevent disconnection of autoland/autopilot functions and loss of primary flaps control and flaps indication display due to disengagement of all three FCUs at the same time, which could lead to a non-normal high speed landing with the flaps retracted, increased pilot workload, and possible runway departure at high speeds during landing.

**DATES:** This AD becomes effective March 25, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of March 25, 2005.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. You can examine this information 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.*

*Docket:* The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Washington, DC. This docket number is FAA–2004–18999; the directorate identifier for this docket is 2003–NM–259–AD.

**FOR FURTHER INFORMATION CONTACT:** Douglas Tsuji, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6487; fax (425) 917–6590.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR Part 39 with an AD for certain Boeing Model 747–400, –400D, and –400F series airplanes. That action, published in the **Federal Register** on September 7, 2004 (69 FR 54060), proposed to require replacing at least one flap control unit (FCU) in the main equipment center with a new or modified FCU.

### Comments

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

### Agrees With Proposed AD

One commenter agrees with the proposed AD.

### Request To Reduce the Compliance Time

One commenter requests that the compliance time specified in paragraph (f)(1) of the proposed AD be reduced. The commenter states that the 60-month compliance time is too long and should be shortened substantially due to the potential severity of the situation (*i.e.,* landing without flaps) and the nature of the proposed modifications. The commenter believes that the availability of parts necessary to complete the modifications is not an issue.

The FAA does not agree to reduce the compliance time specified in paragraph (f)(1) of the final rule. In developing the compliance time for this AD, we considered the average utilization rate of the affected fleet, the practical aspects of an orderly modification of the fleet during regular maintenance periods, and the availability of required parts as well as the safety implications of the identified unsafe condition. In addition, the low probability of the identified unsafe condition occurring (disengagement of all three flap control units (FCU) causing loss of primary flaps control and flaps indication display) and the existing operational manual bulletin that provides guidance to the crew for extending the flaps in alternate mode in the absence of indication are consistent with longer compliance times. Based on these factors, the proposed compliance time of 60 months after the effective date of the final rule was determined to be appropriate. Further, we arrived at the proposed compliance time with manufacturer concurrence. We have not changed the final rule in this regard.

### Request To Remove Paragraph (g) of the Proposed AD

One commenter requests that paragraph (g) of the proposed AD be removed. The commenter states that paragraph (g) of the proposed AD would require actions specified in Boeing Service Bulletin 747–27–2319, dated January 24, 1991, to be done before or concurrently with paragraph (f) of the proposed AD. The commenter notes that the actions in paragraph (f) of the proposed AD are to be done according to Boeing Alert Service Bulletin 747–27A2386, dated March 13, 2003, and that the alert service bulletin specifies in paragraph 1.B. that ''you cannot make the changes in this service bulletin unless the changes given in Boeing Service Bulletin 747–27–2319 are made.'' Thus, the commenter believes there is no need for paragraph (g) of the proposed AD.

We do not agree to remove paragraph (g) of the final rule. We agree that paragraph (f) of the final rule requires the actions to be done ''in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–27A2386, dated March 13, 2003'' and that paragraph 1.B. of the alert service bulletin refers to the concurrent actions that are specified in paragraph (g) of the final rule. However, paragraph 1.B. of the alert service bulletin precedes the Accomplishment Instructions of the alert service bulletin. Because the Accomplishment Instructions of the alert service bulletin do not specify to do any concurrent action, paragraph (g) of the final rule is needed to clarify that the concurrent action must be done. We have not changed the final rule in this regard.

### Request for Clarification of Test

One commenter points out that paragraph 3.B.2. of the Boeing Alert Service Bulletin 747–27A2386 specifies that a built-in test equipment (BITE) test be done according to Chapter 27–51–51 of the Boeing 747–400 airplane maintenance manual (AMM). The

commenter notes that there is no BITE test in either 27–51–00/501 or 27–51–51/401 of the Boeing 747–400 AMM. The commenter contends the alert service bulletin refers to a test that does not exist and is not necessary. The commenter also states that the alert service bulletin specifies installing the FCU in accordance with Chapter 27–51–51 of the Boeing 747–400 AMM and that the referenced AMM specifies to do an operational test of the FCU that includes both a central maintenance computer initiated ground test and exercising the flaps through full travel to ensure proper operation and indication.

We infer from the comment that the commenter requests that the reference to the BITE test be clarified. We partially agree. We acknowledge that paragraph 3.B.2. of the alert service bulletin specifies a BITE test be done according to Chapter 27–51–51 of the Boeing 747–400 AMM. However, Chapter 27–51–51 of the Boeing 747–400 AMM refers to a BITE test only in the summary of the AMM procedure, but not within the body of the AMM procedure. Within the body of the AMM procedure, there is a ''GROUND TEST,'' under the heading ''OPERATIONAL TEST,'' that is to be done following installation of the FCU. Although the nomenclature within the Boeing documents may seem inconsistent, we consider the ''GROUND TEST'' specified in Chapter 27–51–51 of the Boeing 747–400 AMM to be part of the FCU BITE test. Furthermore, Chapter 27–51–51 of the Boeing 747–400 AMM includes all necessary testing that must be done following installation of a new FCU. In addition, because the final rule references only the alert service bulletin, there is no need to add a clarification of the BITE test to the final rule. We have not changed the final rule in this regard.

## Conclusion

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

## Costs of Compliance

There are about 614 airplanes of the affected design worldwide. This AD will affect about 87 airplanes of U.S. registry. The following tables provide the estimated costs for U.S. operators to comply with this AD.

| Replacement | Work hours | Average labor rate per hour | Parts | Cost per airplane |
|---|---|---|---|---|
| **Estimated Costs** | | | | |
| With new –208 FCU | 2 | $65 | $78,550 | $78,680 |
| With modified –208 FCU | 10 | 65 | 975 | 1,625 |
| **Estimated Concurrent Service Bulletin Costs** | | | | |
| With new –207 FCU | 3 | 65 | 235,650 | 235,845 |
| With modified –207 FCU | 87 | 65 | 2,925 | 8,580 |

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2005–04–03 Boeing:** Amendment 39–13975. Docket No. FAA–2004–18999; Directorate Identifier 2003–NM–259–AD.

**Effective Date**

(a) This AD becomes effective March 25, 2005.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Model 747–400, –400D, and –400F series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–27A2386, dated March 13, 2003.

**Unsafe Condition**

(d) This AD was prompted by a report indicating that, after takeoff, an airplane was required to return to the airport because the autopilot disengaged. The report also

indicated that, after selecting flaps for landing, the flaps indication display did not indicate the flap setting, requiring the airplane to land in alternate flap mode. We are issuing this AD to prevent disconnection of autoland/autopilot functions and loss of primary flaps control and flaps indication display due to disengagement of all three flap control units (FCUs) at the same time, which could lead to a non-normal high speed landing with the flaps retracted, increased pilot workload, and possible runway departure at high speeds during landing.

**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.

**Replace FCU**

(f) At the earliest of the times specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD: Replace at least one FCU having P/N 285U0011–207 with a new or modified FCU having P/N 285U0011–208 in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–27A2386, dated March 13, 2003.

(1) Within 60 months after the effective date of this AD.

(2) Within 25,000 flight hours after the effective date of this AD.

(3) Within 4,000 flight cycles after the effective date of this AD.

**Note 1:** Boeing Alert Service Bulletin 747–27A2386, dated March 13, 2003, refers to Boeing Component Service Bulletin 285U0011–27–06, dated March 13, 2003, as an additional source of service information for modifying an FCU having P/N 285U0011–207 to P/N 285U0011–208.

**Actions Required Before or Concurrently With Paragraph (f)**

(g) For airplanes identified in Boeing Service Bulletin 747–27–2319, dated January 24, 1991: Before or concurrent with the accomplishment of paragraph (f) of this AD, replace the three FCUs having P/N 285U0011–205 or 285U0011–206 with new or modified FCUs having P/N 285U0011–207 in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–27–2319, dated January 24, 1991.

**Note 2:** Boeing Service Bulletin 747–27–2319, dated January 24, 1991, refers to Boeing Component Service Bulletin 285U0011–27–04, dated January 24, 1991, as an additional source of service information for modifying the FCUs having P/N 285U0011–205 or 285U0011–206 to P/N 285U0011–207.

**Parts Installation**

(h) As of the effective date of this AD, no person may install on any airplane an FCU having P/N 285U0011–205 or –206.

**Alternative Methods of Compliance (AMOCs)**

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

**Material Incorporated by Reference**

(j) You must use Boeing Alert Service Bulletin 747–27A2386, dated March 13, 2003; and Boeing Service Bulletin 747–27–2319, dated January 24, 1991; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Boeing Commercial Airplanes, PO Box 3707, Seattle, Washington 98124–2207. For information on the availability of this material at the National Archives and Records Administration (NARA), call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*. You may view the AD docket at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC.

Issued in Renton, Washington, on February 3, 2005.

**Ali Bahrami,**

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

[FR Doc. 05–2843 Filed 2–17–05; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2004–19177; Directorate Identifier 2002–NM–202–AD; Amendment 39–13974; AD 2005–04–02]**

**RIN 2120–AA64**

## Airworthiness Directives; Dassault Model Falcon 10 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Dassault Model Falcon 10 series airplanes. This AD requires a temporary change to the airplane flight manual (AFM) to provide procedures to the flightcrew for touchdown using the main landing gear to avoid a three-point landing. This AD also requires repetitive inspections of the piston rod of the drag strut actuator of the nose landing gear (NLG) for cracks, which would terminate the AFM revision, and corrective actions if necessary. In addition, this AD provides for a terminating modification, which would end the repetitive inspections. This AD is prompted by reports of failure of the piston rod of the drag strut actuator of the NLG. The cause of such failure has been attributed to fatigue cracking caused by corrosion in the piston rod of the drag strut actuator. We are issuing this AD to prevent cracking and/or fracture of the piston rod of the drag strut actuator of the NLG, which could result in a gear-up landing, structural damage, and possible injury to passengers and crew.

**DATES:** This AD becomes effective March 25, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of March 25, 2005.

**ADDRESSES:** For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606.

You can examine this information 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.*

*Docket:* The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Washington, DC. This docket number is FAA–2004–19177; the directorate identifier for this docket is 2002–NM–202–AD.

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

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with an AD for all Dassault Model Falcon 10 series airplanes. That action, published in the **Federal Register** on September 28, 2004 (69 FR 57886), proposed to require a temporary change to the airplane flight manual (AFM) to provide procedures to the flightcrew for touchdown using the main landing gear to avoid a three-point landing. That action also proposed to require repetitive inspections of the piston rod of the drag strut actuator of the nose landing gear (NLG) for cracks, which

would terminate the AFM revision, and corrective actions if necessary. In addition, the proposed AD provided a terminating modification, which would end the repetitive inspections.

### Comments

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

### Request To Revise Paragraph (h), Repetitive Inspections

One commenter requests that the proposed AD be revised to allow operators to replace a cracked drag strut actuator with an actuator having the same part number. The commenter states that this should be allowed only once, and that the operators would still have to perform the repetitive inspections specified in paragraph (h)(2) of the proposed AD. The commenter is concerned that there may be a shortage of new, improved drag strut actuators since the parallel French airworthiness directive, 2002–137(B), dated March 20, 2002, does not mandate the replacement of a cracked drag strut actuator with a new, improved actuator.

We agree with the commenter's request. We have revised paragraph (h)(1) of this AD to specify that operators may replace a cracked drag strut actuator with a part having the same part number, or do the terminating modification specified in paragraph (i) of this AD.

### Request To Revise Paragraph (m), Part Installation

Two commenters, the airplane manufacturer and one of its subsidiaries, request that paragraph (m) of the proposed AD be revised to specify that only drag strut actuators, part number (P/N) 747721, that fail an ultrasonic inspection as specified in paragraph (h) of the proposed AD may not be reinstalled on the airplane. Specifically, the commenters request to include the text ''* * * which has failed the ultrasonic inspection of the piston rod for cracks in accordance with Dassault Service Bulletin F10–294, dated March 20, 2002.'' The commenters state that if the piston rod passes an ultrasonic inspection it is acceptable to the airplane manufacturer to allow that drag strut actuator to remain in service on the airplane. The commenters note that, after reading paragraph (m) of the proposed AD, a person could conclude that it is unacceptable to reinstall any drag strut actuator, P/N 747721, if the actuator is removed from the airplane for any reason. One of the commenters states that the additional text is necessary to ensure a suitable number of spare parts are available to operators upon publication of the AD.

We agree with the intent of the commenters' requests. Instead of revising the Parts Installation paragraph included in the proposed AD, we are omitting that paragraph from this AD.

### Conclusion

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

### Costs of Compliance

This AD affects about 154 airplanes of U.S. registry.

The AFM revision takes about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the AFM revision required by this AD for U.S. operators is $10,010, or $65 per airplane.

The inspection takes about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the inspection required by this AD for U.S. operators is $10,010, or $65 per airplane, per inspection cycle.

### Authority for This Rulemaking

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

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

### Regulatory Findings

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

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

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

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

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

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

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2005–04–02 Dassault Aviation [Formerly Avions Marcel Dassault-Breguet Aviation (AMD/BA)]:** Amendment 39–13974. Docket No. FAA–2004–19177; Directorate Identifier 2002–NM–202–AD.

#### Effective Date

(a) This AD becomes effective March 25, 2005.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to all Dassault Model Falcon 10 series airplanes, certificated in any category.

#### Unsafe Condition

(d) This AD was prompted by reports of failure of the piston rod of the drag strut actuator of the nose landing gear (NLG). We are issuing this AD to prevent cracking and/or fracture of the piston rod of the drag strut

actuator of the NLG, which could result in a gear-up landing, structural damage, and possible injury to passengers and crew.

**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.

**Airplane Flight Manual (AFM) Revision**

(f) Within 5 days after the effective date of this AD: Revise the Limitations Section of the Falcon 10 AFM by incorporating Dassault Temporary Change (TC) 24, dated March 1, 2002, into the AFM. That TC provides procedures to the flightcrew for touchdown using the main landing gear to avoid a three-point landing. Thereafter, operate the airplane in accordance with the limitations specified in the AFM revision.

(g) When the information in TC 24 has been included in general revisions of the AFM, the TC may be removed from the AFM, provided the relevant information in the general revision is identical to that in TC 24.

**Repetitive Inspections**

(h) Within 7 months after the effective date of this AD: Do an ultrasonic inspection of the piston rod of the drag strut actuator of the NLG for cracks in accordance with Dassault Service Bulletin F10–294, dated March 20, 2002. After the initial inspection has been done, the TC required by paragraph (f) of this AD may be removed from the AFM.

(1) If any crack is found: Before further flight, replace the cracked drag strut actuator with an airworthy part having the same part number, or do the terminating modification specified in paragraph (i) of this AD.

(2) If no crack is found: Repeat the inspection thereafter at intervals not to exceed 700 landings on the drag strut actuator.

**Terminating Modification**

(i) Accomplishment of the modification of the drag strut actuator in accordance with Dassault Service Bulletin F10–297, dated October 1, 2003, and prior or concurrent accomplishment of the related modification in accordance with Messier-Hispano-Bugatti Falcon 10 Service Bulletin 511–32–26, dated November 9, 1979, ends the repetitive inspections required by paragraph (h)(2) of this AD.

**Additional Source of Service Information**

(j) Messier-Dowty Service Bulletin 747721–32–057, dated February 5, 2003, is referenced in Dassault Service Bulletin F10–294 as an additional source of service information for replacing the drag strut actuator rod.

**Actions Not Required**

(k) Dassault Service Bulletin F10–294 recommends returning the drag strut actuator to the component repair agent for replacement if a crack is found, but this AD requires doing the terminating modification specified in paragraph (i) of this AD.

(l) Dassault Service Bulletins F10–294 and F10–297 recommend submitting certain inspection results to the manufacturer. This AD does not require those actions.

**Alternative Methods of Compliance (AMOCs)**

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

**Related Information**

(n) French airworthiness directive 2002–137(B) dated March 20, 2002, also addresses the subject of this AD.

**Material Incorporated by Reference**

(o) You must use the service information that is specified in Table 1 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of those documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. For information on the availability of this material at the National Archives and Records Administration (NARA), call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* You may view the AD docket at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC.

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

| Service information | Revision level | Date |
|---|---|---|
| Dassault Service Bulletin F10–294 | Original | Mar. 20, 2002. |
| Dassault Service Bulletin F10–297 | Original | Oct. 1, 2003. |
| Dassault Temporary Change 24 to the Falcon 10 Airplane Flight Manual. | Original | Mar. 1, 2002. |
| Messier-Hispano-Bugatti Falcon 10 Service Bulletin 511–32–26 | Original | Nov. 9, 1979. |

Issued in Renton, Washington, on February 3, 2005.

**Ali Bahrami,**

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

[FR Doc. 05–2844 Filed 2–17–05; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 97

**[Docket No. 30438; Amdt. No. 3116]**

## Standard Instrument Approach Procedures; Miscellaneous Amendments

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

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** This rule is effective February 18, 2005. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 18, 2005.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

*For Examination—*

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The Flight Inspection Area Office which originated the SIAP; or,

4. 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 Purchase*—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

*By Subscription*—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

**FOR FURTHER INFORMATION CONTACT:** Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: PO Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

**SUPPLEMENTARY INFORMATION:** This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

## The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

## Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment 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 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on February 10, 2005.

**James J. Ballough,**

*Director, Flight Standards Service.*

## Adoption of the Amendment

n Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

n 1. The authority citation for part 97 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

n 2. Part 97 is amended to read as follows:

** * * Effective 17 March 2005*

Arkadelphia, AR, Dexter B. Florence Memorial Field, RNAV (GPS) RWY 4, Orig
Arkadelphia, AR, Dexter B. Florence Memorial Field, NDB RWY 4, Amdt 7
Arkadelphia, AR, Dexter B. Florence Memorial Field, GPS RWY 4, Orig-A, CANCELLED
Orlando, FL, Kissimmee Gateway, GPS RWY 15, Orig–B, CANCELLED
Orlando, FL, Kissimmee Gateway, RNAV (GPS) RWY 15, Orig
Pullman/Moscow, ID/WA, Pullman Moscow Regional, VOR RWY 5, Amdt 8
Pullman/Moscow, ID/WA, Pullman Moscow Regional, VOR/DME–A, Amdt 1
Pullman/Moscow, ID/WA, Pullman Moscow Regional, RNAV (GPS) RWY 23, Orig
Peoria, IL, Greater Peoria Regional, ILS OR LOC RWY 31, Amdt 6
Peoria, IL, Greater Peoria Regional, NDB RWY 31, Amdt 15
Madison, IN, Madison Muni, RNAV (GPS) RWY 3, Orig
Madison, IN, Madison Muni, NDB RWY 3, Amdt 4
Madison, IN, Madison Muni, VOR/DME RWY 3, Amdt 8
Dodge City, KS, Dodge City Regional, RNAV (GPS) RWY 14, Orig
Dodge City, KS, Dodge City Regional, RNAV (GPS) RWY 32, Orig
Dodge City, KS, Dodge City Regional, GPS RWY 14, Orig–A, CANCELLED
Olathe, KS, New Century Aircenter, RNAV (GPS) RWY 17, Amdt 1
Olathe, KS, New Century Aircenter, RNAV (GPS) RWY 35, Amdt 1
Auburn-Lewiston, ME, Auburn-Lewiston Muni, RNAV (GPS) RWY 4, Orig
Auburn-Lewiston, ME, Auburn-Lewiston Muni, RNAV (GPS) RWY 22, Orig
Auburn-Lewiston, ME, Auburn-Lewiston Muni, ILS OR LOC RWY 4, Amdt 10
Auburn-Lewiston, ME, Auburn-Lewiston Muni, NDB RWY 4, Amdt 11
Auburn-Lewiston, ME, Auburn-Lewiston Muni, VOR/DME–A, Amdt 1
Columbus, OH, Rickenbacker International, ILS OR LOC RWY 5L, Orig
Portland, OR, Portland Intl, NDB RWY 28L, Amdt 5
Portland, OR, Portland Intl, ILS OR LOC RWY 10L, Amdt 2
Portland, OR, Portland Intl, ILS OR LOC RWY 10R, Amdt 32, ILS RWY 10R (CAT II), ILS RWY 10R (CAT III), Amdt 32
Portland, OR, Portland Intl, ILS OR LOC RWY 28L, Amdt 1
Portland, OR, Portland Intl, ILS OR LOC RWY 28R, Amdt 13

Portland, OR, Portland Intl, RNAV (GPS) RWY 10R, Orig
Portland, OR, Portland Intl, RNAV (GPS) RWY 10L, Orig
Portland, OR, Portland Intl, RNAV (GPS) RWY 28L, Orig
Portland, OR, Portland Intl, RNAV (GPS) RWY 28R, Orig
Monongahela, PA, Rostraver, VOR–A, Amdt 5
Monongahela, PA, Rostraver, RNAV (GPS) RWY 8, Orig
Monongahela, PA, Rostraver, RNAV (GPS) RWY 26, Orig
Monongahela, PA, Rostraver, GPS RWY 26, Orig–B, CANCELLED

** * * Effective 14 April 2005*

Annapolis, MD, Lee, RNAV (GPS) RWY 30, Orig–B
Atlanta, GA, Hartsfield-Jackson Atlanta Intl, ILS OR LOC RWY 8R, Amdt 58C

** * * Effective 12 May 2005*

Rifle, CO, Garfield County Regional, LOC/DME–A, Amdt 6B
Rifle, CO, Garfield County Regional, ILS RWY 26, ORIG–B
Freeport, IL, Albertus, NDB RWY 6, Orig–C, CANCELLED
Dyersburg, TN, Dyersburg Muni, RNAV (GPS) RWY 4, Amdt 1
Dyersburg, TN, Dyersburg Muni, RNAV (GPS) RWY 22, Orig
Dyersburg, TN, Dyersburg Muni, NDB RWY 4, Amdt 1
Dyersburg, TN, Dyersburg Muni, VOR–A, Amdt 17

The FAA published an Amendment in Docket No. 30435, Amdt No. 3114 to Part 97 of the Federal Aviation Regulations (Vol 70, FR No. 18, page 4011; dated January 28, 2005) under section 97.33 effective 17 MAR 2005, which is hereby rescinded:

Perryville, AK, Perryville, RNAV (GPS) RWY 3, Orig

The FAA published an Amendment in Docket No. 30431, Amdt No. 3111 to Part 97 of the Federal Aviation Regulations (Vol 69, FR No. 239, page 74416; dated December 14, 2004) under section 97.33 effective 17 MAR 2005, which is hereby rescinded:

Kalskag, AK, Kalskag, RNAV (GPS) RWY 6, Orig
Kalskag, AK, Kalskag, RNAV (GPS)–A, Orig
Kalskag, AK, Kalskag, GPS RWY 6, Orig-A, CANCELLED
Kalskag, AK, Kalskag, GPS RWY 24, Orig-A, CANCELLED

The FAA published an Amendment in Docket No. 30436, Amdt No. 3115 to Part 97 of the Federal Aviation Regulations (Vol 70, FR No. 24, page 6339; dated February 7, 2005) under section 97.33 effective 17 MAR 2005, which is hereby rescinded:

Cedar Rapids, IA, The Eastern Iowa, RNAV (GPS) RWY 13, Amdt 1
Cedar Rapids, IA, The Eastern Iowa, RNAV (GPS) RWY 31, Amdt 1

The FAA published an Amendment in Docket No. 30431, Amdt No. 3111 to Part 97 of the Federal Aviation Regulations (Vol 69, FR No. 239, page 74416; dated December 14, 2004) under section 97.33 effective 17 MAR 2005, which is hereby rescinded:

Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 14, Amdt 1
Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 18, Amdt 1
Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 21, Amdt 1
Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 32, Amdt 1
Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 36, Amdt 1
Madison, WI, Dane County Regional-Truax Field, ILS OR LOC/DME RWY 18, Orig
Madison, WI, Dane County Regional-Truax Field, ILS OR LOC/DME RWY 21, Orig
Madison, WI, Dane County Regional-Truax Field, ILS OR LOC/DME RWY 36, Orig
Madison, WI, Dane County Regional-Truax Field, ILS RWY 18, Amdt 7C, CANCELLED
Madison, WI, Dane County Regional-Truax Field, ILS RWY 21, Orig-A, CANCELLED
Madison, WI, Dane County Regional-Truax Field, ILS RWY 36, Amdt 29D, CANCELLED
Madison, WI, Dane County Regional-Truax Field, RADAR–1, Amdt 17

The FAA published an Amendment in Docket No. 30435, Amdt No. 3114 to Part 97 of the Federal Aviation Regulations (Vol 70, FR No. 18, page 4012; dated January 28, 2005) under section 97.33 effective 17 MAR 2005, which is hereby amended as follows:

Dallas-Fort Worth, TX, Dallas/Fort Worth International, ILS RWY 35C (CAT II), Amdt 7, CANCELLED

[FR Doc. 05–3095 Filed 2–17–05; 8:45 am]
BILLING CODE 4910–13–P

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### 15 CFR Parts 730, 738, 740, 748, 756, 764, 766, 772 and 774

**[Docket No. 050202022–5022–01]**

**RIN 0694–AD32**

## Technical Corrections to the Export Administration Regulations

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule makes technical corrections to the Export Administration Regulations (EAR) by updating internal agency process matters, clarifying license exceptions, correcting citation errors and clarifying paperwork requirements. None of these technical corrections change the current interpretations or licensing requirements of the EAR.

**DATES:** This rule is effective February 18, 2005.

**FOR FURTHER INFORMATION CONTACT:** William H. Arvin, Office of Exporter Services, Regulatory Policy Division, e-mail *warvin@bis.doc.gov*, fax 202 482 3355 or telephone 202 482 2440.

**SUPPLEMENTARY INFORMATION:** From time-to-time the Bureau of Industry and Security (BIS) reviews portions of the Export Administration Regulations (EAR) and identifies omissions, unnecessary language, obsolete provisions, and provisions for which clarification is desirable. This rule is the product of such a review; it clarifies, updates, and revises the EAR. It does not make substantive changes to the provisions and requirements of the EAR. In brief, this rule:

- Updates the description of BIS's general plan of organization in § 730.9;
- Revises and shortens the description of the scope of the Commerce Country Chart in § 738.3(a);
- Clarifies availability of License Exception TMP for exhibition and demonstration in Country Group D:1;
- Clarifies availability of License Exception TMP for reexports of kits of replacement parts to Country Group D:1;
- Adds the Under Secretary for Industry and Security as an official who may determine whether information subject to § 12(c) of the Export Administration Act may be released to the public in conformance with the applicable Departmental Organization Order;
- Removes an unnecessary statement about responsibility to classify items from § 748.3(a);
- Revises the description of emergency processing of license applications to conform to current agency practice;
- Redesignates two paragraphs in § 748.11 to conform to the standard Code of Federal Regulations structure;
- Corrects a citation to the recordkeeping requirements pertaining to certificates or other documents obtained in connection with exports subject to the Inter-American Firearms Convention;
- Sets the value of aircraft and vessels on temporary sojourn to $0 for license application purposes to prevent confusing statistical values of items licensed for export to embargoed destinations;
- Revises the titles of the head and deputy head of BIS in part 756

(Appeals) to conform to the currently applicable Departmental Organizational Orders;

- Corrects a citation error in the prohibition against concealment or misrepresentation of facts and adds another citation to clearly distinguish the export control documents from the boycott report documents that are subject to § 764.2(g);
- Revises the title of the head of BIS in part 766 (Administrative Enforcement Proceedings) to conform to the currently applicable Departmental Organizational Orders;
- Revises the address for filing papers in administrative enforcement proceedings;
- Revises the definition of the term ''controlled country'' to make clear that controlled countries are countries subject to national security export controls, to add two previously omitted countries, and to reflect the shift of North Korea from Country Group E:2 to D:1;
- Removes a reference to a no longer existent technical note and corrects the name of another document referenced in ECCN 1C018; and
- Revises the ECCN 3A001 License Exceptions paragraph to exclude certain commodities controlled for missile technology reasons consistent with § 740.2(a)(5).

The above-referenced changes are described in detail below.

**Revisions to Statement of BIS's General Plan of Organization**

Section 730.9 of the EAR describes BIS's general plan of organization. This rule revises § 730.9 to reflect the current organization of the Bureau. Revised § 730.9 incorporates references to government Web sites as the sources of detailed information about BIS and its constituent units.

**Revisions to Description of the Scope of the Commerce Control List in § 738.3(a)**

Section 738.3(a) describes the scope of the Commerce Country Chart. Prior to publication of this rule, § 738.3(a) stated that only two instances existed in which the Country Chart could not be used in the process of determining license requirements based on the reasons for control expressed in Export Control Classification Numbers (ECCN) on the Commerce Control List; short supply items, and ''Unique entries''. The section then listed the ECCNs that were ''unique.'' Since the time that § 738.3 was initially written, the Commerce Control List has been revised in ways that make that description inaccurate. The number of ECCNs that contain, in their license requirements sections, license requirements that are not related to the Country Chart has grown. In some ECCNs, these license requirements are in lieu of Country Chart license requirements. In other ECCNs, these license requirements are in addition to Country Chart license requirements. In addition, some ECCNs now serve as cross references to the license requirements of other government agencies. This rule clarifies and shortens § 738.3 by providing a more general description of when the Country Chart is needed to determine, in whole or in part, license requirements and by eliminating references to specific ECCNs.

**Clarification—License Exception TMP May Be Used for Exhibition and Demonstration in Country Group D:1**

On August 10, 2001, BIS published a rule revising the exhibition and demonstration provisions of License Exception TMP (§ 740.9(a)(2)(iii) of the EAR) to expand the scope of permissible destinations for such exhibitions and demonstrations from Country Group B to all destinations not in Country Group E:1. When publishing that rule, BIS stated that it ''expands the scope of eligible countries for License Exception TMP for exhibition and demonstration by making Country Group D:1 eligible for this provision'' (*see* 66 FR 42108, August 10, 2001). However, that rule did not revise § 740.9(a)(3)(i)(B) of the EAR, which prohibits use of License Exception TMP for destinations in Country Group D:1 unless excepted in that paragraph. This rule adds an exception to § 740.9(a)(3)(i)(B) covering exhibition and demonstration of commodities and software authorized under § 740.9(a)(2)(iii), making the former consistent both with the latter and with BIS's published statement concerning the effect of the rule published on August 10, 2001.

**Clarification—License Exception TMP May Be Used for Reexports of Kits of Replacement Parts to Country Group D:1**

Section 740.9(a)(2)(ii) authorizes exports and reexports of kits of replacement parts under License Exception TMP to all destinations except those in Country Group E:1. However, prior to publication of this rule, § 740.9(a)(3)(i)(B)(*3*), which provides an exception to the prohibition of use of License Exception TMP for shipments of kits of replacement parts to destinations in Country Group D:1, referred only to exports. This rule adds the phrase ''or reexported'' to § 740.9(a)(3)(i)(B)(*3*), making it consistent with § 740.9(a)(2)(ii).

**Revision—Statement of BIS's Practice Regarding Release of Information Obtained for the Purpose of Considering or Concerning License Applications**

This rule revises § 748.1(c) to list the Under Secretary for Industry and Security as an official upon whose determination BIS will release information that is subject to § 12(c) of the Export Administration Act (EAA) to the public. Section 12(c) of the EAA sets forth the criteria for public release of information obtained for purposes of considering or concerning export license applications. Section 12(c) designates the Secretary of Commerce as the official in the Executive Branch who has authority to determine whether a release of information that is subject to § 12(c) of the EAA is in the national interest. In Department of Commerce Departmental Organization Order (DOO) 10–16, the Secretary of Commerce designates the Under Secretary for Industry and Security, formerly the Under Secretary for Export Administration, to exercise this authority. This rule revises § 748.1(c) to reflect the requirements of DOO 10–16.

**Removal of Unnecessary Statement About Responsibility To Classify Items**

Section 748.3 describes the procedures for requesting BIS to classify items that are subject to the EAR and for requesting advisory opinions from BIS. This rule removes the phrase ''In light of your responsibility to classify your item'' from the first sentence of § 743.3(a) because the phrase has no relevance to EAR procedures for requesting BIS to perform the classification.

**Revision of Description of Emergency Processing To Conform to Current Practice**

Section 748.4(h) describes procedures for requesting emergency treatment of license applications and BIS's policy for dealing with those requests. Prior to publication of this rule, that section set forth some procedures that BIS no longer requires to be followed. Moreover, in accordance with Executive Order 12981, as amended by Executive Orders 13020, 13026, and 13117, BIS may not unilaterally issue emergency licenses if the application must be reviewed by other government agencies. This rule revises § 748.4(h) to describe BIS's current practice of giving applications expedited review and requesting the other reviewing agencies to do likewise when BIS determines that expedited review is appropriate.

**Redesignation of Paragraphs To Conform to Standard Code of Federal Regulations Structure**

This rule redesignates § 748.11(e)(4)(ii)(*1*) and (*2*) as § 748.11(e)(4)(ii)(A) and (B) respectively.

**Technical Correction—Part 762 Recordkeeping Requirements Apply to Inter-American Firearms Convention Import Certificates**

Section 748.14 of the EAR requires, *inter alia*, that applicants for licenses to ship certain firearms and related items to destinations in countries that are members of the Organization of American States obtain and retain an import certificate or equivalent original document. This rule corrects one sentence in § 748.14(b) to state that the recordkeeping provisions of Part 762, rather than only § 762.2, apply to the Firearms Convention certificate requirement. Section 762.2 is merely a list of records that must be kept. The complete recordkeeping requirements are set forth in the whole of Part 762.

**Use of $0 for Value of Vessels and Aircraft in License Applications for Temporary Sojourns**

The departure of a vessel or aircraft from the United States is, under the EAR, an export of that aircraft or vessel. If the vessel or aircraft is traveling, even temporarily, from the United States to a destination for which it would require an export license and no license exception is available, a license is required for the export of the vessel or aircraft in addition to any licenses that may be required for its cargo. License applicants are required to state the value of the export on license applications. To date, this provision has required applicants seeking licenses for vessels or aircraft on temporary sojourn to estimate the value of the vessel or aircraft even though the value is irrelevant to determining the outcome of the application. In addition, these values can create a misleading impression in BIS's annual licensing statistics as readers who may be unaware of the requirement to license these temporary exports erroneously conclude that BIS has licensed large volumes of aircraft and vessels for permanent export to embargoed destinations. This rule addresses both problems by adding a new paragraph (u) to supplement No. 2 to part 748, instructing the applicant to declare the value of the aircraft or vessel as $0 on applications to send vessels or aircraft on temporary sojourn. This rule also adds a reference to that new paragraph (u) in § 748.8, which contains references to all of the ''unique license requirements'' in Supp. No.2 to Part 748.

**Revision of Title of Head and Deputy Head of the Bureau of Industry and Security in Part 756**

Part 756 describes the procedures for appealing certain administrative actions to the head of BIS. This rule revises the titles of ''Under Secretary for Export Administration'' and ''Deputy Under Secretary for Export Administration'' to read ''Under Secretary for Industry and Security'' and ''Deputy Under Secretary for Industry and Security,'' respectively in § 756.2. This change conforms the titles in § 756.2 to those in the Department of Commerce Departmental Organizational Orders 10–16 and 50–1, as amended, dated March 19, 2004.

**Citation Correction and Clarification of Prohibition Against Concealment or Misrepresentation of Facts**

Section 764.2(g)(1)(ii) prohibits falsifying, misrepresenting, or concealing material facts in export control documents and boycott reports. Prior to publication of this rule, that section referenced § 760.6 of the EAR for the definition of boycott reports. Section 760.6 does not exist. This rule adds to § 764.2(g)(1)(ii) a reference to the definition of export control documents found in § 772.1. This rule also revises a sentence in § 764.2(g)(1)(ii) to clarify the definition of boycott reports by referring to such reports as ''reports filed or required to be filed pursuant to § 760.5 of the EAR.''

**Revision of Title of BIS Head in Part 766—Administrative Enforcement Proceedings**

Section 766.2 defines certain terms that are used in administrative enforcement proceedings under the EAR. Prior to publication of this rule, three of those definitions, ''initial decision,'' ''recommended decision,'' and ''Under Secretary'' referred to the Under Secretary for Export Administration. This rule revises the title of the Under Secretary in those definitions to read the ''Under Secretary of Commerce for Industry and Security,'' pursuant to the title established in the Department of Commerce Departmental Organizational Orders 10–16 and 50–1, as amended, dated March 19, 2004.

**Revision of Address for Filing Papers in Administrative Enforcement Proceedings**

Section 766.5 sets forth an address for filing papers in administrative enforcement proceedings. This rule replaces the obsolete address in § 766.5 with the current address for filing papers with the administrative law judge.

**Revision of Definition of Controlled Country**

Section 772.1 of the EAR defines many terms used in the regulations, including the term ''controlled country.'' Under this definition, the term ''controlled country'' refers to destinations to which BIS applies Commerce Control List based national security controls. All such destinations, except Cuba, are listed in Country Group D:1. Prior to publication of this rule, two destinations that had been added to Country Group D:1, and thereby made subject such national security controls, were omitted from the definition. Those destinations are: Macau, which was added to Country Group D:1 on May 28, 1999 (*see* 64 FR 28908); and Iraq, which was added on July 30, 2004 (*see* 69 FR 46074). Additionally, North Korea was removed from Country Group E:2 and added to Country Group D:1 on June, 19, 2000 (*see* 65 FR 38150—38151). This rule revises the definition of the term ''controlled country'' in § 772.1 to state that Macau, Iraq, and North Korea are in Country Group D:1, and to eliminate redundant statements from the definition.

**Removal of Reference to a Non-existent Advisory Note and Correction of the Name of a Multilateral Regime Control List Referenced in ECCN 1C018**

Export Control Classification Number 1C018 was revised in 1999 to remove the advisory note from that ECCN (*see* 64 FR 47667—47668, September 1, 1999). However, that revision did not change the reference to License Exception GBS in the License Exceptions section of that ECCN, which continued to indicate that License Exception GBS was available for items listed in the advisory note that had been removed. This rule corrects that error by revising the reference to License Exception GBS to read ''N/A'' to make clear that License Exception GBS is not available for any item in ECCN 1C018. This rule also replaces the term ''International Munitions List'' in the heading of 1C018 with the term ''Wassenaar Arrangement Munitions List'' to reflect the current name of that document.

**Exclusion of Certain Commodities in ECCN 3A001 Controlled for Missile Technology Reasons From License Exception GBS Eligibility**

ECCN 3A001, paragraph .a.1.a. controls certain integrated circuits when usable in missiles and paragraph .a.5.a controls certain analog-to-digital converters when ''designed or modified'' for military use, hermetically sealed and rated for operation in the temperature range from below ·54°C. to above +125°C. for missile technology reasons. Prior to publication of this rule, the License Exception section of ECCN 3A001 indicated that commodities in paragraph .a were eligible for License Exception LVS and that commodities in paragraphs .a.2 to .a.12 were eligible for License Exception GBS. However, section 740.2(a)(5) prohibits the use of license exceptions for items controlled for missile technology reasons except for some specified ECCNs in some specific circumstances. ECCN 3A001 is not one of those specified ECCNs. This rule adds the phrases ''except a.1.a and a.5.a when controlled for MT'' to the LVS paragraph and ''except a.5.a when controlled for MT'' to the GBS paragraph to make them consistent with § 740.2(a)(5).

**Rulemaking Requirements**

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

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves collections of information subject to the PRA. These collections have been approved by the Office of Management and Budget (OMB) under control numbers 0694–0088 and 0694–0058.

Control number 0694–0088 ''Multi-Purpose Application'' carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. Miscellaneous and recordkeeping activities account for 12 minutes per submission. Control Number 0694–0058 ''Voluntary Self-disclosures'' carries an annual burden hour estimate of 670 hours. BIS believes that this rule will not change the burden hours imposed by either of these collections. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to David Rostker, OMB Desk Officer, by e-mail at *david_rostker@omb.eop.gov* or by fax to 202.395.285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, PO Box 273, Washington, DC 20044.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The Department finds that there is good cause under 5 U.S.C. 553(b)(3)(B) to waive the provisions of the Administrative Procedure Act requiring a notice of proposed rulemaking and the opportunity for public comment because this regulation updates internal agency process matters, clarifies license exceptions, corrects citation errors and clarifies paperwork requirements as described in the preamble. The revisions made by this rule are purely administrative and do not affect the rights or obligations of the public. Because these revisions are not substantive changes to the EAR, it is unnecessary to provide notice and opportunity for public comment. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because notice of proposed rulemaking and opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

**List of Subjects**

*15 CFR Part 730*

Administrative practice and procedure, Advisory committees, Exports, Reporting and recordkeeping requirements, Strategic and critical materials.

*15 CFR Parts 740 and 748*

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

*15 CFR Parts 738 and 772*

Exports.

*15 CFR Part 756*

Administrative practice and procedure, Exports, Penalties.

*15 CFR Part 764*

Administrative practice and procedure, Exports, Law enforcement, Penalties.

*15 CFR Part 766*

Administrative practice and procedure, Confidential business information, Exports, Law enforcement, Penalties.

*15 CFR Part 774*

Exports, Reporting and recordkeeping requirements.

n Accordingly, parts 730, 738, 740, 748, 756, 764, 766, 772, and 774 are amended as follows:

## PART 730—[AMENDED]

n 1. Revise the authority citation for part 730 to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.;* 22 U.S.C. 287c; 22 U.S.C. 2151 note, Pub. L. 108–175; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p. 133; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 179; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 12981, 60 FR 62981, 3 CFR, 1995 Comp., p. 419; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13338, 69 FR 26751, May 13, 2004; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004); Notice of November 4, 2004, 69 FR 64637 (November 8, 2004).

n 2. Revise § 730.9 to read as follows:

**§ 730.9 Organization of the Bureau of Industry and Security.**

The head of the Bureau of Industry and Security is the Under Secretary for Industry and Security. The Under Secretary is assisted by a Deputy Under Secretary for Industry and Security, the Assistant Secretary for Export Administration, the Assistant Secretary for Export Enforcement, the Director of Administration, the Director of the Office of Congressional and Public Affairs, the Chief Information Officer, and the Director of the Office of International Programs. The functions and authorities of the Under Secretary are described in the Department's Organizational Order 10–16. The Department's organizational and administrative orders are available via

Office of Management and Organization's Web page on the Department's Web site at *http://www.osec.doc.gov/omo/DMPHome.htm*. The principal functions of the Bureau that directly affect the public are carried out by two units: Export Administration and Export Enforcement.

(a) Export Administration is headed by the Assistant Secretary for Export Administration, who is assisted by a Deputy Assistant Secretary. Its substantive work is carried out by five sub-units: the Office of Nonproliferation and Treaty Compliance, the Office of National Security and Technology Transfer Controls, the Office of Exporter Services, the Operating Committee, and the Office of Strategic Industries and Economic Security. The functions of the Operating Committee are described in § 750.4(f)(1) of the EAR. The roles of the other units are described on BIS's Web site at *http://www.bis.doc.gov/about/programoffices.htm*.

(b) Export Enforcement is headed by the Assistant Secretary for Export Enforcement who is assisted by a Deputy Assistant Secretary. Its substantive work is carried out by three sub-units: the Office of Export Enforcement, the Office of Enforcement Analysis and the Office of Antiboycott Compliance. The roles of these units are described on BIS's Web site at *http://www.bis.doc.gov/about/programoffices.htm*.

(c) BIS is also assisted in its work by six technical advisory committees. The procedures and criteria for establishing and operating the technical advisory committees is at supplement No. 2 to this part. Information about the specific roles of each committee, meeting schedules, and membership selection is available on BIS's Web site at *http://tac.bis.doc.gov/*.

## PART 738—[AMENDED]

n 3. The authority citation for part 738 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.;* 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 4. Revise § 738.3(a) to read as follows:

### § 738.3 Commerce Country Chart Structure.

(a) *Scope.* The Commerce Country Chart allows you to determine the Commerce Control List (CCL) export and reexport license requirements for most items listed on the CCL. Such license requirements are based on the Reasons for Control listed in the Export Control Classification Number (ECCN) that applies to the item. Some ECCNs, however, impose license requirements either without reference to a reason for control code that is listed on the Commerce Country Chart, or in addition to such a reference. Those ECCNs may state their license requirements in full in their ''Reasons for Control'' sections or they may refer the reader to another provision of the EAR for license requirement information. In addition, some ECCNs do not impose license requirements, but refer the reader to the regulations of another government agency that may impose license requirements on the items described in that ECCN.

* * * * *

## PART 740—[AMENDED]

n 5. The authority citation for part 740 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 901–911, Pub. L. 106–387; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 6. In § 740.9, revise paragraphs (a)(3)(i)(B)(*2*) and (*3*) and add a paragraph (a)(3)(i)(B)(*4*) to read as follows:

### § 740.9 Temporary imports, exports, and reexports (TMP).

* * * * *

(a) * * *

(3) * * *

(i) * * *

(B) * * *

(*2*) Commodities and software exported under paragraph (a)(2)(i), *tools of trade*, of this section;

(*3*) Commodities exported or reexported as *kits consisting of replacement parts*, consistent with the requirements of paragraph (a)(2)(ii) of this section; and

(*4*) Commodities and software exported or reexported for exhibition and demonstration in accordance with the requirements of paragraph (a)(2)(iii) of this section.

* * * * *

## PART 748—[AMENDED]

n 7. The authority citation for part 748 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 8. Revise § 748.1(c) to read as follows:

### § 748.1 General provisions.

* * * * *

(c) *Confidentiality.* Consistent with section 12(c) of the Export Administration Act, as amended, information obtained for the purpose of considering license applications, and other information obtained by the U.S. Department of Commerce concerning license applications, will not be made available to the public without the approval of the Secretary of Commerce or of the Under Secretary for Industry and Security.

n 9. Revise the first sentence of § 748.3, paragraph (a) to read as follows:

### § 748.3 Classification requests, advisory opinions, and encryption review requests.

(a) *Introduction.* You may ask BIS to provide you with the correct Export Control Classification Number down to the paragraph (or subparagraph) level, if appropriate. * * *

* * * * *

n 10. Revise § 748.4(h) to read as follows:

### § 748.4 Basic guidance related to applying for a license.

* * * * *

(h) *Emergency processing.* Applicants may request emergency processing of license applications by contacting the Outreach and Educational Services Division of the Office of Exporter Services by telephone on (202) 482–4811 or by facsimile on (202) 482–3617. Refer to the Application Control Number when making emergency processing requests. BIS will expedite its evaluation, and attempt to expedite the evaluations of other government agencies, of a license application when, in its sole judgement, the circumstances justify emergency processing. Emergency processing is not available for Special Comprehensive License applications. See § 750.7(h) of the EAR for the limit on the validity period of emergency licenses.

n 11. In § 748.8 add a new paragraph (u) to read as follows:

### § 748.8 Unique application and submission requirements.

* * * * *

(u) *Aircraft and vessels on temporary sojourn.*

### § 748.11 [Amended]

n 12. Redesignate § 748.11(e)(4)(ii)(*1*) as § 748.11(e)(4)(ii)(A) and § 748.11(e)(4)(ii)(*2*) as § 748.11(e)(4)(ii)(B).

n 13. Revise the third sentence of the introductory text of § 748.14(b) to read as follows:

**§ 748.14 Import Certificate for firearms destined for Organization of American States member countries.**

* * * * *

(b) *Import Certificate procedure.* * * * All the recordkeeping provisions of part 762 of the EAR apply to this requirement. * * *

* * * * *

n 14. In Supplement No. 2 to part 748, add a new paragraph (u) to read as follows:

Supplement No. 2 to Part 748—Unique License Application Requirements

* * * * *

(u) *Aircraft and vessels on temporary sojourn.* If the application is for an aircraft or a vessel traveling on a temporary sojourn, state the value of the aircraft or vessel as $0 in box 22(g) (unit price) and 22(h) (total price). In box 23 (Total Application Dollar Value), insert the total value of items other than the aircraft or vessel that are included in the same application. If the application is only for the aircraft or vessel on temporary sojourn, insert $0.

## PART 756—[AMENDED]

n 15. Revise the authority citation for part 756 to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 16. In § 756.2, revise the first sentence of paragraph (a) and revise paragraph (b)(1) to read as follows:

**§ 756.2 Appeal from an administrative action.**

(a) *Review and appeal officials.* The Under Secretary may delegate to the Deputy Under Secretary for Industry and Security or to another BIS official the authority to review and decide the appeal. * * *

(b) *Appeal procedures.* (1) *Filing.* An appeal under this part must be received by the Under Secretary for Industry and Security, Bureau of Industry and Security, U.S. Department of Commerce, Room 3898, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230 not later than 45 days after the date appearing on the written notice of administrative action.

* * * * *

## PART 764—[AMENDED]

n 17. Revise the authority citation for part 764 to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 18. Revise § 764.2(g)(1)(ii) to read as follows:

**§ 764.2 Violations.**

* * * * *

(g) * * *

(ii) In connection with the preparation, submission, issuance, use, or maintenance of any export control document as defined in § 772.1, or any report filed or required to be filed pursuant to § 760.5 of the EAR; or

* * * * *

## PART 766—[AMENDED]

n 19. Revise the authority citation for part 766 to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 20. In § 766.2, revise the definitions of ''Initial decision,'' ''Recommended decision,'' and ''Under Secretary'' to read as follows:

**§ 766.2 Definitions.**

* * * * *

*Initial decision.* A decision of the administrative law judge in proceedings involving violations relating to part 760 of the EAR, which is subject to appellate review by the Under Secretary of Commerce for Industry and Security, but which becomes the final decision in the absence of such an appeal.

* * * * *

*Recommended decision.* A decision of the administrative law judge in proceedings involving violations other than those relating to part 760 of the EAR, which is subject to review by the Under Secretary of Commerce for Industry and Security, who issues a written order affirming, modifying or vacating the recommended decision.

* * * * *

*Under Secretary.* The Under Secretary for Industry and Security, United States Department of Commerce.

n 21. In § 766.5, revise the first sentence of paragraph (a) to read as follows:

**§ 766.5 Filing and service of papers other than charging letter.**

(a) *Filing.* All papers to be filed shall be addressed to EAR Administrative Enforcement Proceedings, U.S. Coast Guard, ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland, 21202–4022, or such other place as the administrative law judge may designate. * * *.

* * * * *

## PART 772—[AMENDED]

n 22. The authority citation for part 772 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 23. In § 772.1, revise the definition of ''controlled country'' to read as follows:

**§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).**

* * * * *

*Controlled country.* Countries designated controlled for national security purposes under authority delegated to the Secretary of Commerce by Executive Order 12214 of May 2, 1980 pursuant to section 5(b) of the EAA. The controlled countries are: Albania, Armenia, Azerbaijan, Belarus, Bulgaria, Cambodia, Cuba, the People's Republic of China, Estonia, Georgia, Iraq, Kazakstan, Kyrgyzstan, Laos, Latvia, Lithuania, Macau, Moldova, Mongolia, North Korea, Romania, Russia, Tajikstan, Turkmenistan, Ukraine, Uzbekistan, and Vietnam. All of the controlled countries except Cuba are listed in Country Group D:1 of the EAR. Cuba is listed in Country Group E:2. This definition does not apply to part 768 of the EAR (Foreign Availability), which provides a dedicated definition.

* * * * *

## PART 774—[AMENDED]

n 24. The authority citation for part 774 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 25. In Supplement No. 1 to part 774, Category 1—Materials, Chemicals, ''Microorganisms,'' and Toxins, Export Control Classification Number 1C018, revise the heading and the GBS paragraph of the License Exceptions section to read as follows:

**1C018 Commercial Charges and Devices Containing Energetic Materials on the Wassenaar Arrangement Munitions List and Certain Chemicals as Follows (see List of Items Controlled)**

* * * * *

**License Exceptions**

LVS * * *.
*GBS:* N/A
*CIV:* * * *

* * * * *

n 26. In Supplement No. 1 to part 774, Category 3—Electronics, Export Control Classification Number 3A001, revise the License Exception section to read as follows:

**3A001 Electronic Components, as Follows (see List of Items Controlled)**

* * * * *

**License Exceptions**

*LVS:* N/A for MT or NP.
Yes for:
$1500: 3A001.c
$3000: 3A001.b.1, b.2, b.3, .d, .e and .f
$5000: 3A001.a (except.a.1.a and a.5.a when controlled for MT), and .b.4 to b.7

*GBS:* Yes for 3A001.a.1.b, a.2 to a.12 (except .a.5.a when controlled for MT), b.2, and b.8 (except for TWTAs exceeding 18 GHz)

*CIV:* Yes for 3A001.a.3.b, a.3.c, a.4, a.7, and a.11.

* * * * *

Dated: February 14, 2005.

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 05–3216 Filed 2–17–05; 8:45 am]

BILLING CODE 3510–33–P

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## DEPARTMENT OF COMMERCE

## Bureau of Industry and Security

## 15 CFR Part 740

**[Docket No. 050209030–5030–01]**

**RIN 0694–AD38**

## Revision of License Exception TMP for Activities by Organizations Working To Relieve Human Suffering in Sudan

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule revises the Export Administration Regulations to allow staff and employees of certain organizations to use License Exception TMP to export basic communications equipment such as cell phones, personal computers, personal digital assistants, global positioning systems or similar satellite receivers and related software to Sudan for up to one year to be used in the activities of those organizations to relieve human suffering.

**DATES:** This rule is effective on February 18, 2005.

**FOR FURTHER INFORMATION CONTACT:** Eric Longnecker, Foreign Policy Division, Office of Nonproliferation and Treaty Compliance, 202–482–5537, *elongnec@bis.doc.gov*.

**SUPPLEMENTARY INFORMATION:** This rule revises License Exception TMP (15 CFR 740.9) to authorize certain exports, but not reexports, to Sudan of certain commodities and software that otherwise would require a license pursuant to § 742.10 or § 742.15 of the EAR. This rule makes the tools of trade provisions of License Exception TMP available to (1) non-governmental organizations that are engaged in activities to relieve human suffering in Sudan and that are registered by the Department of the Treasury, Office of Foreign Assets Control (OFAC) pursuant to 31 CFR 538.521, or (2) organizations that are authorized by OFAC to take actions, for humanitarian purposes, that otherwise would be prohibited by the Sudanese Sanctions Regulations (31 CFR part 538), or (3) staff or employees of either such type of organization. Under this rule, those parties are authorized, under section 740.9(a)(i) of the EAR, to export to Sudan certain basic telecommunications equipment controlled under Export control Classification Number (ECCN) 5A991 such as cell phones, personal digital assistants and other wireless handheld devices, personal computers (including laptops) controlled under ECCN 4A994 that do not exceed a composite theoretical performance of 6,500 millions of theoretical operations per second (MTOPS), and global positioning system (GPS) or similar satellite receivers controlled under ECCN 7A994. These revisions to License Exception TMP also allow the export of related software controlled under ECCNs 4D994 and 5D992 for the use of such telecommunications equipment or computers. The software must be loaded onto the commodity prior to being exported and remain loaded on the commodity while in Sudan. This rule also authorizes parts and components of those ECCN 5A991 and 4A994 devices that are controlled under ECCN 5A992 and that are installed with, or contained in, such computers or equipment to be exported under License Exception TMP. The parts and components must remain installed with, or contained in, such computers or equipment while in Sudan. The tools of trade must accompany (either hand carried or as checked baggage) a member of the staff or an employee of such an organization to Sudan.

In connection with the temporary tools of trade exports that it authorizes pursuant to License Exception TMP, this rule employs the term ''staff and employees'' rather than the term ''employees'' that applies to other temporary tools of trade exports under License Exception TMP. The broader term will allow the use of License Exception TMP for temporary tools of trade exports by persons traveling to Sudan at the direction of, or with the knowledge of, an organization registered pursuant to 31 CFR 538.521 or an organization authorized by OFAC to take actions, for humanitarian purposes, that otherwise would be prohibited by the Sudanese Sanctions Regulation (31 CFR part 538) to assist in the work of such organization in Sudan, even if such person is not an employee of such organization. For example, a health care worker traveling from the United States to Sudan, at the direction of, or with the knowledge of, an eligible organization to act as a volunteer providing medical care as part of the activities of that organization would be considered ''staff'' under this rule, even if that person is not an employee of the eligible organization. This rule makes no such expansion of eligibility for use of License Exception TMP for temporary tools of trade exports to destinations other than Sudan.

Exports made pursuant to this rule must also meet the general requirements for temporary exports under License Exception TMP set forth in § 740.9(a) of the EAR and the specific requirements applying to tools of trade set forth in § 740.9(a)(2)(i). Such exports are also subject to the restrictions on the use of all License Exceptions found in § 730.2 of the EAR.

BIS is publishing this rule to facilitate the activities of organizations working to relieve human suffering in Sudan by reducing the need for export licenses faced by such organizations, their staffs and employees. The commodities and software being made eligible for export under License Exception TMP by this rule do not require a license for export or reexport to most destinations, but do require a license for export or reexport to Sudan because that country has been designated by the Secretary of State as a state sponsor of terrorism.

Although the Export Administration Act of 1979 (EAA), as amended, expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)) as extended by the Notice of August 6, 2004, 69 FR 48763 (August 10, 2004), continues the EAR in effect under the International Emergency Economic Powers Act (IEEPA).

*Rulemaking Requirements:*

1. This rule has been determined to be significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves a collection of information subject to the PRA that has been approved by OMB under control number 0694–0088, ''Multi-Purpose Application, which carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to David Rostker, OMB Desk Officer, by e-mail at *david_rostker@omb.eop.gov* or by fax to 202–395–285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. This rule does not contain policies with federalism implications as this term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this rule is being issued in final form.

**List of Subjects in 15 CFR Part 740**

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

n Accordingly, part 740 of the Export Administration Regulations (15 CFR parts 730–799) is amended as follows:

## PART 740—LICENSE EXCEPTIONS

n 1. The authority citation for part 740 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; sec. 901–911, Pub. L. 106–387; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 2. In § 740.9, revise paragraph (a)(2)(i), and paragraph (a)(5) to read as follows:

**§ 740.9 Temporary imports, exports, and reexports (TMP).**

* * * * *

(a) * * *

(2) * * *

(i) *Tools of trade.* Usual and reasonable kinds and quantities of tools of trade (commodities and software) for use in a lawful enterprise or undertaking of the exporter. The transaction must meet the requirements of paragraph (a)(2)(i)(A) or paragraph (a)(2)(i)(B) of this section. For exports under this License Exception of laptops, handheld devices and other computers and equipment loaded with encryption commodities or software, refer to interpretation 13 in § 770.2 of the EAR.

(A) *Destinations other than Country Group D:2 or Sudan.* Exports and reexports of tools of trade for use by the exporter or employees of the exporter may be made to destinations other than Country Group E:2 or Sudan. The tools of trade must remain under the ''effective control'' (*see* § 772.1 of the EAR) of the exporter or the exporter's employee. Eligible tools of trade may include, but are not limited to, equipment and software as is necessary to commission or service goods, provided that the equipment or software is appropriate for this purpose and that all goods to be commissioned or serviced are of foreign origin, or if subject to the EAR, have been legally exported or reexported. Tools of trade may accompany the individual departing from the United States or may be shipped unaccompanied within one month before the individual's departure from the United States, or at any time after departure.

(B) *Sudan.* Exports, but not reexports, of tools of trade may be made to Sudan by: A non-governmental organization engaged in activities to relieve human suffering in Sudan and registered by the Department of the Treasury, Office of Foreign Assets Control (OFAC) pursuant to 31 CFR 538.521; or by an organization authorized by OFAC to take actions, for humanitarian purposes, that otherwise would be prohibited by the Sudanese Sanctions Regulations (31 CFR part 538); or by staff or employees of either such type of organization. The tools of trade must remain under the ''effective control'' (*see* § 772.1 of the EAR) of the exporter or its employee or staff. The tools of trade must be used in activities to relieve human suffering and, when exported, must accompany (either hand carried or as checked baggage) a member of the staff or an employee of such an organization to Sudan. In this paragraph (a)(2)(i)(B), the term ''staff'' means a person traveling to Sudan, at the direction of, or with the knowledge of an organization registered pursuant to 31 CFR 538.521 or an organization authorized by OFAC to take actions, for humanitarian purposes, that otherwise would be prohibited by the Sudanese Sanctions Regulations (31 CFR part 538), to assist in the work of such organization in Sudan even if such person is not an employee of such organization. The only tools of trade that may be exported to Sudan under this paragraph (a)(2)(i) are:

(*1*) Personal computers (including laptops) controlled under ECCN 4A994 that do not exceed a composite theoretical performance of 6,500 millions of theoretical operations per second and ''software'' controlled under ECCNs 4D994 or 5D992 that is for the ''use'' of such computers and that was loaded onto such computers prior to export an remains loaded on such computers while in Sudan;

(*2*) Telecommunications equipment controlled under ECCN 5A991 and ''software'' controlled under ECCN 5D992 that is for the ''use'' of such equipment and that was loaded onto that equipment prior to export and that remains loaded on such equipment while in Sudan;

(*3*) Global positioning system (GPS) or similar satellite receivers controlled under ECCN 7A994; and

(*4*) Parts and components that are controlled under ECCN 5A992, that are installed with, or contained in, computers or telecommunications equipment listed in paragraphs (a)(2)(i)(B)(*1*) and (*2*) of this section and that remain installed with or contained in such computers or equipment while in Sudan.

* * * * *

(5) *Reexports.* Commodities and software legally exported from the United States may be reexported to a new country(ies) of destination other than Sudan or Country Group E:2 under provisions of this paragraph (a) provided its terms and conditions are met and the commodities and software are returned to the country from which the reexport occurred.

* * * * *

Dated: February 14, 2005.

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 05–3215 Filed 2– 17–05; 8:45 am]

BILLING CODE 3510–33–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 35

**[Docket No. RM04–14–000; Order No. 652; 110 FERC ¶ 61,097]**

## Reporting Requirement for Changes in Status for Public Utilities With Market-Based Rate Authority

Issued February 10, 2005.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** In this Final Rule, the Federal Energy Regulatory Commission (Commission) is amending its regulations to establish a reporting obligation for changes in status that apply to public utilities authorized to make wholesale power sales in interstate commerce at market-based rates. The Commission is amending its regulations to establish guidelines concerning the types of events that trigger this reporting obligation and modifying the market-based rate authority of current market-based rate sellers to ensure that all such events are timely reported to the Commission by eliminating the option to delay reporting of such events until submission of a market-based rate seller's updated market power analysis. This reporting requirement will be incorporated into the market-based rate tariff of each entity that is currently authorized to make sales at market-based rates, as well as that of all future applicants.

**DATES:** *Effective Date:* This Final Rule will become effective on March 21, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Brandon Johnson, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6143

Michelle Barnaby, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8407

**SUPPLEMENTARY INFORMATION:**

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Before Commissioners: Pat Wood, III, Chairman; Nora Mead Brownell, Joseph T. Kelliher, and Suedeen G. Kelly.

### Introduction

1. On October 6, 2004, the Commission issued a Notice of Proposed Rulemaking (NOPR) that proposed to standardize and clarify market-based rate sellers' reporting requirement for changes in status. The Commission proposed to impose uniform standards on all market-based rate sellers by eliminating the option to delay reporting changes in status until submission of the triennial review, or to file a triennial review in lieu of reporting changes in status as they occur. Acting pursuant to section 206 of the FPA, the Commission proposed to amend its regulations and to modify the market-based rate authority of current market-based rate sellers to include the requirement to timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority. The Commission proposed that this reporting requirement be incorporated into the market-based rate tariff of each entity that is currently authorized to make sales at market-based rates, as well as that of all future applicants. The Commission proposed that notice of such changes in status be filed no later than 30 days after the change in status occurs.

2. As discussed more fully below, in this Final Rule, the Commission, among other things: Imposes uniform standards on all market-based rate sellers by eliminating the option to delay reporting changes in status until submission of the triennial review or to file a triennial review in lieu of reporting changes in status as they occur; specifically refers to ''control'' of generation or transmission facilities as a trigger which could result in the obligation to make a change in status filing; provides guidance as to the ''characteristics'' the Commission relies on in evaluating whether to grant market-based rate authority; provides guidance as to the form, content, and timing of a change in status filing; and incorporates into all market-based rate tariffs the standards discussed herein.

3. In doing so, the Commission has adopted many of the recommendations suggested by commenters. In this regard, the Commission clarifies that a change in status filing is one of the tools the Commission uses to ensure that wholesale electric rates remain just and reasonable. In particular, a change in status filing informs the Commission of changes that may occur from time to time that relate to the four-part analysis (generation market power, transmission market power, other barriers to entry, and affiliate abuse and reciprocal dealing) the Commission relies on for granting market-based rate authority. At the same time, however, the Commission finds that some of the recommendations made by commenters are more appropriately addressed in the market-based rate rulemaking proceeding that the Commission has initiated in Docket No. RM04–7–000.

4. As discussed below, the Commission finds that a number of issues regarding the Commission's analysis under the four-part test (*e.g.*, what constitutes control of an asset, how to treat long-term contracts, how to evaluate whether an applicant has transmission market power) are more appropriately addressed in the market-based rate rulemaking, in which numerous technical conferences have been held and comments filed. It is in that proceeding that the Commission will examine the recommendations of commenters and address the adequacy of the current four-part analysis, including whether and how it should be modified to assure that electric market-

based rates are just and reasonable under the FPA.

5. With respect to change in status filings, in this Final Rule applicants are reminded that the baseline determination of whether a filing is required is whether the change in status in question would have been reportable in an initial application for market-based rate authority under the Commission's four-part analysis, as it may change from time to time. To the extent that the change in status in question would have been reportable in an initial request for market-based rate authority, a change in status filing is required. For example, if an applicant acquires additional uncommitted capacity, a change in status filing is required.

6. The Commission provides this guidance to enable applicants to better determine when they must report a change in status. The electric industry is a dynamic industry and no bright-line standard is possible to encompass all relevant factors and possibilities that may occur. The Commission believes that sufficient guidance has been provided in this Final Rule and reminds applicants that they have the right to make a change in status filing under section 205 of the Commission's regulations at any time. With this safeguard, the Commission is certain that applicants have the means to fully comply with the change in status requirement and with the standards adopted herein can do so efficiently and with no additional burden.

## Background

7. As the Commission explained in the NOPR, it has a statutory duty under the FPA to ensure that rates charged by public utilities authorized to make wholesale sales in interstate commerce at market-based rates are just and reasonable.[1–2] The Commission uses a four-part test to determine whether to grant market-based rate authority. That test examines whether the applicant or its affiliates possess the potential to exercise market power by considering generation market power, transmission market power, barriers to entry, and the potential for affiliate abuse or reciprocal dealing. Sellers authorized to make sales at market-based rates are then required to file electric quarterly reports containing a summary of the contractual terms and conditions in every effective service agreement for market-based power sales and transaction information for their market-based rate sales during the most recent calendar quarter.[3]

8. The Commission has also required that market-based rate sellers report any changes in status that would reflect a departure from the characteristics the Commission relied upon in its existing grant of market-based rate authority. When the Commission first granted market-based rate authorizations, it required traditional utilities that satisfied the Commission's initial market power review to file an updated market power analysis every three years to allow the Commission to monitor competitive conditions and to determine whether the applicants still satisfied our market power concerns.[4] Power marketers, on the other hand, were required to promptly notify the Commission of changes in status.[5] Subsequently, the Commission has allowed market-based-rate sellers to choose between promptly reporting changes in status, filing a three-year update in lieu of reporting changes in status as they occurred,[6] or reporting such changes in conjunction with the updated market analysis.[7] The Commission reserved the right to require such an analysis at any time and, in the NOPR, proposed to continue to reserve this right.

9. To carry out its statutory duty under the FPA to ensure that market-based rates are just and reasonable, the Commission must rely on market-based rate sellers to provide accurate, up-to-date information regarding any relevant changes in status, such as ownership or control of generation or transmission facilities and affiliate relationships. In contrast to when the Commission first began to authorize market-based rate sales, as markets have expanded and developed, both the number and types of market-based rate sellers have increased (*e.g.*, independent power producers, power marketers, affiliated generators) and the complexity of wholesale markets has increased. Furthermore, market structure is rapidly evolving due to restructuring, corporate realignments and new types of contractual and subcontracting arrangements, in which utilities increasingly grant other firms control over managing various aspects of their business such as power marketing. In light of these structural changes, the Commission has concluded that more timely reporting of changes in status is necessary.

10. Therefore, the Commission proposed in the NOPR to eliminate the option to delay reporting changes in status until the next triennial review, or to file a triennial review in lieu of promptly reporting changes in status, and to standardize the change in status reporting requirement. Accordingly, the proposed regulations would require that, as a condition of obtaining and retaining market-based rate authority, all sellers will be required to timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.

## Discussion

### General Issues

*Comments*

11. With only a few exceptions, the commenters support the Commission's proposal to standardize market-based rate sellers' reporting requirement. Nearly all of the comments received urge the Commission to more clearly define market-based rate sellers' reporting obligation and to do so in a manner that does not impose an excessive reporting burden.

12. Mayflower LP (Mayflower) argues that the Commission's entire approach of attempting to develop market power tests is misguided because the variables involved are too complex to describe effectively in a regulation. Mayflower contends that the Commission should instead prioritize its resources to mitigating the obvious cases of market power, in particular by utilizing section 205(f) of the FPA[8] to end market power abuses through fuel adjustment clauses, which allow utilities to pass through the costs of operating dirty and inefficient gas and boiler generation, while cleaner, cheaper-to-run combined cycle generation sits idle.[9]

13. Tractebel North America, Inc. (Tractebel), citing the Commission's recent order disclaiming jurisdiction under section 203 for a generation-only

[1–2] 16 U.S.C. 824d(a) (2000).

[3] Revised Public Utility Filing Requirements, Order No. 2001, 67 FR 31,043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (Apr. 25, 2002). The required data sets for contractual and transaction information are described in Attachments B and C of Order No. 2001.

[4] *See, e.g.*, Entergy Services, Inc., 58 FERC ¶ 61,234 (1992); Louisville Gas & Electric, 62 FERC ¶ 61,016 (1993).

[5] *See, e.g.*, Citizens Power & Light Corp., 48 FERC ¶ 61,210 (1989); Enron Power Marketing, 65 FERC ¶ 61,305 (1993); InterCoast Power Marketing Co., 68 FERC ¶ 61,248 (1994).

[6] *See, e.g.*, Morgan Stanley Capital Group, Inc., 69 FERC ¶ 61,175 (1994).

[7] *See, e.g.*, AEP Power Marketing, Inc., 76 FERC ¶ 61,307 at 62,516 (1996); Montaup Electric Co., 85 FERC ¶ 61,313 at 62,232 (1998); Sithe/Independence Power Partners, 101 FERC ¶ 61,210 at 61,907 (2002).

[8] 16 U.S.C. 824d(f) (2000).

[9] Mayflower at 2, 8.

facility in Perryville Energy Partners,[10] argues that the review of transactions in the context of market-based rate authority is an inadequate substitute for Commission review of a public utility's acquisition of an asset under section 203. Accordingly, in cases where the Commission lacks jurisdiction under section 203, Tractebel urges the Commission to review acquisitions of generation not only in the context of a notice of change in status, but also in related filings, such as any rate filing for transmission interconnection service over assets that will continue to be owned by the seller and filings related to exempt wholesale generator (EWG) status.[11]

14. Finally, Pacific Gas & Electric Company (PG&E) argues that the reporting requirement proposed in the NOPR should apply to energy marketers but not to investor-owned utilities that are serving native load customers and are members of an independent system operator (ISO) or regional transmission organization (RTO). According to PG&E, there are legitimate differences between energy marketers (who, as net sellers, engage in electric trades for profit and can influence the market relatively rapidly) and traditional utilities such as PG&E (who are net buyers and do not speculate).[12]

*Commission Conclusion*

15. We decline to adopt Mayflower's proposal to address alleged market power abuses through fuel adjustment clauses because it goes beyond the scope of the instant rulemaking. Section 205(f) requires the Commission to review practices under public utility automatic adjustment clauses to ensure efficient use of resources under such clauses. If a party believes that this is not being done, the Commission encourages the filing of a complaint to remedy the matter. Proposals such as Mayflower's, which urge the Commission to adopt a new approach toward the mitigation of market power, are more appropriately addressed in the generic rulemaking in Docket No. RM04–7–000.

16. In response to Tractebel's comments, the acquisition of a generating facility by a utility with market-based rate authority such as occurred in Perryville is an event that would trigger the filing of a change in status report consistent with this rule. Whether it would trigger other jurisdictional filings such as a rate filing for transmission interconnection service or filing related to EWG status, as Tractebel suggests, would depend on the facts of the particular case. As the Commission stated in the Perryville case, the Commission will consider the effect of the addition of the Perryville capacity as part of the Commission's review of Entergy's updated market power analysis in Docket No. ER91–569–023, *et al.*[13]

17. We will also reject PG&E's suggestion to exempt investor-owned utilities such as PG&E from the reporting requirement. Adopting PG&E's proposal could result in allowing large vertical utilities to increase their market share or otherwise obtain market power without notifying the Commission of changed circumstances. Under PG&E's proposal, a vertical utility could have changed circumstances that would result in that utility no longer satisfying one or more prongs of the four-part test that the Commission uses to determine whether to grant market-based rate authorization. With no notification to the Commission in that regard such a proposal provides little or no protection to customers in the market between review periods, (*i.e.*, triennial review). To the extent that PG&E assumes an RTO's mitigation warrants an exemption, we have rejected such an exemption in the previous orders.[14]

**Triggering Events**

18. With respect to the types of events that should trigger the reporting obligation, the Commission proposed in the NOPR that, as an initial matter, the following events would qualify as changes in status: (1) Ownership or control of generation or transmission facilities or inputs to electric power production; or (2) affiliation with any entity not disclosed in the filing that owns or controls generation or transmission facilities or inputs to electric power production or affiliation with any entity that has a franchised service area.[15] The Commission noted that, although the change in status provision has not specifically referenced ''control'' of assets, the Commission has historically taken into account all of the assets that a market-based rate seller controls in our four-part test for granting market-based rate authority. In order to eliminate any market uncertainty, the Commission proposed that the regulations specifically reference ''control'' as well as ownership as a factor relied upon by the Commission. As we noted in the NOPR, the Commission's early orders granting market-based rate authority acknowledged that sellers may exercise market power through contractual arrangements granting them control of generation or transmission facilities just as effectively as they could through ownership.[16] Similarly, the Commission's guidelines for the assessment of mergers and its generation market power analysis for market-based rate authority provide that, for the purposes of the market power analysis, the capacity associated with contracts that confer operational control of a given facility to an entity other than the owner must be assigned to the entity exercising control over that facility, rather than to the entity that is the legal owner of the facility.[17] In addition, with respect to notifications of changes in status, the Commission has found that an entity controls the facilities of another when it controls the decision-making authority over sales of electric energy, including discretion as to how, when and to whom it could sell power generated by these facilities.[18]

*Triggering Events Generally*

Comments

19. Several commenters assert that the definitions of triggering events are vague or unclear and request that the Commission clarify these elements of the proposed regulations.[19] Some commenters request that the Commission clarify these terms by issuing a supplemental NOPR offering a detailed description of the specific

[10] 109 FERC ¶ 61,019 (2004) (Perryville).

[11] Tractebel at 3–4.

[12] PG&E at 4–6.

[13] Perryville, 109 FERC ¶ 61,019 at P 20, 22.

[14] *See* AEP Power Marketing, Inc., 107 FERC ¶ 61,018 at P 186 (2004) (April 14 Order), order on reh'g, 108 FERC ¶ 61,026 at P 175 (2004) (July 8 Order).

[15] The Commission's regulations define ''affiliated companies'' as ''companies or persons that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the [subject] company.'' 18 CFR part 101 (2004). *See also* 18 CFR 161.2 (2004); Morgan Stanley Capital Group, 72 FERC ¶ 61,082 (1995).

[16] *See, e.g.*, Citizens Power, 48 FERC ¶ 61,210 at 61,777 (''Usually, the source of market power is dominant or exclusive ownership of the facilities. However, market power also may be gained without ownership. Contracts can confer the same rights of control. Entities with contractual control over transmission facilities can withhold supply and extract monopoly prices just as effectively as those who control facilities through ownership.'').

[17] *See* April 14 Order, 107 FERC ¶ 61,018 at P 95; 108 FERC ¶ 61,026 at P 65; Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act: Policy Statement, Order No. 592, 61 FR 68,595 (1996), FERC Stats. & Regs. ¶ 31,044 (1996), recons. denied, Order No. 592–A, 62 FR 33,341 (1997), 79 FERC ¶ 61,321 (1997) (Merger Policy Statement); *see also* Revised Filing Requirements Under Part 33 of the Commission's Regulations, Order 642, 65 FR 70,983 (2000), FERC Stats. & Regs. ¶ 31,111 (2000), order on reh'g, Order No. 642–A, 66 FR 16,121 (2001), 94 FERC ¶ 61,289 (2001).

[18] El Paso Electric Power Co., 108 FERC ¶ 61,107 at P 14 (2004), reh'g pending.

[19] *See, e.g.*, Xcel Energy Services (Xcel) at 4–5.

information it needs[20] or by setting forth clear ''rules of the road'' to provide market-based rate sellers guidance as to whether they are in compliance with the Commission's requirements.[21] Cinergy Services, Inc. (Cinergy) urges the Commission to limit the scope of the present rulemaking to reviewing reporting requirements for changes in status relevant to the Commission's current four-part analysis for market-based rate authority and to defer consideration of new issues or modifications to the current market-based rate tests for the parallel rulemaking in Docket No. RM04–7–000.[22]

20. Commenters were divided as to whether the Commission should include an illustrative list of triggering events. Calpine Corporation (Calpine) and Transmission Access Policy Study Group (TAPS) argue that the Commission should adopt bright-line standards for what constitutes a reportable event and suggest specific events that should trigger the reporting requirement, which are discussed further below.[23] National Rural Electric Cooperatives Association (NRECA) argues that the Commission should clearly define when the reporting obligation is triggered because failure to comply could potentially result in retroactive refunds pursuant to the Ninth Circuit's decision in *California ex rel. Lockyer* v. *FERC* [24] and/or suspension or revocation of market-based rate authority.[25]

21. On the other hand, the Bank Power Marketers and Industrial Energy Users—Ohio and PJM Industrial Customers Coalition (IEU—Ohio/PJMICC) argue that the Commission should not rely on a laundry list of transaction types[26] or an illustrative list of reporting triggers.[27]

22. American Public Power Association (APPA) comments that the reporting requirement should provide for the reporting of changes that ''could affect the public utility's eligibility for [market-based rate] authority,'' based on current standards for authorization of market-based rates, rather than requiring reporting of only those events that ''would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.''[28]

23. EEI, supported by Pacificorp, argues that the reporting obligation should extend only to changes in circumstances within the applicant's control. According to EEI, an applicant should not be required to report a change of circumstances based on an action taken by a competitor (such as a decision to retire a generation unit or take transmission capacity out of service) or natural events (such as a high hydro-year, higher wind generation or load disruptions due to adverse weather conditions) that might change the result of the interim screens.[29]

24. Finally, commenters suggest the following additional triggering events: The acquisition of Financial Transmission Right (FTR) positions into constrained load pockets that exceed a seller's load obligations in the load pocket,[30] any changes in ISO or RTO status for the relevant market; or any changes in state regulations relative to load-serving obligations in the relevant market;[31] changes in market definition, *e.g.*, due to transmission outages or the change in size of a load pocket, provided that such changes are confirmed by the independent and published judgment of an ISO or RTO overseeing local market power issues pursuant to a Commission tariff.[32]

Commission Conclusion

25. After careful consideration of the comments, the Commission rejects commenters' proposals to clarify the reporting requirement by including an illustrative list of triggering events or to otherwise expand the list of triggering events beyond those contained in the NOPR. We reject this suggestion, first, because we believe that the definition of triggering events contained in the Commission regulations adopted here, offers market-based rate sellers sufficient notice of and guidance concerning the scope of their reporting requirement. The reporting requirement we adopt herein ensures that the Commission retains the discretion and flexibility to protect customers in light of future, unforeseen changes in wholesale electricity markets that may allow market-based rate sellers to exercise market power. Consequently, the Commission does not believe that commenters have provided sufficient support for their contention that the inclusion of an illustrative list would in fact increase regulatory certainty.

26. In response to the request of Cinergy, we clarify that the reporting requirement is limited to reviewing changes in status relevant to the Commission's current four-part analysis for market-based rate authority and that the Commission will not consider any new tests or modifications of its current four-part test in this docket. APPA has argued that the Commission should change its existing reporting requirement—which obligates market-based rate sellers to report changes that ''would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority''—to require reporting of changes that ''could affect the public utility's eligibility for [market-based rate] authority,'' based on current standards for authorization of market-based rate authority. We clarify that the ''characteristics'' refer to the Commission's four-part test and our analysis thereof. The Commission evaluates any request to obtain or retain market-based rate authority under its currently applicable standards for each of the four prongs; similarly, a notice of change in status is required in circumstances where the factors the Commission relied upon in evaluating the four-part test as it applies to an applicant change. Under these circumstances, the Commission will apply the currently applicable standard in its assessment of whether that entity may continue to make sales at market-based rates. Second, APPA's proposal to require reporting of changes that ''could affect the public utility's eligibility for [market-based rate] authority'' appears to be more subjective than our current standard and could result in sellers reporting information that the Commission would not consider relevant. We believe that we have given sufficiently clear guidance regarding triggering events to limit market-based rate sellers' discretion to avoid reporting changes in status that would confer or enhance market power.

27. We agree with EEI that the reporting obligation should extend only to changes in circumstances within the knowledge and control of the applicant. Accordingly, an applicant should not be required to report a change in circumstances based on an action taken by a competitor (such as a decision to retire a generation unit or take transmission capacity out of service) or natural events (such as hydro-year, higher wind generation or load disruptions due to adverse weather conditions). While we will not expand

[20] Barclays Bank PLC, DB Energy Trading, LLC, Aron & Company, Merrill Lynch Commodities, Inc., Morgan Stanley Capital Group Inc. (Bank Power Marketers) at 13–14; FirstEnergy Service Company (FirstEnergy) at 5.

[21] Powerex Corporation (Powerex) at 5; Electric Power Supply Association (EPSA) at 2.

[22] Cinergy at 6.

[23] Calpine at 4–11; TAPS at 2 and 15.

[24] 383 F.3d 1006 (9th Cir. 2004).

[25] NRECA at 5.

[26] Bank Power Marketers at 14.

[27] IEU—Ohio/PJMICC at 10–12.

[28] APPA at 7.

[29] EEI at 10–11; Pacificorp at 7.

[30] TAPS at 2 and 15.

[31] IEU—Ohio/PJMICC at 10–12.

[32] SoCal Edison at 9–10.

the triggering events as proposed in the NOPR in this Final Rule, interested persons can pursue these matters in the course of the generic rulemaking we have established in Docket No. RM04–7–000, which will address proposed modifications to the Commission's current four-part test for granting market-based rate authority.

*Exemptions*

Comments

28. Commenters suggest a number of events that should be exempted from the reporting requirement. BP Energy Company (BP Energy), Cinergy, Duke Energy Corporation (Duke), EPSA, FirstEnergy, and Edison Electric Institute and Alliance of Energy Suppliers (EEI) contend that the reporting requirement should not apply to events covered by section 203 applications.[33]

29. Bank Power Marketers and Westar Energy, Inc. (Westar) oppose the proposals contained in the NOPR on the ground that the proposed reporting requirement would be both excessive and duplicative, given that the Commission already receives the same information through existing reporting requirements, *e.g.*, section 203 applications, triennial updates, Electric Quarterly Reports (EQR), Form 3–Q, etc.[34]

30. EEI and PacifiCorp argue that long-term contracts should not be reportable.[35] National Grid USA (National Grid) argues that market-based rate sellers should not be required to report long-term contracts that were entered into either to satisfy their ''provider of last resort'' (POLR) obligations or through state-regulated competitive solicitation processes that are consistent with the Commission's standards for inter-affiliate transactions.[36] National Grid and IEU—Ohio/PJMICC also support the exemption of purchases from qualified facilities mandated by the Public Utility Regulatory Policies Act of 1978 (PURPA).[37]

31. Duke suggests that the following events should be exempt: (i) Transactions outside market-based rate sellers' home or first-tier control area markets; (ii) affiliate transactions subject to other reporting requirements; (iii) transactions involving post-1996 generation facilities; and (iv) intra-corporate reorganizations that do not involve the acquisition of additional assets and thus do not affect market share or concentration.[38] Cinergy argues that the reporting obligation should not apply to transactions that do not increase ownership or control, specifically: (i) Intra-corporate transactions between affiliates within one holding company system or transactions that are simply a change in corporate form; (ii) purely financial transactions such as futures, swaps and derivatives that do not have a physical component; and (iii) construction of new generation otherwise exempt under Commission regulations.[39] Tucson Electric Power Company (Tucson Electric) urges the Commission to exempt entities subject to oversight by an Independent Market Monitor (IMM) because the IMM will investigate and report to the Commission any anticompetitive behavior.[40]

32. Finally, Cinergy and Tractebel urge the Commission to clarify that the Commission is only concerned with changes in status that may increase market power, but not those that decrease it, so, for example, the purchase of generation might trigger the reporting requirement, but a sale should not.[41] Similarly, Calpine argues that a public utility's decrease in generation capacity cannot increase its generation market power over what the Commission assumed when it granted market-based rate authority, so it would be a waste of resources to require such reporting.[42]

33. With respect to changes in ownership or control of transmission facilities, EEI, FirstEnergy and National Grid argue that, given the existence of the open access transmission tariff (OATT) requirement, which constrains the exercise of vertical market power, there should be no reporting requirement for changes in status regarding transmission facilities covered by an OATT.[43] National Grid urges the Commission to defer the establishment of reporting requirements associated with changes in transmission market power status until it has developed, in the context of Docket No. RM04–7–000, more of an understanding of what transmission market power is and how it might be abused.[44] EEI, FirstEnergy, and National Grid all argue that, since any transfer of ownership or control of transmission facilities would be covered by a section 203 application, a separate reporting requirement in the context of market-based rate authority is unnecessary and duplicative.[45] National Grid argues that such a reporting requirement might discourage transmission providers from transferring their transmission facilities to Independent Transmission Companies (ITCs).[46] Finally, National Grid contends that construction activities undertaken pursuant to a Commission-approved regional planning process should not be reportable because additional transmission capacity improves competition among resources.[47]

Commission Conclusion

34. In order to avoid unnecessary duplication of effort, we clarify that a market-based rate seller may incorporate by reference in its notice of change in status any filings regarding the change in status made pursuant to other reporting requirements. Furthermore, intra-corporate reorganizations that do not otherwise have an impact on our four-part test and are not otherwise reportable need not be reported as a change in status.

35. We reject commenters' proposal to exempt from the reporting requirement transactions that are subject to other reporting requirements, such as dispositions of jurisdictional facilities covered by section 203 applications and long-term contracts or affiliate transactions that are filed pursuant to section 205. The Commission can best exercise its statutory duty to ensure just and reasonable rates by imposing an enforceable post-approval reporting requirement regarding changes in status.[48] Appropriate market monitoring cannot be satisfied simply by ensuring that public utilities are complying with other provisions of the FPA. Moreover, as discussed below, the time and effort required to prepare the notice of a change in status—consisting of a

[33] BP Energy at 4–5; Cinergy at 16–17; Duke at 11–12; EPSA at 8–9; EEI at 4–5; FirstEnergy at 17–18.

[34] Bank Power Marketers at 6–12; Westar at 2–4.

[35] EEI at 4, 9–11; PacifiCorp at 5–7.

[36] National Grid at 4–5.

[37] 16 U.S.C. 1601 *et seq.* (2000); National Grid at 3–4; IEU—Ohio/PJMICC at 7.

[38] Duke at 11–13.

[39] Cinergy at 12–17 (citing 18 CFR 35.27(a) (2004)).

[40] Tucson Electric at 3–4.

[41] Cinergy at 14–15; Tractebel at 6. Other commenters, in contrast, urge the Commission to treat the retirement or deactivation of generation as a triggering event. *See, e.g.*, California Electricity Oversight Board (California EOB) at 2; IEU—Ohio/PJM ICC at 12.

[42] Calpine at 4–5.

[43] EEI at 7–8; FirstEnergy at 16–18; National Grid at 7.

[44] National Grid at 6. *See also* EEI at 13–14 (urging the Commission to consolidate the generic market-based rate rulemaking in Docket No. RM04–7–000 with the changes in status rulemaking in Docket No. RM04–14–000).

[45] EEI at 7–8; FirstEnergy at 16–18; National Grid at 6–7.

[46] National Grid at 8–9.

[47] National Grid at 10–11.

[48] *See, e.g., Elizabethtown Gas Co.* v. *FERC,* 10 F.3d 866, 870 (DC Cir. 1993) *Louisiana Energy and Power Authority* v. *FERC,* 141 F.3d 365, 369–370 (DC Cir. 1998).

transmittal sheet and a brief narrative statement—will be de minimis and will constitute a fraction of that required to submit the section 203 application or section 205 filing. Furthermore, the information required to comply with the reporting requirement would normally be collected by the market-based rate seller in the ordinary course of preparing the underlying filing.

36. We also reject Tucson Electric's proposal to exempt transactions involving entities subject to oversight by an IMM. Consistent with our decision not to allow an exemption from the generation market power analysis for sales into an ISO/RTO with Commission-approved market monitoring and mitigation, we will not exempt from the change in status reporting requirement entities subject to oversight by an IMM. The Commission has an independent statutory duty to ensure that rates are just and reasonable, and we cannot delegate this responsibility in these circumstances to an IMM.

37. Commenters also propose to exempt transactions outside the applicant's home or first-tier control area markets and to exempt new construction. These commenters have not presented any persuasive evidence that these transactions—to the extent that they are covered by the Commission regulations adopted herein and satisfy the materiality threshold set forth below—should be treated differently.

38. As a general matter, we reject Duke's suggestion that acquisitions of post-1996 generation be exempt from the reporting requirement. Section 35.27 merely adopts a rebuttable presumption that post-1996 generation cannot exercise market power,[49] and the Commission considers post-1996 generation in initial applications for and triennial reviews of market-based rate authority under appropriate circumstances.[50] However, we clarify that to the extent that the generation owned or controlled by an applicant [in the relevant market] and its affiliates is post-1996, and the applicant or an affiliate acquires through purchase or acquisition additional post-1996 generation, no change in status filing is required. The Commission has found that in circumstances where construction of all of an applicant's generation commenced after July 9, 1996, no interim generation market power analysis need be performed.[51] On the other hand, in the above example, if the applicant owned pre-1996 generation a change in status filing may be required since the Commission has stated that if an applicant sites generation in an area where it or its affiliates own or control other generation assets, the applicant must study whether its new capacity, when added to the existing capacity, raises generation market power concerns.[52] Finally, we note that the generic rulemaking in Docket No. RM04–7–000 will address whether the Commission should retain the exemption for post-1996 generation in section 35.27 of the Commission's regulations.

39. In response to Cinergy's request, we clarify that purely financial transactions involving future swaps and derivatives that do not provide for physical delivery are exempt from the reporting requirement for the same reason that such contracts need not be reported in Electric Quarterly Reports (EQRs).[53]

40. The Commission accepts the proposal submitted by Calpine, Cinergy and Tractebel that a decrease in ownership or control due to dispositions of generation, transmission or inputs to production should not be reportable to the extent such transaction decreases the applicant's generation market power as measured by the indicative screens.

41. Finally, we reject National Grid's arguments that long-term contracts that were entered into by a utility to satisfy its POLR obligations or pursuant to a state-regulated competitive solicitation process should be exempted from the reporting requirement. To the extent that an applicant acquires additional capacity that impacts the Commission's analysis of one or more prongs of the four-part test used in evaluating whether to grant market-based rate authority, a change in status filing is required.

*Control/Ownership*

Comments

42. Several commenters express support for the inclusion of ''control'' as a triggering event. In supporting the inclusion of control as a triggering event, the California EOB argues that the concept of control should be used to expand the scope of the triggering requirements, not narrow them.[54]

43. Other commenters argue that the definition of control is vague and overly broad and note, for example, that it could be interpreted to cover individual power purchase transactions.[55] These commenters argue that the Commission should narrowly define control by identifying the specific decision-making authority that the purchaser or reseller must have in order to constitute control. PG&E argues that control should only cover cases where the purchaser has operational control of the resource, *i.e.*, the ability to determine when it is available for operation, and should not apply to an entity who has contracted for the first right, or even the exclusive right, to call or dispatch the resource when it is needed.[56] FirstEnergy contends that market-based rate sellers should only be required to report long-term contracts that transfer to the purchaser or reseller the authority over dispatch of the unit and preclude the generation owner from dispatching the unit without the consent of the purchaser or reseller.[57] Similarly, Duke Energy Corporation (Duke) argues that the Commission should apply general principles of agency as developed by Commission precedent, whereby the Commission has found that a purchaser has control if it possesses decisionmaking authority over key operations, such as decisions to commit or de-commit a generator or to make or not make sales.[58] EPSA agrees that control over an asset is a key consideration in a market power analysis. However, EPSA states that the use of the term ''operational control'' creates uncertainty and suggests that the Commission drop all references to ''operational control'' and replace it with ''scheduling and dispatch control'' or clarify that operational control refers to a contractual right to control the output of a plant.[59] The Bank Power Marketers suggest that the factors indicating control include definitive authority to: Require a plant to run or to shut down; declare unscheduled outages; or establish output levels when running (*i.e.*, to ramp-up or down).[60]

44. Calpine suggests that the test for control should be whether the purchaser has the authority to make available to the market and withhold from the market generation products associated

[49] 18 CFR 35.27 (2004)

[50] April 14 Order, 107 FERC ¶ 61,018 at P 116.

[51] July 8 Order, 108 FERC ¶ 61,026 at P 110.

[52] *See e.g.*, LG&E Capital Trimble County LLC, 98 FERC at 62,034–35.

[53] Revised Public Utility Reporting Requirements, Order No. 2001–F, 106 FERC ¶ 61,060 at P 15 (2004).

[54] California EOB at 3.

[55] *See, e.g.*, Powerex at 8.

[56] PG&E at 9.

[57] FirstEnergy at 11–12.

[58] Duke at 3–7. Duke proposes that the analysis should thus focus on whether the arrangement shifts to a third party the economic decisionmaking authority regarding such matters as whether to buy and sell power, what products should be offered and what market should be bid into, which parties to transact with, or the prices and terms for service.

[59] EPSA at 6–7.

[60] Bank Power Marketers at 14.

with generation capacity.[61] For example, Calpine submits that a tolling agreement should be reportable if it permits a public utility to operate a plant that gives it the authority to generate or not generate from that plant.[62] Cinergy argues that control should be defined in a manner that is more directly linked to standard measures of market power as used by the Commission and the antitrust agencies, *i.e.*, whether a new contractual arrangement provides an applicant with the ability to economically or physically withhold from the market, or erect a barrier to entry.[63] For the same reasons, TAPS urges the Commission to require reporting of long-term maintenance agreements between market-based rate sellers or their affiliates that grant the entity providing the maintenance services the ability to decide when such maintenance is performed. TAPS contends that, if the entity providing maintenance also operates facilities in the same market (or has an affiliate that does so), its decisions about when to perform the maintenance (thereby possibly requiring an outage) could be influenced by its (or its affiliate's) sales activities in the market.[64]

45. SoCal Edison requests that the Commission identify the duration of the change in control necessary to trigger the reporting requirement. According to SoCal Edison, very short-term transactions may temporarily convey control over a resource, but it is doubtful that requiring reporting of such transactions 30 days after their conclusion will provide meaningful or useful information to the Commission. SoCal Edison suggests that the appropriate minimum duration would be at least a 32-day transaction involving change in control.[65] SoCal Edison also argues that the Commission should consider focusing primarily on net changes in control of uncommitted generation.[66]

46. BP Energy urges the Commission to clarify that the reporting requirement is limited to ownership or contractual control equivalent to ownership, rather than ''influence'', which is vague and subject to conflicting interpretations.[67] FirstEnergy argues that market-based rate sellers should only be required to report changes in ownership that result in a change in control. FirstEnergy states that the Commission has previously recognized that certain passive owners of generation assets do not have control over such assets, and therefore do not constitute regulated public utilities. According to FirstEnergy, even if a public utility acquires or increases its ownership interest in a generation or transmission facility, it would not be appropriate to attribute the capacity in that facility to the utility, unless the utility had decisionmaking authority over sales of electric energy from the facility. FirstEnergy asserts that it is essential that the Commission define more precisely when a change in ownership or control conveying the requisite decisionmaking authority is deemed to have occurred. It notes that the Commission has previously ruled that a voting interest of 10 percent or more creates a rebuttable presumption of control over a utility that is not an EWG and that a voting interest of five percent or more is used in the case of a utility that is an EWG.[68] FirstEnergy submits that, as a practical matter, it is unlikely that a voting interest that is less than or equal to these thresholds, without more, will convey decisionmaking authority over sales of electric energy. FirstEnergy thus suggests that the Commission should adopt a higher threshold of asset ownership of at least 33.3 percent before a potentially reportable change in control is deemed to have occurred.[69] FirstEnergy adds that even a 33.3 percent voting interest should not be deemed to have transferred decisionmaking control if another entity (either individually or in conjunction with affiliated interests) owns a larger voting interest.

Commission Conclusion

47. We will adopt the inclusion of control as one of the factors that could result in a change of status filing. We have previously stated that ''control'' refers to arrangements, contractual or otherwise, granting control of generation or transmission facilities, just as effectively as they could through ownership.[70] In short, if an applicant has control over certain capacity such that the applicant can affect the ability of the capacity to reach the relevant market, then that capacity should be attributed to the applicant when performing the generation market power screens.[71] As the Commission's guidelines for the assessment of mergers and its generation market power analysis for market-based rate authority provide, for the purposes of the market power analysis, the capacity associated with contracts that confer operational control of a given facility to an entity other than the owner must be assigned to the entity exercising control over that facility, rather than to the entity that is the legal owner of the facility. We believe that the Commission has given adequate specificity as to what constitutes control and the Commission will not, in this docket, further define or narrow the definition. Control of assets is a concept that this industry has dealt with for many years. The Commission is reluctant to provide a laundry list of agreements that may or may not constitute control of an asset. It is not possible to predict every contractual agreement that could result in a change of control of an asset. However, to the extent parties wish to propose specific definitions or clarifications to the Commission's historical definition of control, they may do so in the course of the market-based rate rulemaking in Docket No. RM04–7–000.

48. In response to SoCal Edison's request that the Commission identify the duration of the change in control necessary to trigger the reporting requirement, we clarify that long-term contracts with a duration of a year or more must be reported, which is consistent with our treatment of long-term contracts in the April 14 Order.[72]

*Affiliation*

Comments

49. Commenters also request clarification as to the scope of affiliate-related reporting requirements.[73] BP Energy states that, as proposed, the reporting obligation appears to attach to affiliation with any entity not disclosed in the original application that owns or controls generation or transmission facilities or inputs to electric power production, or any entity with a franchised service territory. BP Energy requests clarification that the reporting requirement does not require a public utility with market-based rates to file a notice of a change in status if an affiliated generator identified in the original application increases the amount of generation it owns, so long as the public utility with market-based

[61] Calpine at 5.

[62] Calpine at 6–7. *See also* APPA at 19; TAPS at 19 (discussing tolling agreements).

[63] Cinergy at 7.

[64] TAPS at 19–20.

[65] SoCal Edison at 4.

[66] SoCal Edison at 6.

[67] BP Energy at 2, 5–6. BP Energy submits, for example, that if a public utility has a first call option on the output of a given generator but no control over the operation of that facility, the public utility seller should not be subject to the reporting requirement.

[68] FirstEnergy at 11 (citing Morgan Stanley Capital Group, Inc., 72 FERC ¶ 61,082 (1995)).

[69] FirstEnergy at 11.

[70] Citizens Power, 48 FERC ¶ 61,210 at 61,777.

[71] July 8 Order, 108 FERC ¶ 61,026 at P 65.

[72] April 14 Order, 107 FERC ¶ 61,018 at P 155.

[73] BP Energy at 2, 7–8.

rates does not own or control the newly-acquired generation.[74]

50. Sempra Energy Global Enterprises (Sempra) seeks a similar clarification that, when updating information regarding activities of affiliates, a market-based rate seller is only required to report new affiliations and would not be required to report changes in status on behalf of other affiliates whose existence has already been disclosed to the Commission. Sempra adds that a market-based rate seller should only be required to provide information that relates to a new affiliation in markets where the seller's relevant operations or assets overlap with those of the new affiliate.[75]

Commission Conclusion

51. With respect to BP Energy's and Sempra's request for clarification, as noted above, the reporting requirement applies to changes in status relevant to the Commission's current four-part analysis for market-based rate authority. To the extent that an affiliate experiences a change in status, such change in status must be reported to the extent that it impacts the factors the Commission relied upon in evaluating the four-part test as it applies to the applicant and granting the applicant market-based rate authority. To avoid any unnecessary duplication, we clarify that the various affiliates within a corporate family may submit a single notice for the corporate family as a whole for each reportable change in status that occurs listing all affiliated companies holding market-based rate authority in such notice.

**Inputs to Electric Power Production**

52. We noted in the NOPR that the Commission's general practice has been to require notifications of changes in status when the market-based rate applicant obtained ownership of new inputs to electric power production, other than fuel supplies. However, since the Commission is interested in being informed of significant acquisitions of ownership or control of any inputs to electric power production, we proposed to require a reporting obligation to this effect and sought comments on this proposal.

*Comments*

53. A number of commenters request clarification of the term ''inputs to electric power production'' and urge the Commission to define this term to include or exclude certain inputs. APPA, EPSA, Powerex and TAPS submit that fuel supplies should not be considered inputs to electric power production.[76]

54. Cinergy argues against a reporting obligation for fuel supplies because, according to Cinergy, the Commission has found the markets for natural gas and coal to be workably competitive. Cinergy asserts that information regarding fuel supplies is typically not required for the initial application for market-based rate authority and therefore should not be presumed to be relevant to the question of continued eligibility for market-based rate authority. Thus, in light of the lack of benefits to be obtained from the reporting of fuel supply arrangements, Cinergy contends that reporting would be unduly burdensome. Cinergy also contends that the only conceivable relevance of fuel supplies in authorizing market-based rates is in demonstrating that no barriers to entry or vertical market power concerns are present. To the extent that the Commission wishes to extend its consideration of barriers to entry to fuel supplies, Cinergy argues that the appropriate context to do so is not in the current rulemaking, but rather in the generic rulemaking proceeding in Docket No. RM04–7–000.[77]

55. APPA, Calpine, the National Association of State Utility Consumer Advocates (NASUCA) and TAPS, however, support the inclusion of fuel supplies within the list of triggers for reporting changes in status. NASUCA states that electric utilities, power brokers, and other sellers of energy at market-based rates can acquire substantial control over natural gas supplies or other sources of fuel for generating units and effectively dominate the fuel supplies in the markets in which they also sell electricity. According to NASUCA, including fuel supplies within the category of changes that warrant a reporting requirement properly reflects the convergence of the electricity and natural gas industries and the potential for exercising market power that can result from the acquisition of critical supplies of fuel.[78] Calpine similarly asserts that the ability to control the transportation of inputs such as fuel may be just as important as controlling the input itself.[79]

56. With respect to pipeline capacity, EPSA argues that increased pipeline capacity holdings should not be reportable because firm capacity is obtained through Commission-authorized programs and is posted on the pipeline's bulletin board.[80] FirstEnergy, by contrast, argues that changes in status relating to ownership or control of interstate natural gas pipelines or local distribution companies should be reportable because control over natural gas supplies are the principal input to electric power production may enable an entity with market-based rate authority to erect barriers to entry by competitors, especially if the seller is a combination electricity/natural gas utility. FirstEnergy asserts that the acquisition of other inputs, *e.g.*, generation plant sites, construction or engineering companies or fuel production resources, should not be reportable.[81]

57. Other commenters also argue that the Commission's inquiry should be focused on the potential for market-based rate sellers to erect barriers to entry. Bank Power Marketers argue that the Commission should issue a supplementary NOPR to provide additional guidance on what level of ownership or control of inputs to electric power production is ''significant'' enough to warrant disclosure and submits that, in order to be ''significant'', the acquisition of an input must be of the type that gives the acquirer vertical market power; otherwise, such acquisitions should not be reportable.[82] Similarly, Sempra argues that the Commission has never clearly defined the scope of what constitutes ''inputs to electric power production'' and that it should either be deleted or, alternatively, the Commission should implement a ''timeout'' with regard to enforcement of the reporting requirement for such inputs until it has completed its consideration of the barriers to entry prong of its market-based rate analysis in the Docket No. RM04–7–000 proceeding.[83] BP Energy contends that the disclosures should be limited to only the information necessary to identify the type and the source of potential barriers to entry.[84] BP Energy states that the Commission should identify specifically what the relevant ''inputs to electric power production'' are, and it should state clarify whether

[74] BP Energy at 7–8 and Sempra 10–11.

[75] Sempra at 10–11.

[76] APPA at 15; EPSA at 4; Powerex at 9; TAPS at 15.

[77] Cinergy at 8–10.

[78] NASUCA at 9–10.

[79] Calpine at 8–9. *See also* at 15; TAPS at 15. APPA and TAPS argue that affiliation or control over companies that produce or deliver fuel and long-term contracts for fuel transportation or storage should be reportable.

[80] Powerex at 9 and EPSA, 4.

[81] FirstEnergy at 19–21.

[82] Bank Power Marketers at 14–16.

[83] Sempra at 4–6.

[84] BP Energy at 8–9 (citing Vermont Electric Coop., 108 FERC ¶ 61,223, at P 12 (2004).

such inputs include items other than those specified in previous orders, *i.e.*, ownership or control of new generation sites, fuel supplies (natural gas, oil or coal), transportation of fuel supplies or whether the affiliate is a supplier of electric equipment.[85] Duke argues that an arrangement regarding inputs to electric power production should only be reportable if it conveys to the market-based rate seller the decisional control sufficient to enable it to erect barriers to entry. Under this approach, Duke contends that natural gas, oil or coal transportation or storage contracts and fuel purchase contracts should not be reportable.[86]

*Commission Conclusion*

58. As we stated in the NOPR, the Commission's general practice has been to require notification of changes in status when the market-based rate applicant obtained ownership of new inputs to electric power production, other than fuel supplies. However, we proposed in the NOPR to include fuel supplies as an input to electric power production and sought comments on this proposal. After careful consideration of the comments, including the arguments raised by commenters that this issue in any event is more appropriately raised in the proceeding in Docket No. RM04–7–000 as part of the Commission's consideration of the barriers to entry prong of the market-based rate analysis, we have decided not to make any changes to our precedent at this time as to what constitutes an input to electric power production, including expanding the definition to include fuel supplies. As a result, the regulations we adopt in this rule will require the reporting of ownership or control of inputs to electrical power production, other than fuel supplies. Nevertheless, we will provide interested persons an opportunity to propose modifications to this approach in the course of the generic rulemaking proceeding in Docket No. RM04–7–000.

59. Further, we clarify that an arrangement regarding inputs to electric power production, other than fuel supplies, is reportable to the extent that the factors the Commission relied on in evaluating the four-part market-based rate test as it applies to the applicant change.

**Materiality Threshold**

60. We recognized in the NOPR that the language in the proposed regulations may be susceptible to different interpretations among market-based rate sellers concerning the scope of their reporting requirement. Accordingly, we sought public comment as to whether and how this language should be modified to ensure that the types of changes in status that could impact the continued basis of a grant of market-based rate authority are identified and timely reported to the Commission. For example, we asked whether there should be a threshold level of increases in generation (such as through acquisition, self-build, long-term power purchases, re-powering) that would trigger the reporting requirement. If so, we asked what amount of increase in generation should trigger the reporting requirement.

*Comments*

61. Several commenters suggest specific materiality thresholds by designating a particular amount or percentage of increase in generation capacity as the trigger for the reporting requirement, while others urge the Commission to clearly define the threshold without suggesting a particular amount.[87] For example, APPA, TAPS, and Tractebel suggest a threshold of 100 MW.[88] APPA and TAPS further suggest that acquisitions of 100 MW or more should be promptly reported with all capacity changes (increases or decreases) identified as part of the market-based rate sellers' Order No. 2001 quarterly transactions reports.[89] Powerex argues that the materiality threshold should be no less than a 250 MW change increase in the ownership or control of generation capacity from the last triennial review or the last notice of a change in status.[90] EEI, supported by Xcel, proposes that the reporting threshold should be an increase in net excess generation capacity (*i.e.*, an increase in the applicant's generation capacity above its forecasted native load growth requirements, reliability requirements and contractual obligations) that is equal to the greater of: (i) 250 MW, (ii) 10 percent of installed nameplate generation capacity, or (iii) five percent of the capacity in the control area market.[91] FirstEnergy suggests that an increase in generation capacity should trigger the reporting requirement if it exceeds the greater of either 250 MW or a 10 percent increase in the market-based rate seller's uncommitted generation capacity.[92]

62. BP Energy and EPSA both contend that the materiality threshold should take into account the increase in the market-based rate seller's market share and its impact on the relevant geographic market, as well as the absolute amount of the increase in generation capacity. EPSA suggests that the materiality threshold should be in the range of 250–500 MW or one to two percent of the installed capacity in a market area.[93] BP Energy proposes a materiality threshold for ownership or control of generation that would be the greater of a net positive change of 300 MW or one to two percent of the installed capacity in the relevant market (determined by ISO/RTO or NERC region or control area).[94] ELCON proposes that the final rule should include a materiality threshold for large, end-use corporations for changes in generation at its production sites, *e.g.*, a 300 MW increase in generation, or alternatively, an increase in generation equal to one or two percent of installed capacity in a region market; to the extent that the increase in generation is less than this threshold, the 30-day reporting requirement should be waived.[95]

63. SoCal Edison argues that EEI's proposal should be modified to provide that only the 10 percent threshold for increases in generation capacity should apply for load-serving entities because such entities may add 250 MW or more in the normal course of business—in order to meet resource adequacy requirements or in response to normal load growth—without effecting any material change in its ability to exercise market power.[96] SoCal Edison proposes that the materiality threshold for a change in status other than an increase in generation capacity should be a net increase of 10 percent from the data that the Commission relied upon in granting market-based rate authority.[97]

64. Cinergy proposes that a transaction should not be considered material if, first, it involves the acquisition of generation that is not in the same relevant geographic market as the applicant's existing generation. Alternatively, a transaction would not be material if: (i) It increases the applicant's generation in the relevant geographic market by two percent or less; (ii) the applicant's existing

[85] BP Energy at 8–9 (citing Vermont Electric Coop., 108 FERF ¶ 61,223, at p 12 (2004)).

[86] Duke at 5.

[87] NRECA at 5; Sempra at 9–10.

[88] APPA at 2; TAPS at 2; Tractebel at 7.

[89] APPA at 2 and 17, TAPS at 2.

[90] Powerex at 5.

[91] EEI at 6–7.

[92] FirstEnergy at 22–23.

[93] EPSA at 7.

[94] BP Energy at 5.

[95] ELCON at 3–4.

[96] SoCal Edison at 8–9.

[97] SoCal Edison at 2–3.

generation in the market is low (*e.g.*, less than 1000 MW), and the increase is less than 10 percent of the total market; or (iii) the acquired generation is in an RTO that has restructured its market.[98]

65. PacifiCorp urges the Commission to permit market-based rate sellers to rely on forecasts of load growth in determining whether an acquisition of new generation resources constitutes a material change in the conditions in the market.[99] According to Pacificorp, a utility should be required to report a material change only when it increases its net generating capacity by acquiring additional resources in excess of its forecasts for native load growth. Avista Corporation (Avista) suggests that, for a utility the size of Avista, the threshold level of increase in generation before triggering the reporting requirement should be not less than 10 percent of the utility's retail and wholesale peak load obligations.[100]

66. NASUCA opposes the establishment of a materiality threshold for reporting a change in status, but suggests instead that the Commission could exempt from the rule changes in status that do not stem from changes in ownership or control of generation, fuel, transmission or power supply assets such as a change in corporate name unrelated to a merger or acquisition.[101] According to NASUCA, establishing triggers for determining when reporting of a change in status is necessary may lead to under-reporting due to varying interpretations of what types of assets should be considered. NASUCA asserts that requiring all changes, however small, to be reported will permit Commission review and ensure that a change in status will not allow a seller with market-based rate authority to exercise market power.

67. PG&E, as discussed above, opposes the imposition of a uniform reporting requirement that imposes identical reporting obligations on energy marketers and traditional utilities. PG&E urges the Commission to establish, for traditional utilities, a threshold for an increase in wholesale sales or revenues from wholesale sales that the Commission concludes is statistically relevant or has the potential to influence the overall market. Under PG&E's proposal, if a traditional utility's quarterly report shows an increase in wholesale sales or revenues from wholesale sales that exceeded this threshold, the utility would be obligated to provide—in the same quarterly report—additional information about the transactions that caused the increase. PG&E contends that this proposal, if adopted would ensure that the Commission received targeted information, while reducing the burden on both utilities and the Commission.[102]

*Commission Conclusion*

68. After careful consideration of the comments received, the Commission has concluded that small increases in generation of less than 100 MW need not be immediately reported. However, market-based rate sellers must report as a change in status each cumulative increase in generation of 100 MW or more that has occurred since the most recent notice of a change in status filed by that seller, (*i.e.* multiple increases in generation that individually do not exceed the 100 MW threshold must all be reported once the aggregate amount of such increases reaches 100 MW or more). The Commission's market power analysis, which is performed at the time of an initial application and every three years thereafter, considers all relevant generation capacity to assess whether a seller lacks, or has adequately mitigated, generation market power. In light of these periodic reports, we believe that a minimum reporting threshold for generation increases during the interim period is appropriate. We believe that this approach strikes the proper balance between the Commission's duty to ensure that market-based rates are just and reasonable and the Commission's desire not to impose an undue regulatory burden on market-based rate sellers.

69. Finally, we believe that the definition of control (*i.e.*, arrangements, contractual or otherwise, that grant to a purchaser or reseller or to another third party who is not the legal owner of the facilities in question operational control over the facility) that we discuss earlier in this order already contains within it a materiality threshold. Changes in status that do not comprise control (and that do not otherwise trigger the reporting requirement) need not be reported.

70. Likewise, we reject PG&E's proposal to treat traditional utilities in this regard differently than other market-based rate applicants. PG&E's suggestion that the Commission link the change in status reporting requirement to increases in wholesale sales or revenues is inconsistent with the market-based rate four-part test which evaluates, among other things, whether an applicant is a pivotal supplier and the applicant's size in relation to the market. However, to the extent an applicant has historical wholesale sales and transmission data it believes is relevant, the Commission encourages the inclusion of such data in the applicant's submittal, and the Commission will consider such data in its analysis.

**Transmission Outages**

71. In the NOPR, the Commission also asked whether the applicant should have a reporting requirement if portions of the applicant's transmission system are taken out of service for a significant period of time (thus potentially affecting the scope of the relevant geographic market). If so, we sought comments on what criteria should trigger this reporting requirement.

*Comments*

72. A number of commenters support the extension of the reporting requirement to cover transmission outages and propose specific thresholds for triggering the reporting requirement. The California Public Utilities Commission (California Commission) states that the Commission should require reporting (and provide guidelines regarding when such reporting is required) when a transmission facility remains congested over a specified period of time such that market power could result.[103] Powerex supports the imposition of a reporting requirement for transmission outages that last for a significant period of time, but requests that the Commission clarify that the reporting requirement applies only to the market-based rate seller that owns or controls the transmission facilities suffering an outage and not to its affiliates.[104] Powerex notes that, in any case, information on transmission outages typically is otherwise available on the transmission owner's Open Access Same-Time Information System (OASIS).[105] Calpine submits that the transmission providers' reporting requirement should cover instances where a transmission outage that lasts 10 days or more results in a decrease of 10 percent or more in the amount of total transmission capacity on transmission facilities operated by the transmission provider within the control area in which the public utility owns or controls generating capacity, or in facilities connecting to an adjacent control area.[106] APPA and TAPS propose that transmission providers be required to report all non-public,

[98] Cinergy at 20.
[99] PacifiCorp at 4.
[100] Avista at 1–2.
[101] NASUCA at 12.
[102] PG&E at 10–11.
[103] California Commission at 3; Powerex at 6.
[104] Powerex at 6.
[105] Powerex at 6.
[106] Calpine at 10.

extended transmission outages to the Commission's Office of Market Oversight and Investigation for monitoring and to publicly report extended outages of certain designated critical facilities.[107] NASUCA contends that all entities with market-based rate authority affected by an extended outage should be required to report such outages regardless of whether they own the affected transmission assets.[108]

73. Certain investor-owned utilities such as FirstEnergy and Xcel oppose a reporting requirement for transmission outages, arguing that it is unnecessary because such outages are reported on a transmission provider's OASIS.[109] National Grid argues that transmission outages should not be reportable where such outages are administered by independent entities such as an ISO or an RTO.[110]

74. Other investor-owned utilities such as Avista and Cinergy support the reporting requirement for major transmission outages that last longer than one year.[111] Duke also agrees that transmission outages should be reportable provided that they are expected to last 6 months or more and that they reduce available transmission capacity on the path or flowgate in question by 20 percent of the posted total transmission capability of that path.[112] Cinergy further suggests that, for transmission outages that occur within an RTO-operated market, the filing of the change in status should be made by the RTO, in consultation with the transmission owner.[113]

*Commission Conclusion*

75. After careful consideration of the comments, we are not prepared at this time to require the reporting of transmission outages per se as a change in status. However, to the extent a transmission outage affects one or more of the factors of the four-part market-based rate test (*e.g.*, if it reduces imports of capacity by competitors that, if reflected in the generation market power screens, would change the results of the screens from a ''pass'' to a ''fail''), a change of status filing would be required. Because such instances would occur on a company-specific basis, a minimum threshold (*e.g.*, 10 percent reduction in capacity) is not workable. We will consider this matter further in the context of the generic rulemaking in Docket No. RM04–7–000 in which we are addressing, among other things, issues associated with transmission market power.

**Other Reportable Arrangements**

76. Beyond ownership or control of generation or transmission facilities or inputs to electric power production and affiliation with any entity not disclosed in the filing that owns or controls generation or transmission facilities or inputs to electric power production or affiliation with any entity that has a franchised service area, we sought comment as to whether there are other arrangements, contractual or otherwise, that should be promptly reported to the Commission. For example, we posed the following questions:

- What types of arrangements, contractual or otherwise, do market-based rate sellers enter into that could cause a need for the Commission to revisit the continuing basis of the grant of market-based rate authority for such sellers?
- What threshold of materiality, if any, of such arrangements should be met before such arrangements need be reported to the Commission?
- Should marketing alliances, brokering arrangements, tolling agreements or other sales-oriented arrangements be reported?

*Comments*

77. APPA, NASUCA and TAPS support the imposition of the reporting requirement for such sales-oriented arrangements and request that the Commission consider subjecting a wider range of arrangements to the reporting requirement.[114] NASUCA recommends that financial transactions including, but not limited to, the above types of sales-oriented arrangements should be covered by the reporting obligation, because such transactions provide the same type of control over power sales as ownership of physical assets would.[115] TAPS recommends that the Commission consider long-term maintenance agreements that grant a market-based rate seller the ability to decide when such maintenance is performed because, if the entity providing maintenance also operates facilities in the same market or has an affiliate that does so, its decisions about when to perform the maintenance (thereby possibly requiring an outage) could be influenced by its or its affiliate's sales activities in the market.[116] APPA, Powerex, and TAPS support an approach of listing the specific types of arrangements that the Commission expects to be reported to provide clarity to power sellers.[117]

78. BP Energy, however, questions whether brokering agreements can be subjected to the reporting requirement. BP Energy asserts that it is not presently clear whether brokering activities and agreements are subject to the Commission's jurisdiction under the FPA.[118] BP Energy requests that, if the Commission intends to require reporting of brokering agreements, the Commission should identify the basis and scope of its claimed jurisdiction. Tractebel also questions the Commission's jurisdiction over such arrangements and argues that brokering arrangements should not be reportable, given that information on such arrangements need not be reported as part of an application for market-based rate authority or a triennial review.[119]

79. Cinergy, EEI and Sempra argue that the Commission's suggestion to require reporting of specific types of contracts would elevate the form of the agreement over the substance. Cinergy opposes the Commission's proposal in the NOPR regarding other reportable arrangements, which it characterizes as a ''label-based'' approach, because there is little standardization or uniformity in the industry as to the content of such agreements. Cinergy urges the Commission to instead focus on the attributes of the agreement in question, *i.e.*, what degree of control over generation or transmission it conveys.[120] EEI similarly argues that the reporting requirement should be limited to those arrangements in which the seller acquires control over generation or transmission facilities, franchised distribution service facilities or production inputs exceeding the thresholds established by the Commission.[121]

80. Sempra opposes as unnecessary the proposal in the NOPR to require reporting of specific types of contracts, arguing that the Commission's existing requirement that a notice of a change in status must be filed when an applicant acquires, or gains control of, additional generation or transmission assets already captures a transaction like that described in the El Paso Electric Power

[107] APPA at 2; TAPS at 14.
[108] NASUCA p10.
[109] Xcel at 7–8 and FirstEnergy at 23–24.
[110] National Grid at 10.
[111] Avista at 3; Cinergy at 17–18.
[112] Duke at 8.
[113] Cinergy at 18.
[114] TAPS at 19; APPA at 18.
[115] NASUCA at 11.
[116] TAPS at 19.
[117] APPA at 18; Powerex at 7; TAPS at 19.
[118] BP Energy at 6–7 (citing, *e.g.*, Energy East South Glen Falls, 86 FERC ¶ 61,254, at 61,915 (1999); Citizens Energy Corp., 35 FERC ¶ 61,198 (1986); APX, Inc., 82 FERC ¶ 61,287 (1998)).
[119] Tractebel at 5.
[120] Cinergy at 10–11.
[121] EEI at 13.

Co. case.[122] Sempra further argues that to require market-based rate sellers to file updates for a broad, ill-defined list of commercial arrangements would unfairly place the burden on the market-based rate seller to guess which commercial relationships to report, in violation of the Commission's decision in Morgan Stanley Capital Group, Inc., where the Commission concluded that entities with market-based rate authority no longer needed to report ''business and financial arrangements between power marketers and their customers and transmission providers.[123]

81. APPA, Powerex, and TAPS, on the other hand, support an approach of listing the specific types of arrangements that it expects to be reported because this approach provides clarity to sellers.[124] For example, APPA and TAPS argue that these arrangements should be reported because they may provide a market-based rate seller with the means to determine whether capacity is offered into a market or whether a competitor can or will enter a market and may create opportunities for sellers to coordinate their behavior with other competitors. APPA and TAPS further emphasize that tolling agreements should be reported because they allow a fuel supplier to control the plants' production of energy for sale, thus affecting market outcomes, even if the fuel supplier does not operate the plant.[125]

*Commission Conclusion*

82. Based on our review of the comments received, we find that contracts or arrangements that convey ownership or control over generation, transmission or other inputs to electric power production, other than fuel supplies, should be reported as a change in status. This is consistent with the four-part test the Commission relies upon in determining whether to grant market-based rate authority. Specifically, the April 14 Order requires an applicant to include in its analysis all capacity owned or controlled by the applicant or its affiliates.[126]

83. We agree in principle with the comments submitted by Cinergy, EEI and Sempra, which stated that the label placed on a specific contract does not determine whether it constitutes a reportable change in status. Instead, it is the manner in which the specific terms and conditions of the contract or arrangement convey ownership or control of the generation, transmission or other inputs to electric power production. Nevertheless, we believe that providing a non-exclusive, illustrative list of other reportable arrangements will assist market-based rate sellers in complying with their reporting obligations. Therefore, we clarify that agreements that relate to operation (including scheduling and dispatch), maintenance, fuel supply, risk management, and marketing that transfer the control of jurisdictional assets are subject to the change in status reporting requirement. These types of arrangements have been referred to as energy management agreements, asset management agreements, tolling agreements, and scheduling and dispatching agreements.

**Form and Content of Reports**

84. With respect to the form and content of change in status reports, the NOPR proposed that the market-based rate seller be required to submit a transmittal letter including a description of the change in status and a narrative explaining whether (and, if so, how) this change in status reflects a departure from the characteristics relied upon by the Commission in originally granting the seller market-based rate authority, in particular, whether the change in status affects the results of any of the prongs of the four-part test that the Commission uses to determine whether a public utility qualifies for market-based rate authority. If the market-based rate seller believes that a change in status does not affect the continuing basis of the Commission's grant of market-based rate authority, we proposed that it should clearly state the reasons on which it bases this conclusion.

*Comments*

85. BP Energy, California EOB, Calpine, EPSA, and Powerex agree that market-based rate sellers should provide a narrative explaining the manner in which changes in status reflect a departure from the characteristics relied upon for market-based rate authorization.[127] EPSA submits that a short transmittal letter explaining the transaction should suffice to put the parties and the Commission on notice of any possible change in status. According to EPSA, requiring more of applicants would be administratively burdensome, costly and unnecessary. EPSA contends that that Commission's goal should be to adopt a cost-effective approach to protecting customers from the exercise of market power, while at the same time minimizing the costs and uncertainty associated with a change in status, and that a short transmittal letter would accomplish that goal.[128]

86. BP Energy, Calpine, and Powerex argue that the report should consist of a narrative only and should not include an updated market analysis such as that which is required by the triennial review.[129] Similarly, SoCal Edison supports the timely provision of a narrative that includes germane information, including a recitation of the key dimensions of the transaction, but opposes a requirement to make an extensive showing to justify retention of market-based rate authority.[130]

87. With respect to contractual arrangements, the United States Department of Justice (DOJ) opposes a reporting requirement that might call for a full-blown competitive analysis for every reportable transaction and instead suggests that market-based rate sellers simply file a copy of the contract concerned along with a summary of its key attributes that have an effect on the parties' incentive or ability to exercise market power.[131] DOJ also suggests that Commission limit the obligation of applicants to disclose confidential, ''business sensitive'' information, which may discourage utilities from entering into otherwise efficient agreements, and customer-specific transaction data, which may reduce competition by facilitating collusion among competitors in oligopolistic markets.[132]

88. Cinergy proposes that the Commission adopt a two-tiered approach to reporting, depending on whether the event to be reported is material or not. In cases where an applicant concludes in good faith that the change is non-material, the applicant would submit a short letter describing the event and briefly informing the Commission why the applicant believes the event is non-material. For material changes in status,

[122] Sempra at 6–7 (citing 108 FERC ¶ 61,071 (2004), reh'g pending).

[123] Id. at 8 (citing 72 FERC ¶ 61,082 at 61,435 (1995).

[124] APPA at 18; Powerex at 7; TAPS at 19.

[125] APPA at 18–19; TAPS at 19.

[126] April 14 Order, 107 FERC ¶ 61,018 at P 95, 100.

[127] California EOB at 4; BP Energy at 10; Calpine at 11; Powerex at 9; EPSA at 7.

[128] EPSA at 7.

[129] BP Energy at 9–10; Calpine at 11; Powerex at 9.

[130] SoCal Edison at 4–6.

[131] DOJ at 11–12. DOJ asserts that the most important data are the names of the parties to the contract, the location of the generating assets under contract, and the location of any other generating assets owned or otherwise controlled by either counterparty, which would allow the Commission to quickly determine whether there is any geographic overlap among generating assets controlled by the parties. Other pertinent information includes information regarding any ownership interests parties have in common, the compensation scheme established between them, and agreement execution and start dates. DOJ at 8–9.

[132] DOJ at 313.

the applicant would describe with greater particularity the basis for a continued grant of market-based rate authority, including an updated market analysis where appropriate.[133]

89. NRECA urges the Commission to minimize the reporting requirement for smaller market participants. NRECA suggests that the Commission could do so by including in the final rule a provision for waiver of the reporting requirement for small market participants that can show that the likelihood that the changes in status in question could affect the competitiveness of those markets is *de minimis*. Alternatively, the Commission could clarify that the report for small market participants may be as simple as a two-sentence letter describing the change and averring that they have not acquired market power as a result.[134]

90. Some commenters contend that the change in status report should include some form of market power analysis. NASUCA contends that the report should include a revised triennial rate review filing and an updated market power analysis.[135] Powerex and EPSA urge the Commission to affirmatively state that market participants may submit, in addition to the narrative explanation, the summary pages of their original pivotal supplier and market share analyses, modified to reflect the changed circumstances.[136]

91. Finally, EEI and FirstEnergy argue that even the submission of a narrative only would be unduly burdensome and superfluous. According to EEI, a narrative filing requirement would be problematic because market-based rate sellers would not always know the complete scope and nature of the characteristics relied upon by the Commission or any changes in the ownership or control of other market participants in the market area and because the Commission has not yet adopted final generation market power screens or articulated the screens and tests for the remaining three prongs. EEI proposes that, instead, market-based rate sellers should be required to provide the Commission only with a description of the transaction and that such sellers should only be required to examine the implications of a change in status (as a supplement to the notice of a change in status) if the Commission or a market participant raises a concern.[137]

92. FirstEnergy objects to the narrative requirement, first, on the ground that it is superfluous: the only changes in status for which a report may be required are changes in status that reflect a departure from the characteristics that the Commission relied upon in granting market-based rate authority; however, if a change in status does not affect the relevant characteristics, no report is required. FirstEnergy further contends that the narrative requirement unreasonably imposes on each seller an affirmative obligation to justify the continuation of their market-based rate authority every time it engages in a transaction that constitutes a reportable change in status, which would be costly and time-consuming. FirstEnergy also argues that there is no reason to believe that generation suppliers are uniquely situated to provide the kind of information that the Commission may need to evaluate whether a change in status might affect the continuation of a supplier's market-based rate authority, *e.g.*, information concerning the size of the market or the availability of transmission import capacity into the market, which is equally available to the supplier and its competitors. FirstEnergy therefore suggests that, in the absence of a demonstration that legitimate concerns exist, the supplier should not be required to spend the time and resources that may be required to defend the continuation of its market-based rate authority between its triennial market power updates.[138]

*Commission Conclusion*

93. We will adopt the proposal in the NOPR that the market-based rate seller submit a transmittal letter, including a description of the change in status and a narrative explaining whether (and, if so, how) this change in status reflects a departure from the characteristics relied upon by the Commission in originally granting the seller market-based rate authority.

94. After careful consideration of the comments received, we will not specify a uniform length for the narrative that an entity must file to explain whether a given change in its status reflects a departure from the characteristics relied upon by the Commission for the original and continued grant of market-based rate authority. The nature of the change that triggers the reporting requirement will necessarily determine the length and quality of the narrative, as well as whether additional documents and analysis is needed. It is incumbent upon the applicant to decide whether the change in status is a material change and to provide adequate support and analysis. This is consistent with our approach to new applications for market-based rate authority, where it is the applicant's responsibility to determine what to report and the degree of support and analysis to include.

95. Further, we will not require entities affected by a change in status to automatically file an updated market analysis, such as that required by the triennial review. However, an entity may provide such an analysis if it chooses. The Commission reserves the right to require additional information, including an updated market power analysis, if necessary to determine the effect of an entity's change in status on its market-based rate authority.

**Inclusion of Reporting Requirement in Market-Based Rate Tariffs**

96. In addition to including this reporting requirement in the Commission's regulations, we proposed that this reporting requirement be incorporated into the market-based rate tariff of each entity that is currently authorized to make sales at market-based rates, as well as that of all future applicants. Market-based rate sellers would be required to submit a conforming provision to their market-based rate tariffs at the time that they file any amendment to their tariffs or (if earlier) when they apply for continued authorization to sell at market-based rates (*e.g.*, in their three-year updated market power analysis). However, the Commission proposed that the obligation to report be effective at the time that the Final Rule becomes effective.

*Comments*

97. Most commenters support the inclusion of the reporting requirement into the market-based rate tariff of each seller. No substantive opposition was expressed by commenters.

*Commission Conclusion*

98. We will adopt the proposal in the NOPR and require that the reporting requirement be incorporated in the market-based rate tariffs of each entity that is currently authorized to make sales at market-based rates, as well as that of all future applicants. Market-based rate sellers will be required to include the reporting requirement in their market-based rate tariffs either at the time that they file any amendment to their tariffs, when they report a change in status under this Final Rule, or when they file their three-year updated market power analysis, whichever occurs first. However, regardless of the date on which the seller amends its market-based rate tariff

[133] Cinergy at 19.

[134] NRECA at 3–5.

[135] NASUCA at 13.

[136] Powerex at 9; EPSA at 9.

[137] EEI at 14–15.

[138] FirstEnergy at 12–15.

to include the reporting requirement, such reporting requirement will be considered part of the seller's market-based rate tariff as of 30 days after the date of publication of this Final Rule in the **Federal Register**.

**Reporting Period/Timing**

99. With respect to the procedures for reporting a change in status, we proposed in the NOPR that such notifications be filed no later than 30 days after the occurrence of the triggering event. We sought comment as to whether this proposed time period is appropriate.

*Comments*

100. Calpine and NRECA support the proposed 30-day reporting period.[139] Calpine urges the Commission to clarify the event that marks the change in status and starts the 30-day clock running. Calpine proposes that it should be based on the legal effective date of the triggering event. For an increase in ownership or control of generation capacity, Calpine states that this would be the date that the public utility legally assumes ownership or control over the asset. For a self-build or repowering event, it could be the date of commercial operation.[140] NRECA rejects arguments that the 30-day reporting period is burdensome, noting that events constituting a change in status such as the acquisition or disposition of generation assets, require advance planning in excess of 30 days and that the reporting requirement can be built into the planning process for such transactions.

101. ELCON asks the Commission to modify the 30-day reporting requirement to reduce the potential burden on entities that cannot exercise market power such as large industrial users that own and operate a growing amount of behind-the-meter customer generation. ELCON suggests that, first, the final rule keep the 30-day initial notice period that would alert the Commission that a potential change in status may have occurred, but it should then allow the respondent an additional 60 days thereafter to file additional documentation as necessary.

102. APPA, BP Energy and TAPS suggest the Commission permit prospective reporting, to the extent possible, of known or expected changes in status.[141] IEU-Ohio/PJMICC would go further and require prospective reporting at least 60 days before the circumstances affecting market-based rate authority actually occur, to the maximum extent possible.[142] Similarly, NASUCA urges the Commission to require that the report be submitted no later than the effective date of the change in status.[143] In contrast, Avista argues that the time period for reporting should not begin to run until after the date of commercial operation and/or control over the asset is reached.[144] Tractebel requests the Commission to consider pre-authorizing certain changes in status, as it does, for example in the context of changes in status regarding qualifying facilities under PURPA.[145]

103. Other commenters, however, argue that the 30-day period is too short. EPSA, Xcel, and Powerex propose that change in status reports should be submitted on a quarterly basis, for example, concurrently with EQRs or Form 3–Qs.[146] Duke suggests that the reporting period should be extended to six months,[147] while Avista recommends a period of 60 days after initial delivery under a long-term contract begins.[148]

104. Calpine and EPSA request clarification of the procedures for filing and responding to change in status reports to avoid uncertainty. EPSA proposes that such clarification should occur in a supplemental NOPR whereby the comments in this NOPR and in the supplemental NOPR can be considered by the Commission. Further, EPSA suggests that this reporting requirement be an interim requirement pending final issuance of a comprehensive market-based rate authority framework in Docket No. RM04–7–000 or another comprehensive proceeding.[149] Calpine requests clarification of whether the reports should be filed in the same docket that originally granted market based-rate authority, whether the reports would be publicly noticed, and whether the Commission intends to respond to the reports if they raise no concerns.[150]

*Commission Conclusion*

105. We are not persuaded by the suggestions to increase the 30-day period to a longer period of time, whether 60 days, quarterly, or six months. Thirty days appropriately balances the amount of time the applicant needs to prepare its filing against our need for timely information regarding changes in status that may affect prices and markets. The Commission finds the 30-day time period an appropriate one in which to receive information about a change in status so as to enable the Commission to effectively carry out our statutory responsibility to oversee competitive conditions in wholesale electricity markets. For this reason, we are not persuaded by the suggestion that we require entities to file changes in status concurrently with their EQRs. As discussed above, quarterly reporting would not provide the Commission with information on market developments in a sufficiently timely manner to perform our statutory duties. Furthermore, contrary to the suggestions of some commenters, combining the change in status reporting requirement with other reporting requirements, *e.g.*, EQRs, would not create any efficiencies or reduce the burden on either the Commission or market-based rate sellers. In particular, the Commission has developed a specific electronic format for reporting transactions in EQRs [151] that would not accommodate the range of events that constitute changes in status.

106. We clarify that reports of changes in status must be filed no later than 30 days after the legal or effective date of the change in status, including a change in ownership or control, whichever is earlier. Parties are free to file reports of prospective changes, but that filing must contain the same information it would if it had filed after the change in status. We note that when performing the Commission's generation market power screens, applicants are prohibited from making forward-looking adjustments.

107. In response to a request for additional information about the processing of these reports, we clarify that the report should be filed in the same docket in which market-based rate authority was granted, and it should be served on the service list for that docket. The report will be noticed, and a comment period will be established.

**Other Procedural Issues**

*Comments*

108. BP Energy, EEI, EPSA and FirstEnergy request that the Commission clarify that change in status reports are purely informational and that any revisions or revocations to an entity's market-based rate authority will be made pursuant to section 206

[139] NRECA at 4.

[140] Calpine at 12.

[141] APPA at 4; BP Energy at 10; TAPS at 4.

[142] PJMICC/IEU-Ohio at 14.

[143] NASUCA at 6.

[144] Avista at 4.

[145] Tractebel at 6 (citing 18 CFR 292.207 (2004)).

[146] EEI at 16–17; EPSA at 4; Powerex at 7; Xcel at 9–10.

[147] Duke at 9–10.

[148] Avista at 4.

[149] EPSA at 10.

[150] Calpine at 11.

[151] Revised Public Utility Filing Requirements, Order No. 2001, 67 FR 31,043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (Apr. 25, 2002).

proceedings.[152] With respect to the burden of proof, Calpine recommends that the public utility should have the burden to demonstrate that it is still entitled to market-based rates after the change in status occurs and that if the Commission or any party believes that a report indicates that the basis for a public utility's market-based rates has been undermined by the change in status, there should also be a remedy through a section 206 action.[153]

109. Powerex and SoCal Edison note that the NOPR failed to address the treatment of confidential and commercially sensitive information, and SoCal Edison requests that the Commission clarify that it requires only the minimal reasonable information necessary.[154]

110. With respect to the procedural rights of third parties, APPA and TAPS argue that third parties should be permitted to report known or expected changes in status and that the Commission should permit them the opportunity to submit comments on change in status reports. Those reports meriting closer attention should result in the Commission's issuing a show cause order asking the seller to justify continuation of market-based rate authority.[155]

111. Finally, Tractebel argues that the Commission should provide the opportunity for market-based rate sellers that comply with the reporting requirement, as well for protesters and intervenors, to obtain a timely ''redetermination'' or ''reaffirmation'' of their market-based rate authority.[156]

112. Cinergy proposes that, for purposes of regulatory certainty, the Commission should commit to issue orders on notices of changes in status within 60 days of filing. Where an order accepts for filing a change in status report, such acceptance would be deemed an acknowledgement by the Commission that the reported event does not affect the applicant's market-based rate authorization. Similarly, if the Commission does not issue an order within 60 days, any reported transaction undertaken after such a 60-day period that conforms materially to the description of the transaction in the notice should fall within a safe-harbor and not trigger penalties, refunds or loss of market-based rates.[157]

*Commission Conclusion*

113. In response to the requests above, we will clarify the legal effect of a notice of a change in status and the procedures that the Commission will follow in acting on notices of changes in status. First, a notice of a change in status, like the triennial update filing requirement, is a filing made in compliance with the terms and conditions under which the Commission has granted market-based rate authority. As discussed above, we will require that the reporting requirement be incorporated in the market-based rate tariffs of each market-based rate seller. Thus, a notice of change in status is an integral part of the market-based tariff, compliance with which is a condition for the retention of market-based rate authority. Consistent with the Commission's current practice, the Commission will continue the same procedures it has followed in processing filings of changes in status. Namely, the Commission will issue a notice of the filing to provide an opportunity for public comment. The filing will receive a subdocket under the docket number in which the seller originally received market-based-rate authority. The Commission, where appropriate, may request additional information from the market-based rate seller, institute a section 206 investigation or inform the parties that the Commission does not intend to take any further action regarding the change in status filing.

114. We further note that because a notice of a change in status, like a triennial update, is a compliance filing, rather than a rate filing under section 205 of the FPA, the Commission is not required to take action within 60 days. Consequently, we will reject Cinergy's proposal to commit to issuing an order on notices of a change in status within 60 days and to establish a safe harbor where the Commission has not acted on the filing within 60 days after receipt. Further, the filing alone may not provide sufficient information for the Commission to make a definitive finding regarding the impact of the change in status on the filing entity's market-based rate authority, and the Commission may require more than 60 days to gather the necessary information. However, it is the Commission's intention to act on these filings as expeditiously as possible.

115. With respect to the requests of BP Energy, EEI and FirstEnergy that the Commission clarify that it will only revoke or revise market-based rate authority pursuant to a section 206 proceeding, we note that the Commission's long-standing policy, in conformance with the FPA, has been to do so pursuant to a section 206 proceeding,[158] and we will not change that policy here. In section 206 proceedings, the complainant or the Commission bears the burden of proof. Accordingly, we cannot change the statutory burden in response to Calpine's request.[159]

116. Commission regulations set forth the procedures for requesting special treatment for confidential and commercially sensitive information to prevent public disclosure,[160] and we do not find it necessary to establish additional procedures for such information contained in a notice of a change in status in response to the requests of Powerex and SoCal Edison.

117. With respect to APPA's and TAPS' concerns about the rights of third parties, we clarify that nothing in this final rule or the Commission regulations adopted herein changes the rights of third parties to file in response to a notice of change in status or to file a complaint pursuant to section 206.

**Information Collection Statement**

118. Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule.[161] The Commission solicited comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of provided burden estimates, ways to enhance the quality, utility and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

119. Estimated Annual Burden to satisfy the reporting requirement, the Commission expects respondents to submit a transmittal letter including a description of the change in status and a narrative explaining whether (and, if so, how) this change in status reflects a departure from the characteristics relied

[152] BP Energy at 3–4; EEI at 15; EPSA at 9; FirstEnergy at 15–16.

[153] Calpine at 12.

[154] Powerex at 10.

[155] APPA and TAPS at 2.

[156] Tractebel at 7.

[157] Cinergy at 21.

[158] *See, e.g.*, Enron Power Marketing, Inc., 103 FERC ¶ 61,343 (2003), reh'g denied, 106 FERC ¶ 61,024 (2004); April 14 Order, 107 FERC ¶ 61,018 at P 201, 209.

[159] In addition, we note that we did not attempt to alter this statutory allocation of the burden of proof in the April 14 Order, as Calpine has previously argued. In the April 14 Order, we stated that failure of one of the generation market power screens would establish a rebuttable presumption of market power in the resulting section 206 proceeding. April 14 Order, 107 FERC ¶ 61,018 at P 201. In the July 8 Order, we explicitly rejected Calpine's allegation there that we had inappropriately shifted the statutory burden and clarified that an applicant's screen failure satisfied the Commission's initial burden of going forward with evidence in the section 206 proceeding. July 8 Order, 108 FERC ¶ 61,026 at P 29–30.

[160] 18 CFR 388.112 (2004).

[161] 5 CFR 1320.11 (2004).

upon by the Commission in originally granting the seller market-based rate authority. The Commission estimates that, on average, it will take respondents six hours per response and that approximately 25 percent of current market-based rate sellers would experience a change in status in any given year.

| Data collection | Number of respondents | Number of hours | Number of responses | Total annual hours |
|---|---|---|---|---|
| FERC–516 | 1,238 | 6 | .20 | 1,486 |

*Title:* Electric Rate Schedules and Filings, Reporting Requirement for Changes in Status For Public Utilities With Market-Based Rate Authority (FERC–516).

*Action:* Proposed collection.

*OMB Control No.:* 1902–0096.

*Respondents:* Businesses or other for profit.

*Frequency of Responses:* On occasion.

*Necessity of Information:* The proposed regulations will revise market-based rate sellers' reporting obligation and are intended to ensure that rates and terms of service offered by market-based rate sellers remain just and reasonable.

*Internal Review:* The Commission has reviewed the proposed amendment to its regulations to establish a reporting obligation for changes in status and has determined that these regulations are necessary to ensure just and reasonable rates. These regulations, moreover, conform to the Commission's plan for efficient information collection, communication, and management within the electric utility industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information/data retention requirements.

120. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Attention: Michael Miller, Office of the Executive Director, phone: (202) 502–8415, fax: (202) 273–0873, e-mail: *michael.miller@ferc.gov*. Comments on the proposed requirements of the subject rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–4650.

*Comments*

121. DOJ contends that the preparation of the transmittal letter may take more than six hours to prepare and may impose significant costs on applicants.[162]

*Commission Conclusion*

122. The estimate contained in the NOPR of the time necessary to comply with the reporting requirement is an average. While such a letter may take more than six hours in some cases, we believe that in most cases compliance will take substantially less time. As we explain above, the more significant events triggering the reporting requirement will also trigger other reporting requirements, *e.g.*, a section 203 application. In such a case, market-based rate sellers may incorporate by reference the related filing, and compliance with the change in status reporting requirement accordingly would require a minimal amount of time to prepare.

**Environmental Analysis**

123. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[163] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[164] Thus, we affirm the finding we made in the NOPR that this final rule is procedural in nature and therefore falls under this exception; consequently, no environmental consideration would be necessary.

**Regulatory Flexibility Act Certification**

124. The Regulatory Flexibility Act of 1980 (RFA)[165] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities.[166] The Commission is not required to make such analyses if a rule would not have such an effect.

125. The Commission concludes that the final rule would not have such an impact on small entities. Based on past experience, most of the sellers having changes in status that would likely trigger a filing under the proposed regulations would be entities that do not meet the RFA's definition of a small entity. Therefore, the Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

**Document Availability**

126. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

127. From FERC's Home Page on the Internet, this information is available in the Commission's document management system, eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

128. User assistance is available for eLibrary and the FERC's Web site during normal business hours. For assistance, please contact FERC Online Support at 1–866–208–3676 (toll free) or 202–502–

[162] US DOJ at 11–12.

[163] Regulations Implementing the National Environmental Policy Act, Order No. 486, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987).

[164] 18 CFR 380.4(a)(2)(ii)(2004).

[165] 5 U.S.C. 601–612 (2000).

[166] The RFA definition of ''small entity'' refers to the definition provided in the Small Business Act, which defines a ''small business concern'' as a business which is independently owned and operated and which is not dominant in its field of operation. 15 U.S.C. 632 (2000). The Small Business Size Standards component of the North American Industry Classification System defines a small electric utility as one that, including its affiliates, is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and whose total electric output for the preceding fiscal years did not exceed 4 million MWh. 13 CFR 121.201 (Section 22, Utilities, North American Industry Classification System, NAICS) (2004).

6652 (e-mail at *FERCOnlineSupport@FERC.gov*), or the Public Reference Room at 202–502–8371, TTY 202–502–8659 (e-mail at *public.referenceroom@ferc.gov*).

**Effective Date and Congressional Notificiation**

This Final Rule will take effect March 21, 2005. The Commission has determined with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this rule is not a major rule within the meaning of section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.[167] The Commission will submit the Final Rule to both houses of Congress and the General Accounting Office.[168]

**List of Subjects in 18 CFR Part 35**

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By the Commission.

**Linda Mitry,**

*Deputy Secretary.*

n In consideration of the foregoing, the Commission amends part 35, Chapter I, Title 18 of the *Code of Federal Regulations*, as set forth below:

## PART 35—FILING OF RATE SCHEDULES AND TARIFFS

n 1. The authority citation for part 35 continues to read as follows:

**Authority:** 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

n 2. In § 35.27, paragraph (c) is added to read as follows:

**§ 35.27 Power sales at market-based rates.**

* * * * *

(c) *Reporting requirement.* Any public utility with the authority to engage in sales for resale of electric energy in interstate commerce at market-based rates shall be subject to the following:

(1) As a condition of obtaining and retaining market-based rate authority, a public utility with market-based rate authority must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority. A change in status includes, but is not limited to, each of the following:

(i) Ownership or control of generation or transmission facilities or inputs to electric power production other than fuel supplies, or

(ii) Affiliation with any entity not disclosed in the application for market-based rate authority that owns or controls generation or transmission facilities or inputs to electric power production, or affiliation with any entity that has a franchised service area.

(2) Any change in status subject to paragraph (c)(1) of this section must be filed no later than 30 days after the change in status occurs.

[FR Doc. 05–3040 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

[167] *See* 5 U.S.C. 804(2) (2000).

[168] *See* 5 U.S.C. 801(a)(1)(A) (2000).

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 157

**[Docket No. RM05–1–000; Order No. 2005; 110 FERC ¶ 61,095]**

## Regulations Governing the Conduct of Open Seasons for Alaska Natural Gas Transportation Projects

Issued: February 9, 2005.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission is amending its regulations to establish requirements governing the conduct of open seasons for proposals to construct Alaska natural gas transportation projects. This final rule fulfills the Commission's responsibilities to issue open season regulations under section 103 of the Alaska Natural Gas Pipeline Act (the Act), enacted on October 13, 2004. Section 103(e)(1) of the Act directs the Commission, within 120 days from enactment of the Act, to promulgate regulations governing the conduct of open seasons for Alaska natural gas transportation projects, including procedures for allocation of capacity. As required by section 103(e)(2) of the Act, these regulations include the criteria for and timing of any open season, promote competition in the exploration, development, and production of Alaska natural gas, and for any open seasons for capacity exceeding the initial capacity, provide for the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thomson units.

**DATES:** *Effective Dates:* The rule will become effective May 19, 2005.

**FOR FURTHER INFORMATION CONTACT:** Whit Holden, Office of the General Counsel, (202) 502–8089, *edwin.holden@ferc.gov*. Richard Foley, Office of Energy Projects, (202) 502–8955, *richard.foley@ferc.gov*. Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

**SUPPLEMENTARY INFORMATION:**

Before Commissioners: Pat Wood, III, Chairman; Nora Mead Brownell, Joseph T. Kelliher, and Suedeen G. Kelly.

1. The Federal Energy Regulatory Commission is amending its regulations to establish requirements governing the conduct of open seasons for capacity on proposals to construct Alaska natural gas transportation projects. This Final Rule fulfills the Commission's responsibilities to issue open season regulations under section 103 of the Alaska Natural Gas Pipeline Act (the Act), enacted on October 13, 2004.[1] Section 103(e)(1) of the Act directs the Commission, within 120 days from enactment of the Act, to promulgate regulations governing the conduct of open seasons for Alaska natural gas transportation projects, including procedures for allocation of capacity. As required by section 103(e)(2) of the Act, these regulations (1) include the criteria for and timing of any open season, (2) promote competition in the exploration, development, and production of Alaska natural gas, and (3) for any open seasons for capacity exceeding the initial capacity, provide for the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thomson units.

2. As Congress has recognized, construction of a natural gas pipeline from the North Slope of Alaska to markets in the lower 48 states is in the national interest and will enhance national energy security by providing access to the significant gas reserves in Alaska to meet anticipated demand for natural gas. A successful Alaska natural gas transportation project will have to overcome a variety of significant logistical and procedural obstacles. The Commission strongly believes that it is in the mutual interest of the parties interested in such a project to reach a common understanding, in order to support a proposal that meets their needs and those of the Nation. To that end, the Commission urges the parties to expend their efforts in negotiation, compromise, and project development, such that this vital project can become a reality.

**Background**

3. Under the Act, Congress mandated the expedited processing by the Commission of any application for an Alaska natural gas transportation

[1] Public Law 108–324, October 13, 2004, 118 Stat. 1220.

project, namely any natural gas pipeline that carries natural gas derived from that portion of Alaska lying north of 64 degrees north latitude to the border between Alaska and Canada. The Act specifically directs the Commission to prescribe the rules which will apply to any open season held for the purpose of acquiring capacity on any Alaska natural gas transportation project, including the criteria for allocating capacity among competing bidders.

4. In response to the Act's directive, on November 15, 2004, the Commission issued in Docket No. RM05–1–000 a Notice of Proposed Rulemaking (NOPR) containing the Commission's proposed Alaska natural gas transportation project open season regulations as a new subpart B to part 157 of the Commission's regulations (69 FR 68106, Nov. 23, 2004). The NOPR stated that comments were to be filed by December 17, 2004, and that the Commission intended to issue the final regulations by February 10, 2005, in order to comply with the Act's 120-day deadline.

5. The Commission held a public technical conference in Anchorage, Alaska on December 3, 2004 to develop a record in this proceeding. At the conference, speakers including Alaska elected officials, Alaskan Natives, representatives of potential project sponsors, representatives of potential shippers, and representatives from other agencies or affected enterprises or the general public presented their views on the NOPR and related issues. A transcript of the technical conference was filed in the record in this proceeding.[2]

6. Before the NOPR was issued, the Commission received comments and suggested open season requirements from several interested parties, including BP, ConocoPhillips, and ExxonMobil (North Slope Producers),[3] other natural gas producers, potential project sponsors, and members of the Alaska legislature. In addition to the pre-NOPR comments and technical conference presentations, comments were filed by 25 interested parties.[4] One group of commenters, including the North Slope Producers, who together own the majority of proven gas reserves on Alaska's North Slope at Prudhoe Bay and Point Thomson, and several pipeline companies (TransCanada, MidAmerican/AGTA, and Enbridge) are potential sponsors of an Alaska natural gas transportation project. Another group of commenters is made up of entities with Alaska-based interests[5], including elected officials. Yet another definable group consists of potential shippers, including explorers and producers other than the North Slope Producers, marketers, local distribution companies, power generators, and industrial end users.

**Overview of Regulatory Approach**

7. The comments filed in response to the NOPR are discussed at length below, broken down by specific issues. However, broadly speaking, several commenters, led by the North Slope Producers, MidAmerican/AGTA, and TransCanada, expressed general support for the Commission's approach in developing the proposed regulations in the NOPR.[6] These commenters perceive the proposed regulations as being not overly prescriptive, yet providing a fair and open process to obtain capacity on an Alaska pipeline on a non-discriminatory, non-preferential basis. As potential shippers, these commenters are encouraged that the proposed rules permit the sponsors the flexibility to design and conduct the initial and expansion open seasons. They claim that such flexibility is important in helping a project sponsor properly size the pipeline and satisfy the demands of financers.

8. A number of the commenters, however, fault the Commission for not proposing detailed rules regarding certain elements of the open season, including timing of the open season, and the criteria for evaluating bids and allocating capacity in the event capacity on the proposed project is oversubscribed. These commenters claim that the Commission has deferred to the project sponsors too much of the responsibility of establishing the criteria for and timing of open seasons for Alaska projects. In addition, commenters whose interests are tied to the State of Alaska claim that the proposed rules ignore the requirements of section 103(g) regarding in-state needs for natural gas.[7] Potential project sponsors favor the flexibility they believe is provided in the proposed rules in order to appropriately develop an Alaska natural gas transportation project. Other interested parties express concern that the North Slope Producers, either as project sponsors or as producers whose reserves will support the initial development of the project, will use that flexibility to develop open season rules to accommodate their own interests, to the exclusion and detriment of other explorers, developers and producers of Alaska natural gas, as well as of those seeking access to the pipeline for in-state natural gas demands.

9. As explained in the NOPR, there are no current Commission regulations respecting open seasons. To date, the Commission's policy, developed through its orders and opinions, is that all new interstate pipeline construction be preceded by a non-discriminatory ''open season'' process through which potential shippers may seek and obtain firm capacity rights. Congress has determined that it is necessary to formalize this Commission policy with specific regulations governing the conduct of open seasons for an Alaska natural gas transportation project. Indeed, the tremendous size, scope, and cost of an Alaskan pipeline, the long lead-time needed for such a project, environmental sensitivities, and the competitive conditions that are unique to such a project warrant special consideration and oversight. In addition, Congress specifically required that the open season regulations promote competition in the exploration, development, and production of Alaska natural gas and, as to any open season for expansion of the initial capacity of any Alaska natural gas transportation project, the Commission's regulations are to specifically provide the opportunity for gas other than Prudhoe Bay and Point Thomson production to have access to the pipeline.

10. As revealed in detail in the comments to the NOPR, there are complex, competitive conditions surrounding an Alaska natural gas transportation project, which are intensified by the generally agreed upon fact that there will be only one such pipeline for the foreseeable future. The North Slope Producers hold the proven reserves that may be able to support the initial construction of the project, and may now be in a position to make long-term capacity commitments to the project. Other producers and explorers, whose potential gas reserves are not yet commercially developed, may not currently be in a position to do so. Instead, they anticipate a need for capacity some time in the future, and express reluctance to make the large

[2] The Commission received, on December 23, 2004, January 10, 2005, and February 2, 2005, three motions to correct the transcript. The Commission approves the proposed corrections and incorporates them into the record of this proceeding. Commenters at the technical conference are listed in the Appendix.

[3] The short-form names used for commenters and other abbreviations used in this order are listed in the Appendix.

[4] These commenters are also listed in the Appendix.

[5] This group includes AOGCC, ANGDA, Alaska, Alaska Legislators, Arctic Slope and Doyon.

[6] AGA and Northwest Industrial Gas Users also stated general support for the NOPR's proposed rules.

[7] This section of the Act requires a certificate holder for an Alaska project to demonstrate that it has conducted a study of Alaska in-state needs.

investment required to explore for and develop Alaska gas without being reasonably assured that they will have access to pipeline capacity when their gas is ready to move to market. Shippers seeking to move gas only within the State of Alaska for in-state uses may also seek pipeline capacity. While the North Slope Producers anticipate paying rates covering the costs of transportation through the entire project, shippers planning to make deliveries in Alaska likely will seek mileage-based or zone rates.

11. We have striven in this rule to balance the need to allow project sponsors the flexibility to develop and bring to market Alaska natural gas with the equally compelling needs to ensure fair competition in the transportation and sale of natural gas, promote the development of natural gas resources in addition to those in the North Slope, and consider Alaskan in-state requirements. As discussed in more detail below, we are not inclined to impose open season rules that prescribe such details as when open seasons must occur and precise criteria to be used in evaluating bids and allocating capacity. To do so could potentially unduly limit a prospective sponsor's ability to design and finance a viable project, and thereby add to the already-daunting challenges that face an Alaska natural gas transportation project sponsor.

12. At the same time, however, we are well aware of the risks to competition imposed by a project that is owned or primarily sponsored by a small group. Thus, we are imposing strict requirements on all proposals, and particularly on affiliate-owned projects, with respect to the public disclosure of information, to ensure that there is a level playing-field. As we discuss below, we will require applicants for an Alaska pipeline project to provide detailed information as to project design, how capacity is to be allocated, and proposed rates, terms and conditions. This will allow us to be in a position to monitor whether competition for capacity is fair. In addition, while we are permitting pre-subscription for ''anchor'' shippers,[8] we are requiring that contracts with such shippers be made publicly available, and that all shippers seeking the same type of capacity be offered service on the same terms and conditions. We will keep these considerations in mind, not only during an open season, but also during our consideration of any application for an Alaska natural gas transportation project placed before us.

13. Furthermore, we will bear in mind the concerns expressed by the non-North Slope producers in considering expansion issues. Thus, we will look to see whether a proposed pipeline is designed not only to meet immediate needs, but also to provide a reasonable opportunity for access to low-cost expansion capacity. Also, as discussed below, we will look, with the constraints of the Act in mind, to determine that rates for expansion capacity are set at levels that will promote competition in exploration and development of Alaska natural gas, not just protect the interests of initial shippers.

14. In addition to the careful scrutiny we will give to any Alaska pipeline proposal, the need to provide explorers and developers of Alaska natural gas with reasonable assurances that they will have access to capacity on any Alaska natural gas pipeline can be met through existing Commission oversight authority and certificate authorization authority, as supplemented, enhanced, and guided by the findings and requirements of this final rule, the NGA, and the Act. Any complaints regarding these Alaska project issues can be addressed through several ways, including the Commission's Dispute Resolution Service, the Enforcement Hotline, or the Commission's Fast Track complaint process which, under the final rule, will have automatic application to complaints involving any Alaska natural gas transportation open season.

15. Moreover, under section 157.33, any application for a certificate of public convenience and necessity for a proposed Alaska natural gas transportation project must include a demonstration that the applicant has conducted an open season for capacity on its proposed project in accordance with the requirements of this subpart, and failure to provide the requisite demonstration will result in an application being rejected as incomplete. This provision will provide a strong disincentive to discriminatory or unduly preferential conduct. Finally, although not required, project sponsors have the option of seeking Commission pre-approval of a proposed notice of open season.

16. The Commission stated in the NOPR that its goal was to design an open season process that provides non-discriminatory access to capacity on any Alaska natural gas transportation project and, at the same time, allows sufficient economic certainty to support the construction of the pipeline and thereby provide a stimulus for exploration, development, and production of Alaska natural gas. It has been suggested that the Commission's stated goal improperly emphasizes the importance of providing certainty to project sponsors to facilitate construction of the project, when instead the Commission should focus on providing as much regulatory certainty as possible to natural gas explorers.[9] However, providing the economic certainty to support the building of an Alaska natural gas transportation project and promoting competition in the exploration and development and production of Alaska natural gas are not mutually exclusive goals. We conclude that emphasizing economic certainty to explorers, without balancing the similar needs of potential project sponsors, would overlook the Act's overall objective of facilitating the timely development of an Alaska natural gas transportation project, and to bring Alaskan natural gas to markets in Alaska and in the lower 48 states. Thus, we believe that the balanced approach we are taking here is appropriate.

17. In the Commission's view, exploration, development, and production of Alaska natural gas are best served by having a pipeline built and by ensuring that all potential initial and future shippers are able to obtain access on that pipeline under non-discriminatory, non-preferential terms. This rule will provide the framework for an open season process that will provide reasonable flexibility to pipeline sponsors, while ensuring sufficient exchange of information and regulatory oversight to ensure that the goal of fair, open competition in the transportation and sale of natural gas is met.

## Section-by-Section Analysis of Final Rule

### *A. Purpose—Section 157.30*

18. Proposed § 157.30 sets out the purpose of subpart B. That purpose is to establish rules for the conduct of any open season on any Alaska natural gas transportation project. Section 103(e)(2) of the Act provides that these regulations must include the criteria for and timing of any open season, promote competition in the exploration, development, and production of Alaska natural gas, and, for any open seasons for capacity exceeding the initial capacity, provide for the opportunity for the transportation of natural gas other

[8] Anchor shipper(s) as used in the natural gas industry means one or a very few shippers with very large, significant volumes of natural gas that will financially support the initial design and cost of a project.

[9] *See* Comments of Shell USA, filed December 17, 2004, at 2. This belief is shared by a number of commenters aligned with the non-North Slope explorers and producers of Alaska gas.

than from the Prudhoe Bay and Point Thomson units.[10]

19. The Commission is adopting § 157.30 with certain changes recommended by Alaska for purposes of clarity. Specifically, the revised section makes clear that the regulations apply to open seasons ''for the purpose of making binding commitments for the acquisition of initial or voluntary expansion capacity'' on any Alaska natural gas transportation project. We see no need to change the description of the purpose of the subpart from being ''to establish the procedures for'' an open season to being to ''prescribe the rules,'' as recommended by Alaska.

*B. Definitions—Section 157.31*

20. Proposed § 157.31 defines the terms ''Alaska natural gas transportation project'' and ''Commission.'' ANGDA maintains that the definition of ''Alaska natural gas transportation project'' should be expanded to include a project involving ''a liquid natural gas project to transport liquefiable natural gas from Southcentral Alaska to the West Coast states.'' ANGDA bases its proposed amendment on a November 18, 2004 amendment to section 116 of the Act whereby Congress included an entity determined to be qualified to construct and operate a liquefied natural gas project to transport liquefied natural gas from Southcentral Alaska to the West Coast states as a ''qualified infrastructure project'' for purposes of obtaining a loan guarantee. The amendment ANGDA relies on did not expand, much less refer to, the definition of an ''Alaska natural gas transportation project.'' Consequently, the Commission finds no basis to conclude that Congress intended to include any liquefied natural gas project within the meaning of ''Alaska natural gas transportation project.''

21. While the NOPR's definition of ''Alaska natural gas transportation project'' is consistent with the Act's definition of that term, it does not fully define that term as it is defined in the Act. To be precise, the Commission is revising § 157.31 at § 157.31(a) to adopt the full statutory definition of that term. Additionally, the Commission is including for clarity new § 157.31(c), defining the term ''voluntary expansion.''

*C. Applicability—Section 157.32*

22. The NOPR proposes that the open season regulations are to apply to any application to the Commission for a certificate of public convenience and necessity or other authorization for an Alaska natural gas transportation project, whether filed pursuant to the Natural Gas Act, the Alaska Natural Gas Transportation Act of 1976, or the Alaska Natural Gas Pipeline Act, and to applications for expansion of such projects. The proposed regulation also provides that the open season regulations do not apply to involuntary expansions pursuant to section 105, unless the Commission expressly so provides.

23. Alaska proposes language in the final rule that provides that the open season regulations will apply ''to any Alaska Natural Gas Transportation Project for which a certificate of public convenience and necessity is sought pursuant to section 7 of the NGA and section 103 of the Alaska Natural Gas Pipeline Act.''[11] However, Alaska does not explain the basis for its proposed definition.

24. Section 102(2) of the Act defines an Alaska natural gas transportation project to include projects authorized under either the Alaska Natural Gas Transportation Act of 1976 or the Alaska Natural Gas Pipeline Act. Since the proposed regulation is consistent with this definition, the Commission sees no reason to amend it.

*D. Requirement for Open Season—Section 157.33*

25. Proposed § 157.33 requires that any application for a certificate of public convenience and necessity for a proposed Alaska natural gas transportation project include a showing that the applicant conducted an open season for capacity on its proposed project that fully complies with the requirements of this subpart. To ensure compliance with this requirement, proposed § 157.33 provides that any application lacking such a showing will be dismissed as deficient.

26. One of the questions that the Commission posed in its NOPR was whether the Commission should allow pre-subscribed, reserved capacity such as was allowed in connection with open seasons for certain new Outer Continental Shelf (OCS) pipeline facilities.

27. Several commenters, including TransCanada, Alliance, the North Slope Producers, Enbridge, Doyon, and MidAmerican/AGTA state that the Commission should allow pre-subscribed capacity for an Alaska natural gas transportation project. TransCanada and the North Slope Producers state that the open season rules should allow for options such as pre-subscription agreements that will encourage or facilitate the successful development of an Alaska pipeline project. They believe that pre-subscription might grant the flexibility to sponsors and shippers that is required in view of the size, expense, risk, and long lead time involved in an Alaska project. Enbridge is convinced that these factors call for pre-subscription.

28. However, the supporters of pre-subscription also comment that steps can or should be taken in order to ensure that other shippers have the opportunity to obtain capacity on a non-discriminatory basis through an open season process. TransCanada, for instance, describes a situation where the sponsor enters into binding prearranged precedent agreements with ''backstop'' or ''transition'' shippers who commit to sign firm transportation agreements if no other shipper comes forward, but who agree to lower their capacity commitments to pre-agreed levels to allow the inclusion of other shippers who tender qualifying bids during the open season. In a similar fashion, MidAmerican/AGTA states that the open season rules should permit transportation commitments allowing pre-subscribed capacity to be prorated down to a minimum threshold level to allow others to obtain capacity in the event the total requested capacity exceeds design capacity.

29. Enbridge is confident that, even with pre-subscription, an open season conducted under the safeguards and transparency provided by the Commission's proposed rules will result in a pipeline designed to enable every creditworthy shipper to obtain the long-term capacity it needs. However, Enbridge claims that there can be no Alaska natural gas transportation project without the full, binding commitment of the North Slope Producers. Alliance is also a strong believer in the potential usefulness of pre-subscribed capacity in facilitating the development of an Alaska pipeline. However, also recognizing that the open season rules must promote competition in the exploration, development and production of Alaska gas, Alliance claims that limits could be placed on the amount of capacity available for pre-subscription, or that pre-subscription could be reserved for initial open seasons only.

30. Another group of commenters prefers that the Commission not allow pre-subscription of capacity and asks that if it is permitted, limitations and conditions be imposed in order to

[10] The Prudhoe Bay and Point Thomson units are gas fields located on Alaska's North Slope with a total of approximately 35 Tcf of known gas reserves.

[11] *See* Comments of the State of Alaska regarding § 157.32.

ensure that capacity is still available to prospective shippers which do not participate in pre-arranged agreements. These commenters include Anadarko, Alaska, Calpine and ChevronTexaco.

31. Anadarko argues that if the final rule approves the use of pre-subscription agreements, they must be subject to the outcome of the open season, and that potential bidders in the open season should be offered the same terms and conditions as the pre-subscribing shippers. Anadarko states that there are two distinct types of prospective shippers on an Alaska natural gas transportation project—the North Slope Producers and the explorers and producers of unproven or undeveloped Alaska natural gas—who are in long-term competition for the pipeline's capacity, and that pre-subscription favors the major producers to the detriment of those developing competing reserves. Second, Anadarko contends that there are circumstances that distinguish the situation in Alaska from that existing in the OCS cases cited in the NOPR, including the fact that the OCS cases involved the transportation of specific reserves and entailed unusual costs and risks, whereas the situation in Alaska calls for a pipeline that will access all Alaska gas, and that risk has been substantially reduced by a massive federal loan guarantee. Moreover, states Anadarko, the Act calls for mandatory open seasons for capacity on an Alaska natural gas transportation project. Consequently, Anadarko asserts that the final open season rules must require that pre-subscribed capacity must be subject to the outcome of the open season, and if the proposed project is oversubscribed, the project sponsors must either revise the project's capacity to accommodate all bids or fairly prorate all the capacity.

32. Alaska would also prefer that the final open season rules prohibit pre-subscribed capacity because of its potential to limit the amount of capacity in the open season. If pre-subscription is permitted, Alaska, like Anadarko, states that all parties should be able to obtain capacity on the same terms and conditions, and if the project is oversubscribed, all capacity should be pro-rated equally. ChevronTexaco has a similar view, stating that so long as the pre-subscription represents only a minimum commitment needed to construct a project, with the understanding that the project will be enlarged as a result of matching bids in the open season, and so long as pre-subscribed capacity and open season capacity are allocated on the same basis, the Act's open season goals are met. Calpine points out the same circumstances as Anadarko did in distinguishing an Alaska natural gas transportation project from the OCS facilities referred to the NOPR. However, to facilitate the ultimate development of an Alaska natural gas transportation project, Calpine is agreeable to allowing pre-subscribed capacity that will be subject to an allocation procedure in the event capacity is oversubscribed.

33. Alaska Legislators and Arctic Slope oppose any pre-subscription. Arctic Slope asserts that 100 percent of the capacity of an Alaska natural gas transportation project must be made available on a non-discriminatory, open access basis to all potential shippers; therefore, the open season rules should prohibit pre-subscriptions. Alaska Legislators state that the Act requires the Commission alone to establish the open season procedures for awarding initial and expansion capacity on an Alaska natural gas transportation project. Moreover, since Congress mandates that these open season regulations promote competition in the exploration, development, and production of Alaska natural gas, Alaska Legislators contend that the project must be developed in a manner that maximizes the number of exploration and production companies able to participate in an open season and compete for capacity on the pipeline. The only way this can be done, according to Alaska Legislators, is by requiring that 100 percent of the initial and expansion capacity be awarded solely through a public open season. Alaska Legislators support their view by stating, like Anadarko and Calpine, that the OCS cases cited in the NOPR involved specific instances of individual pipeline construction proposals, and citing cases in which the Commission disapproved procedures outside of an open season and required transparent open seasons as the vehicle by which new pipeline capacity is obtained.[12]

34. The Commission recognizes that the expense, risk, and long lead time involved in developing an Alaska natural gas transportation project justify allowing project sponsors the flexibility to enter into pre-subscription agreements with the North Slope Producers and any other shippers who are currently in a position to support the project with long-term capacity commitments. We do not view the federal loan guarantees as reducing the risk of an Alaska project to a level where pre-subscription should not be allowed, nor do we see pre-subscription as inherently anti-competitive.

35. Based on the foregoing, we will permit pre-subscription in order to facilitate the development of an Alaska natural gas transportation project. In order to ensure that all other potential shippers will have an equal opportunity to obtain access to capacity on the project in the open season, we are requiring in the final rule that any and all pre-subscription agreements be made public within ten days of their execution, and that capacity on the proposed project will be offered to all prospective qualifying shippers on the same rates, terms and conditions as contained in the pre-subscription agreements. In the event that there are pre-subscription agreements with varying rates, terms and conditions, all prospective qualifying shippers shall have the option of choosing among the several agreements which one they wish to accept. We note, however, that the justification for allowing pre-subscription may not be as compelling in the case of any expansion, since the major hurdles to developing the project in the first instance will have been overcome. Therefore, we will limit our authorization to provide for pre-subscribed initial capacity only.[13]

36. Much attention is given in the comments to concerns over potential discrimination and preference in allocating capacity in the event that the proposed Alaska pipeline project is oversubscribed, whether or not pre-subscription is allowed. While these concerns can best be addressed by designing a proposed project such that it meets the capacity needs of all shippers who are prepared to enter into binding agreements, we nonetheless will use our regulatory authority to protect against undue discrimination or undue preference in capacity allocation.

37. As discussed below, the Commission is holding to the regulatory approach taken in the NOPR which allows project sponsors to (subject to our subsequent review) develop the methodology by which they will allocate capacity in the event of oversubscription of a project not supported by precedent agreements. However, in the case of pre-subscribed capacity, the Commission will require

[12] Wyoming-California Pipeline Co., 50 FERC ¶ 61,070 (1990); TransColorado Pipeline Co., 53 FERC ¶ 61,421 (1991); and Colorado Interstate Gas Co., 56 FERC ¶ 61,015 (1991).

[13] Future requests and open seasons for voluntary expansion capacity after the pipeline is in service will be controlled by procedures spelled out in the Alaska pipeline's approved FERC gas tariff, while involuntary expansion capacity will be controlled by the requirements of section 105 of the Act and any rules that the Commission may issue in the future governing such expansions.

that the project sponsors must either revise the project's capacity to accommodate all qualified bids or prorate only the capacity that was subject to the pre-subscription agreements or was bid for in the open season on the same rates, terms and conditions as any of the pre-subscription agreements. The Commission has chosen this solution for several reasons. First, the parties most certain to be pre-subscription shippers are the North Slope Producers, who will be in a position of control over the proposed project's design, either as project sponsors or as owners of the reserves that support the project. Second, by their own estimate, the North Slope Producers assert that the initial pipeline can be designed to accommodate all qualified bids.[14] Consequently, the Commission believes that it is appropriate that entities involved in pre-subscription bear the risk that their capacity will be reallocated in the event that the project is undersized.

38. Anadarko proposes to add to this section a provision that, when read in the context of its other proposed rules, would prohibit any pre-subscription agreements. Alaska also proposes language that would lead to that result. As discussed herein, the Commission is, with appropriate limitations, allowing pre-subscription, and is amending § 157.33 accordingly. Moreover, the Commission is satisfied that modifying § 157.33 to provide that any application lacking a showing that the open season regulations have been fully complied with will be rejected as deficient will ensure compliance with the open season requirements. Alaska proposes to also include in this section a provision requiring that open seasons be conducted without undue discrimination or preference in the rates, terms, or conditions of service. The Commission is expanding § 157.35 to include language similar to that suggested by Alaska.

*E. Notice of Open Season—Section 157.34*

39. The criteria for and timing of Alaska natural gas transportation project open seasons are spelled out in proposed § 157.34. This proposed regulation received the most attention in comments. For clarity and convenience, the comments are broken down and grouped by the topics listed below.

i. Open Season Timing and Duration

40. Proposed § 157.34 sets forth the criteria for and timing of Alaska project open seasons. Proposed § 157.34(a) provides for public notice of an open season at least 30 days prior to the commencement of the open season through methods including postings on Internet websites, press releases, direct mail solicitations, and other advertising. The Commission believes that such prior notice would serve several purposes. First, it would reduce, if not eliminate, any advantage that one potential shipper might have as a result of prior knowledge of the open season. Second, it would afford both project sponsors and prospective shippers a period of time prior to the actual open season period in which they could address and possibly resolve any questions or problems regarding the terms and conditions of the open season. Third, it would afford potential shippers time to prepare submissions in response to the open season.

41. Proposed § 157.34(c) provides that an open season for an Alaska natural gas transportation project must remain open for a period of at least 90 days. This minimum 90-day period for prospective shippers to examine the open season materials and make service requests to the pipeline is intended to establish some parity among shippers, given that certain shippers, primarily the ''anchor'' shippers, may have had advance information relating to the pipeline's proposed services, tariff provisions, and cost projections. Ninety days is proposed as an adequate amount of time in which to conduct a reasoned evaluation of the open season materials and to help level the playing field.

42. Alaska Legislators state that the notice period established in the NOPR needs clarification. Specifically, they state that the proposed regulations are unclear whether the 30-day notice period precedes and is computed separately from the 90-day open season period. In any event and for several reasons, state Alaska Legislators, an initial open season will require a duration of a minimum of six months, and any subsequent open seasons should remain open for a minimum of four months. First, Alaska Legislators assert that this additional time is needed to offset the fact that shippers affiliated with the pipeline will have advance information. Second, the substantial capital commitment that will be required of any prospective shipper warrants a much longer period within which to evaluate whether to contract for capacity on the project.

43. ANGDA agrees that a 180-day period to review and assess the open season information is required in order to account for the huge information gap between the information now available to potential intra-state shippers and the information they would need to make multi-year commitments for capacity on an Alaska natural gas transportation project. ANGDA states that such a commitment would equal or exceed the asset base of potential shippers on a spur line. Moreover, public hearings and Regulatory Commission of Alaska (RCA) approval of contract terms is required for several potential shippers. The due diligence and expert advice required to make decisions of this magnitude require a minimum of 180 days, according to ANGDA. Additionally, ANGDA states that many shippers' contract terms require RCA approval, which could take one to two years. Anadarko also believes 180 days is required due to the magnitude of the commitment and to offset the informational advantages that the major producers have over other potential shippers. For example, Anadarko estimates that a 500 MMcf/d commitment for 20 years' capacity on an Alaska natural gas transportation project translates into a $7 billion demand charge, and a 30-year contract would involve a $10 billion commitment.

44. AOGCC, Shell, Pacific Star, Doyon, and Alaska share the belief that the NOPR's 90-day open season period should be extended. Pacific Star could support a 120-day open season, with a prior 90-day review period. Alaska recommends a ''safe harbor'' range of 90 to 120 days, with no preference given based on when bids are received.

45. MidAmerican/AGTA, Alliance and Enbridge find the 30-day notice and 90-day open seasons to be adequate. In particular, Enbridge and MidAmerican/AGTA find these time frames to strike an appropriate balance between meeting prospective shippers' informational needs and the need to expedite the development of an Alaska natural gas transportation project. Enbridge states that because there have been years of developmental work on an Alaskan natural gas pipeline, with many prior public hearings and discussions on the subject having occurred and continuing dialog between potential sponsors and shippers taking place, it is unnecessary to lengthen the proposed open season period.[15] Enbridge adds that extending

[14] As noted, *infra*, the North Slope Producers state that it will require 50 Tcf of gas to keep a 4 to 4.5 Bcf pipeline full for 30 years, and any Alaska pipeline will be designed to be economically expandable to 6 Bcf/d, which would accommodate an additional 15 Tcf over 30 years.

[15] As support for the reasonableness of the 90-day open season period, Enbridge compares it to the 30-day and 53-day open seasons held in Maritimes & Northeast Pipeline, LLC, 80 FERC ¶ 61,346 at 62,174 (1997) and Alliance Pipeline L.P., 80 FERC ¶ 61,149 at 61,591 (1997), both large, cross-border

the open season could result in long delays in the project's overall schedule due to the narrow, seasonal windows associated with environmental studies and preliminary field work.

46. Another timing issue raised in comments involves when any open seasons for an Alaska natural gas transportation project should be held. The NOPR has no requirements on the subject of when project sponsors must hold the open season. According to Anadarko, the Commission's silence on this issue will allow sponsors to hold open seasons early in the project's developmental process. As a result, explorers will be unable to commit to capacity on the project because of the present uncertainties surrounding their reserves. This sentiment is shared by others, including Arctic Slope, DOI, Doyon, and Shell. As a solution, these commenters state that the open season regulations should include a requirement that any open seasons must remain open until the last practical point in time, which according to Anadarko and Shell is the time when the sponsors must close on their financing arrangements. These commenters state that in this way, some potential shippers, other than the major producers who are in a better position to commit early in the process, might be able to resolve the uncertainties currently prohibiting them from participation. Shell also states that the open season regulations should preclude any open season for an expansion project prior to one calendar year after the in-service date of the pipeline unless the open season is specifically requested by a shipper other than a major producer.

47. In addition, some commenters urge the Commission to require that the study of in-state needs provided for in section 103(g) of the Act precede any open season. Although the language of the Act requires that ''the holder of the certificate'' demonstrate that it has conducted the required study, the Act does not state when such study should be conducted; nor does the Act require that the study be made public. Alaska states that contrary to the intent of the Act, the NOPR is silent on the subject of ensuring that in-state needs for gas are met.[16] According to Alaska, the only logical way for this to be done is to require that the in-state study be conducted prior to the open season in order for the project sponsor to design the capacity, routing and expansibility of the project facilities to accommodate those needs. The Alaska Legislators argue that an in-state study is ''virtually meaningless unless concluded and the results made public by the pipeline operator prior to any open season.'' [17] Chevron Texaco, TransCanada, and ANGDA agree that, in order to determine where tie-in points are needed to meet Alaska's domestic gas needs, the studies should precede any open season.

48. The Alaska Legislators further argue that the Commission should spell out the type of study that the pipeline will be required to undertake. ANGDA's comments address the need for two major gas trunk-line interconnect points in Alaska, most critically a spur line to make North Slope gas available to the Cook Inlet area, where two-thirds of the state's population resides, and which has less than a 10-year reserve life for current gas supply. United States Senator Murkowski, State Senator Therriault, and Mr. Izzo, representing Enstar, among others at the technical conference also stressed various in-state needs for natural gas. ChevronTexaco states that it could be a simple matter of identifying most logical tie-in points to address future needs and the most economic methods to expand the capacity to meet those needs when they arise. Alaska Legislators suggest that a January 2003 study conducted on behalf of Alaska's Department of Natural Resources might serve as a useful example to model in fashioning the requirements of the in-State study.[18]

49. The Commission is adopting the NOPR's 30-day notice period and 90-day open season period of ''at least 90 days'' for open seasons, and clarifies that the 30-day notice period will precede the 90-day open season and that the notice of open season is to contain all of the information detailed in § 157.34(b). Therefore, all interested persons will have a period of a minimum of 120 days in total to examine the information pertaining to any open season in order to assess whether they are willing and able to participate in the process and proffer bids. The Commission understands that on day one of the open season process, any shippers affiliated with the pipeline or who have entered into pre-subscription agreements may have certain information not available to other entities. However, that information is required to be disclosed at the beginning of the minimum 120-day period.

50. The Commission also appreciates that, due to the substantial capital commitment that will be required, any prospective shipper will need a sufficient period of time within which to evaluate whether to make multi-year commitments for capacity on the project. However, we also understand that in order to timely develop a pipeline proposal, size the facilities, secure financing and otherwise finalize the proposal in detail sufficient to file a certificate application, time is of the essence. This is accentuated by the fact that under section 109 the Act, if an application for an Alaska natural gas transportation project is not filed within 18 months after the October 2004 enactment of the Act, the Secretary of Energy is required to conduct a study of alternative approaches to an Alaska natural gas transportation project.[19] While the Act does not preclude the filing of an application after the 18-month period and the initiation of such a study, it is clear that the Act contemplates that an applicant will proceed with all deliberate speed.

51. The minimum 120-day open season period we are establishing is substantially longer than any open season heretofore held for a major pipeline project. While no other project equals or nears the size and complexity of an Alaska natural gas transportation project, this will be a project with many years of evaluation, information-gathering and private and public debate behind it. While there may currently be some disparity in the amount of information various interested parties have, most have been assessing their situations, at least conceptually, for many years. The Commission, on balance, believes a 120-day period is adequate to substantially level the playing field, particularly given the extensive information requirements imposed in the open season regulations. We are not convinced that an open season lasting as long as six months is necessary.

52. The Commission, for several reasons, will not impose a requirement that any open season must remain open

projects. Alliance too, refers to its own 53-day open season.

[16] Governor Murkowski also made this point at the technical conference.

[17] Joint Comments of the Legislative Budget and Audit Committee of the Alaska State Legislature and Indicated Alaska State Legislators at 48.

[18] This study can be found at: *http://www.dog.dnr.state.ak.us/oil/products/publications/otherreports/demand/instate gas v1.pdf.*

[19] Congress' sense of urgency is demonstrated by a number of other provisions in the law, including those calling for expedited action in connection with the environmental review and the Commission's certificate approval processes, as well as expedited judicial review in connection with any environmental impact statement or final Federal agency order issued under the Act. Moreover, the Act establishes an independent Office of Federal Coordinator who is empowered to oversee and coordinate the expeditious federal permitting processes in connection with any Alaska natural gas transportation project.

until a particular point in time tied to other project activities. This requirement was requested in order to allow as much time as possible for potential shippers to put themselves in a position to bid for capacity. The Commission is providing that the effective date of this final rule shall be 90 days from its publication in the **Federal Register**, which will prevent any open seasons for the first three months. Any specific point in time that the Commission might select (such as a year before an application was filed) might not be suitable under all circumstances, and could, therefore, frustrate efforts in planning project proposals. However, we are adding a new provision in the final rule, § 157.34(d)(2), that a project sponsor must consider any bids tendered after the expiration of the open season by qualified bidders, and may reject them only if they cannot be accommodated due to economic, engineering, or operational constraints, in which case the project sponsor must provide a detailed explanation for the rejection. This requirement is designed to allow reasonable access to those shippers whose circumstances prohibit them from participating during the established open season period. Nonetheless, our expectation is that the pipeline can and will be designed and built to accommodate all qualified shippers who are ready to sign firm agreements. On balance, this should be of benefit to late-developing shippers and at the same time provide the sponsor with flexibility in the timing of its open season.

53. In light of the concerns expressed by Alaska entities and Congress' mandate that Alaska in-state needs be given due consideration, we are adding to § 157.34 of the regulations a requirement that open season information include an assessment of in-state needs, based to the extent possible on any available study performed by Alaska, and a listing of prospective delivery points within Alaska. We are also adding a requirement that the open season information include a proposed in-state transportation rate, based on the costs of providing that service. This will give participants in an open season sufficient information to understand what capacity is proposed to be offered to entities within Alaska, where the project proponent proposes to make in-state deliveries, and what the rates for in-state service may be. To the extent possible, we intend that for this assessment to be made based on information provided by the state, so that we, project proponents, and other interested parties can have the benefits of the state's expertise.

54. We do not propose to set aside a specific amount of capacity for in-state service, because we do not now know how much capacity will be sought for that purpose. Similarly, although, as stated immediately above, in-state transportation rates must be based on the costs of providing that service, we cannot at this point determine the appropriate allocation of costs between services for in-state deliveries and for deliveries to the lower 48 States. We will deal with cost allocation issues occasioned by these matters as they arise.

55. We note that section 103(g) of the Act requires the holder of a certificate for an Alaska project to prepare a study of Alaska in-state needs. The open season information we are requiring does not obviate the need to comply with this provision, but the material provided during the open season could later be proffered as the post-certificate study, and, should we determine that there is sufficient agreement by interested parties that the open season information is sufficient, we may accept it as satisfying the statutory requirement.

ii. Open Season Technical Informational Requirements

56. Proposed § 157.34(b) lists the information that any notice of open season for an Alaska natural gas transportation project must contain. The listed information includes technical information such as the route, the proposed receipt and delivery points, the size and design capacity, estimated in-phase dates for expansion capacity, delivery pressure, projected in-service date, estimated unbundled transportation rate, estimated cost of facilities and estimated cost of service, expected return on equity, negotiated rates and other rate options under consideration, quality specifications, terms and conditions of service. In addition, the list includes a detailed methodology for determining the value of bids, the methodology by which capacity will be awarded in the case of over-subscription, a clear statement of all terms that will be considered, including price and contract term, and required bid information. Other listed information includes the form of a precedent agreement and time of execution of the precedent agreement, and definition and treatment of non-conforming bids.

57. The Commission recognized in the NOPR that a potential applicant for an Alaska natural gas transportation project might find it necessary or appropriate to initiate an open season before some of the information can be determined. The NOPR also anticipated that in a given situation, such information cannot be reasonably determined until after an open season is held. As an example, the Commission described a situation where, for purpose of gathering information and assessing demand, a prospective project sponsor might first conduct a non-binding open season. Then, based on its evaluation of the response, the sponsor could conduct a second, binding open season containing information sufficiently detailed to permit prospective shippers to enter into binding precedent agreements.

58. To accommodate these situations, the NOPR provided that the sponsor would be required to include the listed information in the notice of open season ''to the extent that such information is known or determined at the time the notice is issued.'' [20] Additionally, in order to level the playing field for all potential open season participants, the NOPR required that the sponsor include in the open season notice ''[a]ll other information that may be relevant to the open season, including information pertaining to the proposed service to be offered, projected pipeline capacity and design, proposed tariff provision, and cost projections, made available to or in the hands of any potential shipper, including any affiliates of the project sponsor and any shippers with pre-subscribed capacity, prior to the issuance of the public notice of open season.'' [21]

59. Several commenters, including Anadarko, MidAmerican/AGTA, the North Slope Producers, Alliance, and Enbridge found the NOPR's listed information to be generally sufficient to provide prospective shippers the information needed to decide whether they to make binding, long-term commitments to purchase capacity on an Alaska natural gas transportation project. However, several aspects of the NOPR's informational requirements drew the attention of these commenters.

60. Anadarko and Shell state that limiting the sponsor's obligation to provide the information listed in the NOPR only ''to the extent that such information is known or determined at the time the notice is issued'' creates a loophole, and this qualifying language should be deleted from the regulations. According to Anadarko and Shell, a pipeline could avoid providing certain vital information simply by claiming that the information was not yet known

[20] NOPR, proposed § 157.34(b).

[21] *Id.*, § 157.34(b)(17).

or by holding the open season prematurely. These commenters state that the open season regulations should require that for any binding open season, pipelines include all the listed information in the notice. While certain physical characteristics of the pipeline will not be known until the pipeline is built, the pipeline can include in the notice the information upon which the open season proposal is based.

61. Alliance suggests that the Commission could reduce the risk of any dispute over the adequacy of the information contained in the notice by making clear that the information contained in the notice does not have to reflect the finalized positions on all elements at the time of notice of open season, and that a notice will not be invalidated by the absence of certain information. Additionally, Alliance recommends that the sponsors should be allowed to modify and update elements of their open season proposal if such modification is acceptable to prospective shippers. Alliance claims that this approach was useful in its own open season. MidAmerican/AGTA, on the other hand, feels that the above-mentioned qualifying language was reasonable.

62. However, MidAmerican/AGTA, together with the North Slope Producers and TransCanada, state that the catchall provision requiring ''all other information that may be relevant * * *'' is too broadly written. These commenters fear that the provision might be abused by those seeking either to delay the process or to obtain proprietary information. The North Slope Producers are also concerned over protecting proprietary or commercially sensitive information. They contend that this catchall provision is not in line with the Commission's policy against burdensome disclosure of commercially sensitive information. The North Slope Producers state that a notice containing the other sixteen types of information listed in the proposed regulations already provides more information than has been historically shared with shippers.

63. A number of comments on the proposed informational requirements focus on the need or desirability of including information that would inform all proposed shippers with respect to the expandability of the proposed project. Many commenters express, at one point or another in their comments, and all commenters implicitly agree, that it is extremely important to determine the original sizing and future expandability of an Alaska natural gas transportation project, as it will likely be the only pipeline built for the foreseeable future to transport Alaska natural gas for delivery to markets in the lower 48 states. Alaska, Calpine, and the Alaska Legislators all state that more information in the open season is needed to achieve optimal project design parameters. Alaska has proposed language to be included in the final regulations which includes feasibility and estimated cost of pipeline expansions, either through compression or looping, including any physical limitations.[22] Calpine also states that the notice of open season should contain information on the expandability of the project's design capacity, including the design capacity per stage of each expansion and method of achieving expansions, and that rate estimates should cover rates for expansion stages (calculated on a rolled-in basis).

64. The North Slope Producers request that the Commission clarify that proposed § 157.34(b)(6) does not require that capacity must be awarded on an MMBtu basis. Their argument is that, because the gas transported may include higher-Btu components, such as ethanes, which will not ultimately show up as natural gas, Btu-based rates would be unfair. Instead, they state that capacity on an Mcf basis is typical for similar pipelines.

65. ANGDA contends that the open season information should include design requirements for two major gas trunkline interconnect points in Alaska. ANGDA adds that a single tariff clearly would unduly discriminate against intrastate Alaska shippers.

66. Looking beyond the initial open season, Alaska and Alaska Legislators address in their comments additional information requirements needed for potential shippers to evaluate either their own expansion needs or whether there is sufficient demand to support an economic expansion of an Alaska natural gas transportation project. Alaska asserts that in addition to the expanded information it proposes for initial expansions, a notice of open season for expansion capacity should also include specific information identifying the location of the natural gas reserves to which the pipeline relates, although Alaska would permit the pipeline to seek a waiver of any expansion information requirement it considers to be inapplicable. Alaska also states that the regulations should provide that any voluntary expansion design must either accommodate the capacity requests of all open season expansion bidders which are able to satisfy the Pipeline's creditworthiness requirements and willing to execute firm transportation agreements of reasonable duration at maximum recourse rates or demonstrate what technical or economic factors prevent such a design.

67. Alaska Legislators claim that ongoing collection and publication by the pipeline of real-time information necessary for non-pipeline owners to evaluate on an ongoing basis the potential for pipeline expansions is required. Alaska Legislators suggest alternative methods of accomplishing this. Either the pipeline should conduct periodic, non-binding open seasons, or it should maintain a publicly-available log or queue of capacity requests. In all events, Alaska Legislators state that the Commission should also require that the pipeline keep a regularly-updated schedule on its website that includes: (1) Good faith estimates by the pipeline operator as to the possible and probable expansion increments to at least twice the original design capacity of the then-existing pipeline; (2) pipe characteristics of the then-existing pipeline, including wall thickness, diameter, and metallurgy; (3) compressor descriptions (manufacturer and model number, site rated horsepower and capacity, suction and discharge pressure and milepost locations of all existing and planned or prospective compressor stations); (4) an elevation profile of the then-existing pipeline; (5) known limitations on potential receipt and delivery points and a good-faith statement as to the bases for those limitations; (6) any other known limitations that would constrain or preclude expansions and a good-faith statement as to the bases for those limitations; and (7) any other expansion-related information of whatever nature which the pipeline owners or operators have made available to potential shippers (including any producing affiliates).

68. DOI states that the Commission should not allow decisions regarding the timing of open seasons to be left to the sole discretion of the pipeline and its affiliates. Instead, DOI requests that the Commission establish procedures for conducting future non-discriminatory open seasons that are reasonably responsive to ongoing exploration and development activities.

69. The Commission did not intend to provide project sponsors with a reason not to provide necessary information by qualifying their obligation to provide information in the open season ''to the extent that such information is known or determined at the time the notice is

[22] *See* Alaska's December 17 Comments, at Appendix, Proposed Open Season Regulations, § 157.34(a)(5)(ix).

issued.'' As noted above, this qualification was intended to recognize that a potential Alaska pipeline project applicant might find it necessary or appropriate to initiate an open season before some of the information can be determined. As an example, the Commission described in the NOPR a situation where a prospective project sponsor first conducts a non-binding open season in order to gather information and assess demand, and thereafter, based on its evaluation of the response, conducts a second, binding open season containing information sufficiently detailed to permit prospective shippers to enter into binding precedent agreements.

70. The Commission's thinking at that time was that the open season rules would apply to ''non-binding'' open seasons, and the above qualification would have utility in such a situation. However, we understand that it may be difficult to draw distinctions between a ''non-binding'' open season and some other process of assessing interest in or need for capacity to assist the project sponsor in preparing a binding open season notice. Therefore, we are clarifying in the final rule that the open season regulations apply only to open seasons for binding commitments for capacity. The Commission sees no utility or need in imposing the full array of these open season regulations on activities leading up to a binding open season. There are adequate protections built into the open season rules, including the obligation to disclose information, to address any discriminatory and preferential practices through the Commission's oversight and enforcement capabilities.

71. Nonetheless, we understand that optimal design requirements are achieved as a result of an open season and not in advance of it, and we still foresee the possibility that a potential project sponsor might find it necessary or appropriate to conduct an open season before all the information required to be contained in the open season notice can be determined. Therefore, we will clarify in the final rule that the notice of open season must contain at a minimum, a good faith estimate based on the best information available of all items of required information and that the project sponsor must identify the source of information relied on, explain why such information is not presently known, and update the information when and if it is later determined during the open season period.

72. The Commission is also modifying proposed § 157.34(b)(17) [23] to address concerns that, as proposed, the regulations might be used to seek the disclosure of proprietary or commercially sensitive information. The purpose of the information-sharing requirement is to make sure that all interested parties are equally informed on matters essential to their decision whether to bid for capacity on the proposed project, with an eye toward leveling the playing field between affiliated shippers or others with prior knowledge of information to be contained in the open season notice and all other potential shippers. Between the specific information identified in proposed § 157.24(b)(17), namely, information pertaining to the proposed service to be offered, projected pipeline capacity and design, proposed tariff provision, and cost projections, and all the items of information enumerated in § 157.34(b), the Commission has, in essence, defined the information that all shippers will need to participate in an open season for capacity on an Alaska natural gas transportation project. Accordingly, we will delete the reference to ''all of information that may be relevant.''

73. However, following review of the comments, the Commission is concerned that the informational requirements of § 157.34(b) alone might not be sufficient to prevent the possibility of discrimination by a project applicant in favor of an affiliate of that applicant. The Commission's goal is to prevent unduly discriminatory behavior and limit the ability of a project applicant to unduly favor its affiliate.

74. Therefore, in order to further the Commission's goal of a non-discriminatory open season, the Commission is applying certain of the Standards of Conduct requirements of Order No. 2004[24] to all project applicants conducting open seasons for an Alaska natural gas transportation project because this will minimize the risk that an affiliate of a project applicant would have an advantage over non-affiliates in obtaining capacity through the open season. The Commission is requiring project applicants to create/designate a unit or division to conduct the open season. The unit or division will be required to function independent of the other non-regulated divisions of the project applicant as well as the project applicant's Marketing and Energy Affiliates and subject to certain provisions of the Standards of Conduct. Specifically, the following provisions of Order No. 2004 will apply to project applicants conducting an open season: separation of functions (18 CFR 358.4(a)(1), (3), (4), (5) and (6) and (b)(e)(3),(5) and (6) (2004)); information access (18 CFR 358.5(a) (2004)); information disclosure (18 CFR 358.5(b) (2004)); prohibitions against discrimination (18 CFR 358.5(c)(5)(2004)) and discounts (18 CFR 358.4(d)(2004).

75. Under section 358.4(a)(1) of the Commission's regulations, the transmission function employees of a transmission provider must function independent of the transmission provider's Marketing affiliate or Energy Affiliates' employees. The employees who are part of the unit/division conducting the open season will be treated as transmission function employees and must function independently. Applying the separation of functions requirement would entail that employees of a project applicant who are involved in the open season may not also perform duties for the Energy Affiliates or Marketing Affiliates (as defined in 18 CFR 358.3(d) and (k) (2004)) of that project applicant. This would prevent Energy Affiliates of the project applicant who participate in the open season from having the advantage of information or strategy that non-affiliated open season participants do not have.

76. The applicable exemptions from the separation of functions would also apply to permit the project applicant to share various categories of employees, including: Support, field and maintenance employees (section 358.4(a)(4)); senior officers and directors who are not ''Transmission Function Employees'' (as defined by 18 CFR 358.3(j)), provided that they do not participate in directing, organizing, or executing transmission system operations or market functions or act as conduits for sharing prohibited information with a Marketing or Energy Affiliate (§ 358.4(a)(5)); and risk management employees who are not engaged in transmission functions or sales or commodity functions.

77. Consistent with § 358.4(e)(3) of the Standards of Conduct, the Commission

[23] *See* § 157.34(b)(18) of the final rule.

[24] Standards of Conduct for Transmission Providers, Order No. 2004, FERC Stats. & Regs., Regulations Preambles ¶ 31,155 (2003), order on reh'g, Order No. 2004–A, III FERC Stats. & Regs. ¶ 31,161 (2004), 107 FERC ¶ 61,032 (2004), order on reh'g, Order No. 2004–B, III FERC Stats. & Regs. ¶ 31,166 (2004), 108 FERC ¶ 61,118 (2004), order on reh'g, Order No. 2004–C, 109 FERC ¶ 61,325 (2004) (Order No. 2004). Under Order No. 2004, for a natural gas pipeline Transmission Provider, the Standards of Conduct requirements do not apply until 30 days after the Commission issues a certificate allowing a project applicant to commence construction of an interstate natural gas pipeline.

will require each project applicant to post on its Internet Web site its written procedures describing how it complies with the applicable provisions of Order No. 2004. The Commission also will require each project applicant to train its employees involved in the open season or part of the open season unit/division, officers, directors and employees with access to transportation information or information concerning gas purchases, sales or marketing functions under § 358.4(e)(5). The project applicant must also designate a Chief Compliance Officer who will be responsible for Standards of Conduct compliance, as required by § 358.4(e)(6). In order to reduce the burden on project applicants, the Commission will not apply some of the posting requirements of Order No. 2004 to the open season (*e.g.*, posting organizational charts and transfers of employees). However, project applicants must be able to verify that they have followed the organizational separation requirements.

78. The application of the information access (18 CFR 358.5(a)) and disclosure (18 CFR 358.5(b)) requirements will ensure that employees of Marketing/Energy Affiliates participating in the Open Season would not have access to any transmission information that is not publicly available to non-affiliated participants and require that any disclosure of non-public transmission information to a Marketing/Energy Affiliate be immediately disclosed to all other actual and potential open season participants by posting that information on the project applicant's Internet Web site. *See* 18 CFR 358.5(b)(3). The requirements for written consent before releasing non-affiliated customer information to a Marketing or Energy Affiliate and posting that consent on the Internet would also apply for project applicants. *See* § 358.5(b)(4).

79. The application of some of the non-discrimination requirements of Order No. 2004 will broadly prohibit discrimination by a project applicant conducting an open season and limiting its ability to unduly favor a Marketing/Energy Affiliate. The applicable non-discrimination provisions include: (1) Section 358.5(c)(3), which requires a Transmission Provider to process all similar requests for transmission in the same manner and within the same period of time; and (2) § 358.5(c)(5), which prohibits transmission providers from giving their Marketing or Energy Affiliates any preference over any other wholesale customer in matters relating to the sale or purchase of transmission service. In the context of an open season, these provisions ensure a project applicant will not provided any preferences to affiliated participants.

80. Finally, the application of the discount provision of § 358.5(d), which requires a Transmission Provider to post an offer of a discount for transmission service at the time an offer is contractually binding, will ensure the transparency of the open season process and discourage undue preferences. We note that if an offer of a discount becomes contractually binding through the execution of a precedent agreement, the offer must be posted at that time, not at the time of the final agreement.[25]

81. Applying many of the functional separation, information access, disclosure and non-discrimination provisions of Order No. 2004 to this open season process will ensure that it is conducted in a manner that is non-discriminatory and provides equal access to all participants, particularly those not affiliated with the project applicants. If during or following the open season the Commission determines that the project applicant has violated the terms of the Order No. 2004 requirements that we are making applicable to the open season, the results of the open season with regard to the Energy Affiliates of that project applicant may be voided and a new open season held for that capacity.

82. As noted above, a number of commenters discuss the need for or desirability of requiring disclosure of information relevant to the expandability of the project, both as proposed and on an ongoing basis. In overseeing the open season process and in processing and application for a certificate or other authority to construct and operate an Alaska natural gas transportation project, we will require that every reasonable effort be made to design a project that meets current needs for capacity, and accommodates future needs for capacity through low-cost expansion. The information identified in § 157.34(c)(2), together with the design and engineering information required as part of any application for a certificate, should be sufficient to reasonably inform all interested parties on matters involving the expandability of the project.

83. As noted above, we are providing that the open season information include an assessment of in-state needs, based to the extent possible on any available study performed by Alaska, and a listing of prospective delivery points within Alaska. Moreover, we are requiring that a proposed in-state transportation rate, based on the costs of providing that service, also be included. This should address ANGDA's contention that the open season information should include design requirements for two major gas trunkline interconnect points in Alaska and that a single tariff clearly would unduly discriminate against intrastate Alaska shippers.

84. Also as noted above, the North Slope Producers request that proposed § 157.34(b)(6) clarify that it does not require that capacity must be awarded on an MMBtu basis. The Commission clarifies that this provision was intended to be a mandate that rates for an Alaskan pipeline will eventually have to be stated on a thermal basis, as is long-standing Commission policy. However, the Commission understands that at this stage of project development for an Alaskan pipeline, it will be significantly more complex for project sponsors to estimate rates and award capacity on that basis given the unique features of this project. Thus during the open season process, capacity may be described and rates may be estimated on a volumetric basis. However, as was the case in the two orders cited by the North Slope Producers,[26] the Commission has found that pipelines can meet the Commission's objectives concerning the statement of rates on a thermal basis by proposing methods of rate adjustment at a later time. If during the open season process, a project sponsor chooses that capacity will be described and has its rates estimated on a volumetric basis, then it must notify bidders that final pro forma service agreements and the sponsors proposed tariff will have to be submitted with rate calculated on a thermal basis.

iii. Open Season Bid/Capacity Allocation Methodology

85. As stated above, the NOPR required that the notice of open season contain a detailed methodology for determining the value of bids,[27] and the methodology by which capacity will be awarded in the case of over-subscription, clearly stating all terms that will be considered, including price and contract term.[28] In addition, the NOPR required that capacity allocated as a result of any open season be awarded without undue discrimination or preference of any kind.[29]

86. The North Slope Producers contend that the combination of the

[25] Order No. 2004–A, III FERC Stats. & Regs. ¶ 31,161 at p 227.

[26] Alliance Pipeline L.P., 84 FERC ¶61,239 (1998); Kern River Gas Transmission Co., 79 FERC ¶61,299 (1997).

[27] FERC Stats. & Regs., Proposed Regulations, ¶32,577(2004), § 157.34(b)(13).

[28] *Id.*, § 157.34(b)(14).

[29] *Id.*, § 157.35.

mandatory non-discrimination/undue preference standard contained in the NOPR's § 157.35, the information disclosure requirements of § 157.34 (b), and § 157.33's provision that any application for a certificate of public convenience and necessity for a proposed Alaska natural gas transportation project must show that the applicant has conducted an open season for capacity in accordance with the open season rules fulfills the Commission's responsibilities under the Act to establish the criteria for conducting an open season, including the procedures for the allocation of capacity. Northwest Industrials, TransCanada, MidAmerican/AGTA, and the AGA all agree that the NOPR's proposed rules are appropriately flexible and provide a reasonably fair and open process that is consistent with the Act's directives.

87. The North Slope Producers stress that the most important, and first step to promoting competition in the exploration, development and production of Alaska natural gas is to get the Alaska natural gas transportation project built. They maintain that the Commission's current policies of allocating capacity in an open season to customers who value it most, and of favoring net present value (NPV) as a basis for awarding capacity will ensure that capacity will be awarded in a non-discriminatory and economically efficient manner. The North Slope Producers assert that through these policies, pipelines and shippers will also be assured that only capacity that is supported by the market and that is economically viable will be constructed.

88. Additionally, the North Slope Producers assert that based on preliminary assessments, there will be enough initial pipeline capacity to accommodate all near-term production from other producers and explorers, in addition to all production from Prudhoe Bay and Point Thomson. Specifically, they state that it will require 50 Tcf of gas to keep a 4 to 4.5 Bcf pipeline full for 30 years. Moreover, the North Slope Producers expect that any Alaska pipeline will be designed to be economically expandable to 6 Bcf/d, which would accommodate an additional 15 Tcf over 30 years.

89. At the same time, the North Slope Producers contend that while it is in a pipeline's interest to build a pipeline designed to carry all the gas shippers are willing to pay to transport, the costs of unused new capacity imposes certain limitations on just how much initial capacity the pipeline can build for a project to be economically viable. In response to suggestions made at the technical conference that, regarding capacity allocation in the event of oversubscription, small shippers should be favored, the North Slope Producers argue that any preferential capacity allocation methodology would be discriminatory, anti-competitive, and contrary to the NGA. The North Slope Producers state that shipper support for the project could be adversely affected if prospective shippers thought their commitments could be reduced. Moreover, they claim that any such undue preference or discriminatory treatment to particular shippers or sources of gas is unnecessary since an expansion under section 105 of the Act is available as a backstop for any shipper.

90. On the other hand, a number of comments are critical of the Commission's approach to addressing bid evaluations and allocation of capacity as represented in the NOPR. Pacific Star, Alaska Legislators, Shell, ChevronTexaco, Anadarko, Alaska, Calpine, Arctic Slope, Alaska Venture Capital/Brook Range, and Doyon all fault the Commission for not taking a pro-active approach in developing the capacity allocation methodologies, and instead leaving it to the pipeline to develop them. These commenters contend that Congress specifically instructed the Commission to detail the criteria to be used in awarding capacity, and to do so in a manner which will promote competition in exploration, development and production of Alaska gas.

91. In the NOPR, the Commission required that the notice of open season contain a detailed methodology for determining the value of bids,[30] and that capacity allocated as result of any open season be awarded without undue discrimination or preference of any kind.[31] We do not read section 103 of the Act to require that we define the methodology with the precision urged by those commenters who advocate a prescriptive regulatory approach. We remain confident, even more so now that we have the expanded scope of the regulatory text prohibiting undue discrimination and undue preference, that the regulations being promulgated in this order fully comply with the directives as well as the intent of the Act. Although the Commission is permitting prospective applicants the flexibility to establish the details of the bid evaluation methodology, any such methodology must meet the criteria imposed in this rule prohibiting undue discrimination, and it is the Commission, not the pipeline applicant who will apply that criteria to any open season claimed not to be in compliance with this rule. In this regard, the Commission notes that NPV has been the standard, but not required, methodology for evaluating bids in open seasons under current Commission policy. Although we are not mandating that methodology here, we will examine carefully any methodology that varies from those heretofore approved by the Commission to ensure that such variations respond to the unique circumstances of an open season for an Alaska project, and that they do not discriminate against any shipper or class of shippers in the evaluation of bids. We will now address specific issues.

a. Caps on Contract Terms

92. The Alaska Legislators, ChevronTexaco, Alaska, Anadarko, and Calpine all urge the Commission to establish some uniform cap on the term by which, under the NPV methodology, bids are evaluated. Calpine, for instance, proposes that the contract term for purposes of bid evaluation be 30 years. Anadarko states that any bid term or other terms and conditions that are difficult, if not impossible, for all but a few preferred shippers to meet, should be prohibited if they are not critically required to secure financing. Accordingly, Anadarko proposes a bid cap of 20 years or the length of the financing instrument. ChevronTexaco and Alaska concur that a 20-year cap would be appropriate.

93. The Alaska Legislators also argue that a uniform cap should be placed on the term by which bids are evaluated. Although they do not have a specific cap term in mind, they claim that the Commission should impose some bid evaluation to prevent the major producers from bidding unduly long contract terms in order to squeeze out competitors. Recognizing that previous efforts by the Commission to limit the duration of contracts awarded in Tennessee Gas Pipeline Company's open season did not survive judicial scrutiny, Alaska Legislators state that the circumstances surrounding an open season for an Alaska natural gas transportation project are quite different from the circumstances associated with Tennessee, a pipeline in the lower 48 states. These distinctions, they assert, satisfy the concerns that the Court had in *Process Gas Consumers Group* v. *FERC (Process Gas).*[32]

94. The Alaska Legislators point out that in the case of an Alaska natural gas

[30] *Id.*, § 157.34(b)(13).

[31] *Id.*, § 157.35.

[32] 177 F.3d 995 (DC Cir. 1999).

transportation project open season, it would be the bid evaluation that is being limited, not the contract term itself, as was the case in Process Gas. Second, they assert that the parties in Process Gas were debating the duration of the cap, not the need for any cap to counter affiliates' attempts to obtain capacity through unjustifiably long bids. Third, they say, the Commission, on remand, concluded that open season caps in Tennessee's tariff were not required to protect captive customers because market forces dictate that pipelines have greater incentive to build new capacity to serve all demand, than to create scarcity by withholding capacity. On this point, Alaska Legislators contend that monopoly forces rather than market forces control the climate in Alaska, and that a producer-owned pipeline would indeed be disinclined to assist competing producers by affording them capacity on the pipeline.

95. The Commission is not persuaded that any cap on contract term bids is necessary or appropriate at this time. Other than general concerns of affiliate abuse, the comments have provided no factual predicate which would warrant the Commission to deviate from current Commission policy, which is to not impose limits on bid terms. However, the Commission will be reviewing the results of any open season processes to determine the appropriateness of any unusually long contract terms (*e.g.*, a term exceeding the projected life of the pipe) to determine whether shippers incorporated them in their bids to obtain capacity allocation. For example, it would be in a prospective shipper's economic interest to seek a contract term that would be sufficient to allow the recovery of its revenues. However, it would not be in a shipper's economic interest to bid for capacity beyond its projected reserve's life because it would expose the shipper to reservation charges it may not be able to recover.

b. In-state Capacity Bids

96. The Alaska Legislators state that bids for in-state capacity, with lower NPV as a consequence of mileage-based rates, cannot fairly compete with bids for transportation over the full length of the pipeline. Consequently, in order for bids for Alaska deliveries to compete with deliveries to the lower 48 states, Alaska Legislators contend that the final open season rules should contain a mileage-based multiplier to bids for in-state capacity. Alaska Venture Capital also recognizes this potential problem, but offers no solution other than calling on the Commission to address the problem with specific rules.

97. Concerns over length-of-the-pipe versus in-state bids are misplaced in the context of NPV for a new pipeline such as any Alaska natural gas transportation project. The primary purpose of the open season process is to determine the appropriate size of the initial pipeline. In-state capacity bids will not result in stranded capacity, as can be the case with capacity sales on an existing pipeline. We agree with the Alaska Legislators. The purpose of the in-state capacity bids will be to determine whether and to what extent there is interest in developing a telescoped pipeline to service Alaskan needs in the initial capacity allocation. The revised regulations require that the open season include an estimated transportation rate for in-state deliveries, as well as a methodology for determining the value of bids for in-state deliveries and for deliveries outside of the State of Alaska.

98. Other topics raised in the comments include Anadarko's suggestion that prepayments are unnecessary since the pipeline sponsor may already be the recipient of an $18 billion loan guarantee. Anadarko also claims that since prepayments would be much less burdensome to the major North Slope producers than to others, they are unduly preferential and should be prohibited. ChevronTexaco requests that the regulations expressly provide that, in the event more than one sponsor group conducts an open season for an Alaska natural gas transportation project, bidders may bid on the competing proposals. Calpine adds that bids should not exceed the amount of the proposal's design capacity, and that affiliates should be prohibited from making multiple bids, so that there is only one bid from each entity.

99. Although the loan guarantee under the Act will certainly facilitate the sponsor's ability to obtain financing, it cannot be said that such guarantee obviates the need for creditworthiness standards or prepayment requirements where reasonably necessary. Consequently, we will not prohibit prepayments as urged by Anadarko. Such standards must be included in the information contained in the notice, and as such, are subject to the requirement that there be no undue discrimination or undue preference in the terms or conditions of service. ChevronTexaco's request that the regulations expressly provide that, in the event more than one than one sponsor group conducts an open season for an Alaska natural gas transportation project, bidders may bid on the competing proposals is a reasonable one. We have included appropriate language in the regulations. Finally, the Commission takes note of Calpine's requests regarding limitations on the amount of capacity bid and multiple bids from affiliates. Although we are not prohibiting all such bids, we will examine closely any such bids to determine whether they are soundly based on satisfying the legitimate needs of the bidder, or whether they are made to ''game'' the open season process.

c. Capacity Allocation in Case of Oversubscription

100. On the subject of allocating capacity in the event qualified bids for capacity exceed the amount of design capacity, a number of comments fault the Commission for not proposing requirements that will encourage exploration and development for yet to be discovered Alaska gas resources. This group includes Pacific Star, the Alaska Legislators, ChevronTexaco, Alaska Venture Capital/Brook Range, Alaska, Anadarko,. Shell and Doyon. Consistent with their view that the Commission must take a pro-active approach and adopt detailed rules regarding critical elements of open season, Alaska Legislators contend that the rules governing capacity allocation in the event of oversubscription must provide that small shippers will not be subject to proration. Alaska Legislators claim that a pro rata basis of capacity allocation is not appropriate for an Alaska pipeline, especially a producer-owned pipeline. They assert that the producers' control over the pipeline must be countered by regulations favoring access to capacity by multiple, smaller-volume shippers over single, large-volume shippers. Alaska Legislators state that by providing as many shippers as possible all of the capacity they request, those with market power will be encouraged to ensure that there is enough capacity for their requirements as well.

101. ChevronTexaco claims that in order for any open season to be fairly and reasonably conducted, any project that is too small to accommodate all nominated volumes should be redesigned, if possible. ChevronTexaco states that if the project cannot be redesigned upward, the next step would require that the bidders prove their access to gas supply to support their bids. After that, any unsupported bids would be allocated on a pro rata basis. Doyon also recommends as a first step that the sponsor upwardly revise the project's proposed capacity to accommodate all, and if it cannot be done, all shippers would receive a pro rated minimum volume of capacity. Similarly, Anadarko suggests that in case of oversubscription, the sponsor should either revise upward the

proposed capacity to accommodate all shippers or the pipeline should be required to prorate capacity requests in a manner that does not disproportionately affect those shippers who do not have pre-subscribed capacity. Finally, Alaska states that the Commission should require that all bids for 20 or more years at the maximum rate be treated equally and pro rated if necessary. If all such bids can be accommodated but bids under 20 years cannot, then NPV should be applied to award capacity to those bidders.[33]

102. Just as the Commission required that the notice of open season contain a detailed methodology for determining the value of bids, the Commission also required in the NOPR that the prospective applicant state the methodology by which capacity will be awarded, clearly stating all the terms that will be considered,[34] and that capacity allocated as a result of any open season be awarded without undue discrimination or preference of any kind.[35] Our justification and reasoning in support of our approach to establishing criteria for purposes of bid evaluation applies here as well. Moreover, to further meet the concerns expressed by parties who are worried about obtaining access to an Alaska pipeline, we have added new §§ 157.36 and 157.37, which make clear that the Commission will examine proposed pipeline designs, as well as expansion proposals, to ensure that all interested shippers are given a fair opportunity to obtain capacity both on an initial project and on any voluntary expansion. As stated elsewhere in this order, we believe it is in both the sponsor's and shippers' best interests to build the pipeline to accommodate all qualified shippers who are ready to sign firm agreements. We will carefully review project design and the documentation relating to the allocation of capacity, with the goal of promoting our open access and pro-competition policies.

*F. Prefiling Procedures*

103. Another specific issue on which the Commission sought comment was whether it should require that prospective applicants for Alaska natural gas transportation projects, before conducting open seasons, file with the Commission proposals for how the open seasons will be conducted. If so, the Commission asked whether the proposals be filed for notice and comment, or for a decision or pre-determination by the Commission that such proposals conform to the regulations. The Commission concluded its inquiry on this subject by inviting suggestions on what other procedures would be suitable to facilitate the expeditious resolution of objections or concerns regarding any open season for an Alaska natural gas transportation project.

104. The majority of commenters who addressed the subject of requiring that all open season proposals be pre-filed with the Commission were of the opinion that such a requirement is unnecessary and could potentially delay or disrupt the whole open season process. MidAmerican/AGTA and TransCanada propose that, instead, the sponsor should have the option of requesting Commission preapproval, adding that such option should include a 45-day comment period. ChevronTexaco prefers that instead of mandatory prefiling requirements, sponsors should be free to seek informal guidance from the Commission. Neither Alliance, nor Anadarko, nor the North Slope Producers supports any advance pre-approval filing requirement or procedure.

105. Alaska, on the other hand, believes that it is better to resolve any disputes involving the open season process beforehand. To accomplish this, Alaska proposes that the entire proposed open season package be filed with the Commission three months prior to opening date, and the Commission should notice the filing for comments prior to a Commission determination on the sufficiency of the open season notice.

106. Anadarko, ChevronTexaco, Alliance, Enbridge, the North Slope Producers, and MidAmerican/AGTA all stress the need for some form of dispute resolution during the open season process. Anadarko states that the open season rules should specify that the Commission's Fast Track Processing (18 CFR 385.206(h)) will apply to all complaints regarding non-compliance with open season regulations. Moreover, Anadarko maintains that the open season process should be suspended during pendency of the fast track complaint procedures in order to preserve the complainant's rights to acquire capacity. MidAmerican/AGTA and Alliance also refer to the Commission's Fast Track procedures as well as the Enforcement Hotline as useful, available procedures for resolving open season complaints. In addition to expedited complaint procedures, ChevronTexaco states that open season disputes could be resolved by way of a declaratory order.

107. ChevronTexaco also states that the Commission should consider imposing Standards of Conduct-like requirements, such as guidelines for interstate transporters in Order No. 2004. Enbridge and the North Slope Producers are also satisfied that the Commission's existing procedures are sufficient to expeditiously resolve any complaints or disputes over the open season process. Alliance asserts that the best way to address disputes is to minimize them through clear and unambiguous, yet flexible, rules.

108. DOI believes that some form of oversight is needed and suggests that all proposals be filed and publicly reviewed by the Commission or other independent regulatory group. DOI states that the proposed rules are vague and some process should be developed to modify the rules to accommodate changing circumstances in the future as they may arise.

109. On balance, we conclude that it is in the public interest to require pre-approval of open season procedures. This will allow issues to be identified and resolved at the earliest possible time, and, ideally, reduce the possibility of dissatisfaction with open seasons, as well as the risk that the Commission will have to require that deficient open seasons be conducted again. Therefore, the regulations will require that project proponents file open season plans for Commission approval.

110. As detailed above, various approaches to resolving disputes over the open season process are suggested. On review, the Commission believes that its current processes and procedures, combined with the pre-approval requirement, are sufficient to resolve any disputes arising out of the open season process, and in light of the sense of urgency expressed in the provisions of the Act, the Commission is providing in the final rule that any complaints alleging non-compliance with this subpart shall be processed under the Commission's Fast Track procedures.[36] However, the Commission does not find it necessary or appropriate as a rule to suspend the open season process during pendency of a Fast Track

[33] *See* Alaska's comments, Appendix at § 157.34(a)(3). As noted *infra*, Alaska also urges that the regulations include a requirement that a sponsor must justify in its application the technical or economic factors that prevented it from designing the project to accommodate all qualified bidders.

[34] *See* FERC Stats. & Regs., Proposed Regulations, ¶ 32,577(2004),§ 157.34(b)(14).

[35] *Id.*, § 157.35.

[36] *See* 18 CFR 385.206(h) (2004). Normally, Fast Track complaint processing must be requested and supported by an explanation why expedited processing is required. The Fast Track procedures include expedited filing of responsive pleadings, an order spelling out the schedule and procedures to be followed, including expedited action on the pleadings, an expedited hearing before an administrative law judge, or expedited action on any particular relief sought.

complaint in order to preserve the complainant's rights to acquire capacity, as requested by Anadarko. The Commission anticipates that in most cases that might arise, the project sponsor will be able to comply with a Commission order directing that it provide the capacity requested by a prospective shipper who is found to be entitled to capacity. However, just as we will not require that the open season be suspended, nothing in this rule prohibits a complainant from requesting, or the Commission granting, such relief if necessary.

*G. Rate Treatment for Expansions*

111. As noted above, one of the issues that received substantial attention in the pre-NOPR comments is whether the Commission should require rolled-in rate treatment for Alaska pipeline expansions. Although the NOPR's proposed regulations are silent on this subject, the NOPR requested comment on whether, in the event the Commission issues regulations with respect to the Commission's authority to require expansion of any Alaska natural gas transportation project, those regulations should address the rate treatment (rolled-in or incremental) of any such expansion.

112. Other than the North Slope Producers and Alliance, there is much support for rolling-in the costs of both voluntary and involuntary expansions, although there is disagreement about when the issue should be resolved. ChevronTexaco states that the subject of appropriate rate treatment for expansions is a subject deserving of substantial, detailed consideration that should be addressed after dealing with the more pressing task of issuing the open season rules. Northwest Industrial Gas Users also believes that the issue can be addressed later. Alaska agrees that expansion pricing is a complex subject that should be examined thoroughly, and asserts that instead of addressing the issue in this rulemaking, the Commission should issue a notice regarding expansion rate treatment for Alaska natural gas transportation projects in early 2005. Alaska observes that the arguments in support of rolled-in pricing are strong, but suggests that rolled-in pricing might not be appropriate in all circumstances. Alliance believes that because the appropriateness of rolled-in or incremental rate treatment for any expansion should be made on a fact-specific basis, and not by rule that predetermines, before the circumstances of a given expansion are even known, how that expansion should be priced.

113. Pacific Star and Alaska Venture Capital state that the Commission should give an early indication that it will support rolled-in rates for expansions of any Alaska natural gas transportation project. Pacific Star states that it agrees with the statement at the technical conference by TransCanada, ANGDA, Anadarko, BLM, and MMS that rate uncertainty will discourage exploration and development and that expansions of the pipeline could present widely varying rate consequences. Pacific Star also states that concerns over existing shippers' subsidizing rolled-in expansions should be weighed against the facts that initial shippers are benefiting from substantial subsidies through the $18 billion loan guarantee and a 7-year accelerated depreciation. Alaska Venture Capital/Brook Range similarly believes that the Commission should give an early indication that it will support rolled-in pricing under scenarios outside the Commission's existing policy, under which the Commission approves rolled-in rates only where the rolled-in rate is equal to or less than the existing recourse rate. According to Alaska Venture Capital/Brook Range, a policy calling for different rates for similar services would place explorers and smaller producers at a competitive disadvantage. This would, in turn, discourage exploration and development of Alaska natural gas, contrary to the mandate of the Act.

114. TransCanada, MidAmerican/AGTA, and DOI encourage the Commission to adopt a rebuttable presumption favoring rolled-in rates. TransCanada states that any shippers concerned about the effect of such treatment can seek to avoid it through negotiated rates. MidAmerican/AGTA qualifies its support for this presumption by stating that the presumption should apply only to reasonably-engineered increments of mainline expansions supported by long-term contracts similar to those supporting the initial project. DOI states that rolled-in rate treatment is more equitable to future shippers, and that, because Canada has adopted rolled-in rates for expansions, it would provide rate consistency for the entire system.

115. Alaska Legislators, Anadarko, Shell, Calpine, Arctic Slope, and Doyon all contend that rolled-in pricing should be required for pipeline expansions. Alaska Legislators contend that incremental treatment for expansions would discriminate against expansion shippers who, merely because of the timing of their capacity needs, may pay higher rates than initial shippers. This, according to the Alaska Legislators, ignores the fact that the need for expansion is the consequence of the demands of all shippers. Alaska Legislators state that the Commission must balance the interests of the existing customers against interests of other stakeholders in determining whether or not pre-existing shippers should get the benefit of rate decreases for expansions that lower the average per unit cost of transportation, but face the possibility of rate increases that increase the average per unit cost of transportation. Alaska Legislators also note that the current Commission policy on expansion pricing was developed to address pipeline to pipeline competition, which will not arise in Alaska.

116. In addition to arguing that incremental rates operate to discriminate against expansion shippers, Alaska Legislators argue that the prospect of incremental rates will also act to reduce competition and impede the development of Alaska natural gas. Alaska Legislators state that exploration and development of Alaska reserves requires a long lead-time due to seasonal restrictions and the remoteness of the resource.[37] Alaska Legislators contend that this long lead time makes it difficult for an explorer to judge when it is feasible to commit to capacity on the pipeline. The result, state Alaska Legislators, is that the explorers and developers may be deterred from investing the large sums required to drill for Alaska natural gas, when they are unsure whether their future capacity needs will be met at a time when inexpensive expansion through increased compression will be available, or whether the expansion they require would involve costly looping. The Alaska Legislators also argue that Canada has a long-standing policy of requiring rolled-in rates for expansions which could make exploration in Canada much more attractive to exploration and production companies.

117. Anadarko, also convinced that expansions under section 103 of the Act must be priced on a rolled-in basis, argues that this is critical to avoid a rate structure or policy that discriminates on the basis of time of entry onto the pipeline. Anadarko maintains that it is important to establish this requirement in the initial open season process in order to inform those prospective shippers that their rates might increase as expansions are rolled-in. Alaska Legislators provide a history of the

[37] Alaska Legislators refers to a statement made at the technical conference by Jeff Walker, of DOI's Mineral Management Service that it takes at least nine years for an exploration project to mature into production.

Commission's expansion rate policy, varying over time in order to address different goals as deemed necessary to address changing market dynamics. In short, Alaska Legislators assert that the current Commission policy favoring incremental expansion rates seeks to address issues of competing pipelines, competitive markets, optimal construction, and protecting captive customers, all valid considerations of the market setting in the lower 48 states, but wholly inapplicable to an Alaska natural gas transportation project or the Alaska market. According to Alaska Legislators, the Act instructs the Commission, through its open season regulations, to focus on reducing barriers, not to competitive markets, but rather, to entry in exploration and development of Alaska natural gas. Alaska Legislators conclude that to achieve this mandated goal, the open season regulations must be revised to include rolled-in pricing as one of the criteria for open seasons for pipeline expansions

118. Shell and Calpine also argue that Commission's 1999 pricing policy for expansions has no application to the circumstances of an Alaska natural gas transportation project where there is no element of pipeline competition or preventing overbuilding. Shell is concerned that companies might not invest hundreds of millions in exploration and development costs if they may have to pay for expansions on an incremental basis, while competitors benefited from earlier, inexpensive expansion. Calpine stresses that since an Alaska natural gas transportation project will be called to transport all Alaska gas, not just gas from Prudhoe Bay and Point Thomson reserves, a larger picture is required in assessing any policy against subsidization. Calpine maintains that an Alaska pipeline should be viewed as a 10 Bcf/d pipeline that will be built, in phases, over time, as opposed to a 4.5 Bcf pipeline that might be expanded from time to time. Under this picture, shippers on the first phase facilities will benefit from lower initial rates due to the Act's loan guarantees, however the Act was not only concerned with facilitating the development of a project that carries Prudhoe Bay and Point Thomson production to market, but also the development and transportation of Alaska's unproven reserves.

119. Arctic Slope is also concerned that unless rolled-in rates are mandated, there may never be an expansion of the pipeline beyond capacity created through infill compression and added compression horsepower. Arctic Slope estimates that rolled-in rates for expansions would probably be only a little higher than the initial rates since expansion costs would be borne by the entire pipeline throughput. However, the impact of incrementally-priced expansions on the incremental shippers, which would be based entirely on the incremental throughput quantities, would be very severe.

120. Alliance and the North Slope Producers assert that rates for expansion should be determined on a fact-specific, case-by-case basis, not on a pre-determined, rolled-in basis under the open season rules. The North Slope Producers stress that absent information regarding design, timing, and other project attributes, it would be inappropriate either to require or to favor rolled-in rates. In addition, the North Slope Producers point to section 105(b)(1) of the Act wherein, they state, Congress identified either rolled-in or incremental rates as appropriate for mandatory expansions. They add that if rolled-in rates were made applicable to voluntary expansions in the final open season rule, the result would be that such expansions would become involuntary and they would be discouraged.

121. Additionally, the North Slope Producers state that the Commission's existing, fact-specific policy recognizes the risks inherent in major infrastructure projects and seeks to prevent uneconomic pipeline expansions, as well as subsidization by existing customers, and should not be lightly discarded. Responding to the assertion that the NEB requires rolled-in rates for Canadian expansions, the North Slope Producers state that although NEB has adopted rolled-in rates in expansion cases, NEB addresses the issue on a case-by-case basis.

122. Finally, the North Slope Producers claim that explorers do not require absolute rate certainty in order to decide whether to participate in open seasons; an anticipated range that supports future economics is sufficient. On the other hand, the North Slope Producers state that initial shippers who fear that they may be called on to subsidize future shippers may not bid for initial capacity. In this connection, the North Slope Producers contend that one of the Commission's goals is to protect captive customers from rate increases arising from costs unrelated to their service, resulting in rate uncertainty and increased contractual risk.[38]

123. In this rule, the Commission does not adopt a firm pricing policy for future expansions of an Alaska natural gas transportation project, but we do take this opportunity to provide guidance on this important issue, as it will assist participants in the initial open season. We conclude that there should be a rebuttable presumption in favor of rolled-in pricing for project expansions. Our existing lower-48 states policy favoring incremental rates for expansions does not apply in the case of an Alaska natural gas transportation project. There is likely to be only one Alaska pipeline, so there will be little or no opportunity for competition between pipelines. Incremental pricing of expansion could put expansion shippers at a significant rate disadvantage compared with initial shippers, and accordingly could discourage exploration, development and production of Alaska natural gas. Having markedly different rates for similar service could be in conflict with one of the chief objectives of the statute, which is to encourage further exploration and development of Alaska natural gas. On the other hand, consistent with the arguments of a number of commenters, a presumption in favor of rolled-in pricing may spur investment in and development of Alaska reserves, and the ultimate delivery of that gas to the lower 48 states.

124. We cannot at this point, without a specific project proposal or the facts surrounding a proposed expansion before us, define exactly what will be required to overcome the presumption. As a general matter, we have historically not favored requiring existing shippers to subsidize the rates of new shippers. We do not intend to discard this principle, but rather to indicate that we will not lightly authorize expansion rates that would have an unduly negative impact on the exploration and development of Alaska reserves. Witnesses at the technical conference acknowledged that defining subsidization is difficult without specific facts to review, and that fact was restated in several of the comments filed. We agree. But a basic observation may be useful here. For example, a rolled-in expansion rate that is less than or equal to the rate paid by the initial shippers would not be considered a subsidy. Whether a rolled-in expansion rate that is higher than original rates is a ''subsidy'' is a question that necessarily would have to be reviewed in the context of a future NGA section 7 filing. At that time, Pacific Star's arguments relating to whether the Federal government's loan guarantees and accelerated depreciation amount to

[38] *See, e.g., Transcontinental Gas Pipe Line Corp.*, 106 FERC ¶ 61,299 (2004).

a ''subsidy'' of initial shippers' rates may be raised.

125. In conclusion, to provide guidance to potential shippers in advance of the initial open season that is the subject of this rule, the Commission intends to harmonize both objectives (rate predictability for initial shippers and reduction of barriers to future exploration and production) in designing rates for future expansions of any Alaska natural gas transportation project. It is consistent with our guiding principle that competition favors all of the Commission's customers, as well as with the objectives of the Act, to adopt rolled-in rate treatment up to the point that would cause there to be a subsidy of expansion shippers by initial shippers, if any subsidy were to be found.

126. Anadarko states that the open season regulations must prohibit pipelines from bundling ancillary services with transportation. In particular, Anadarko is concerned that sponsors might include in a tariff and an open season the bundled cost of a gas conditioning plant that would extract $CO_2$ despite the fact that such extraction would not be required of gas from many new Alaska gas fields which likely will be of pipeline quality. MidAmerican/AGTA and Enbridge agree that the open season process should preclude applicants from tying receipt of capacity to taking ancillary services, such as gas conditioning, treating, or processing. TransCanada simply states that it has no objection to proscription of tying.

127. DOI and MidAmerican/AGTA agree that rates for ancillary services should not be bundled with transportation rates. However, DOI contends that the State of Alaska should address the need for rules concerning non-discriminatory access to gathering and other production-related facilities, whereas MidAmerican/AGTA claims that the Commission should assert and jurisdiction over gas treatment plants and require separate open seasons and cost-based tariff structures for gas processing. On the other hand, the North Slope Producers contend issues of tying or bundling of services can be dealt with through established Commission processes and policies at the appropriate time, and need not be addressed in the open season. Alliance views the tying issue in the context of requiring designated downstream capacity, and suggests that as a practical matter, that should not be prohibited.

128. The Commission is stating in the final rule at § 157.34(c)(6) that the open season notice must contain an unbundled transportation rate. Moreover, § 157.34(c)(10) prohibits a prospective applicant from requiring prospective shippers to process or treat their gas at any designated facility. The Commission is satisfied that it can address any other discriminatory conduct in connection with gas quality requirements or other ancillary services through the provisions of § 157.35 in conjunction with existing Commission policies and procedures.

**Information Collection Statement**

129. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting, recordkeeping, and public disclosure (collections of information) imposed by an agency.[39] The following information collection requirements contained in this final rule are being submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995.[40] The Commission identifies the information disclosed under part 157 as FERC–537. The Commission has submitted this information collection to OMB for review and clearance under emergency processing procedures.[41]

130. The Commission did not receive specific comments concerning its burden estimates and uses the same estimates here in the Final Rule. Comments on the substantive issues raised in the NOPR are addressed elsewhere in the Final Rule.

| Data collection | Number of respondents | Number of responses | Hours per response | Total annual hours |
|---|---|---|---|---|
| FERC–537 | 0 | 1 | 80 | 2,400 |
| Totals | | | | 2,400 |

*Total Annual Hours for Collection:* 2400 hrs. These are mandatory information collection requirements.

*Information Collection Costs:* The Commission sought comments on the cost to comply with these requirements. No comments were received. The Commission is projecting the average annualized cost for all respondents to be $139,000 (2400 × $58.00).

*Title:* FERC–537 ''Gas Pipeline Certificates: Construction, Acquisition and Abandonment.''

*Action:* Proposed Information Collection.

*OMB Control Nos.:* 1902–0060. The applicant shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.

*Respondents:* Business or other for profit.

*Frequency of Responses:* One-time implementation.

131. *Necessity of Information:* On October 13, 2004, Congress enacted the Alaska Natural Gas Pipeline Act. Section 103(e) (1) of the Act directs the Commission to issue regulations within 120 days from the enactment of the Act. Congress and the Commission consider the issuance of these regulations to be of critical importance to the construction and development of and access to Alaska natural gas transportation projects. The Commission must issue a final rule by February 10, 2005.

132. Interested person may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 (Attention: Michael Miller, Office of the Executive Director, (202) 502–8415, fax: (202) 273–0873), *e*-mail: *michael.miller@ferc.gov*. For submitting comments concerning the collection of information and the associated burden estimate(s) including suggestions for reducing this burden, please send your comments to the contact listed above and to the Office of Management and Budget, Room 10202 NEOB, 725 17th Street, NW., Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission, (202) 395–4650, fax: (202) 395–7285).

**Environmental Analysis**

133. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human

[39] 5 CFR 1320.11.

[40] 44 U.S.C. 3507(d).

[41] 5 CFR 1320.13.

environment.[42] No environmental consideration is raised by the promulgation of a rule that is procedural in nature or does not substantially change the effect of legislation or regulations being amended.[43] The final rule establishes requirements governing the conduct of open seasons for proposals to construct Alaska natural gas transportation projects and does not substantially change the effect of the underlying legislation or regulations being revised.

**Regulatory Flexibility Act Certification**

134. The Regulatory Flexibility Act of 1980 (RFA)[44] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission is not required to make such an analysis if a rule would not have such an effect.

135. The Commission concludes that this final rule would not have such an impact on small entities. Most companies regulated by the Commission do not fall within the RFA's definition of a small entity.[45]

**Document Availability**

136. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington DC 20426.

137. From FERC's Home Page on the Internet, this information is available in the Commission's document management system, eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

138. User assistance is available for eLibrary and the FERC's Web site during normal business hours. For assistance, please contact FERC Online Support at 1–866–208–3676 (toll free) or (202) 502–6652 (e-mail at *FERCOnlineSupport@FERC.gov*), or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659 (e-mail at *public.referenceroom@ferc.gov*).

**Effective Date**

139. These regulations are effective May 19, 2005.

140. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this final rule is not a major rule as defined in Section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

**List of Subjects in 18 CFR Part 157**

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

By the Commission.

**Magalie R. Salas,**

*Secretary.*

n In consideration of the foregoing, the Commission amends part 157, chapter I, title 18, *Code of Federal Regulations,* as follows.

## PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

n 1. The authority citation for part 157 continues to read as follows:

**Authority:** 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352; 1331–1356.

n 2. Subpart B is added to part 157 to read as follows:

### Subpart B—Open Seasons for Alaska Natural Gas Transportation Projects

Sec.
157.30 Purpose.
157.31 Definitions.
157.32 Applicability.
157.33 Requirement for open season.
157.34 Notice of open season.
157.35 Undue discrimination or preference.
157.36 Open season for expansions.
157.37 Project design.
157.38 Prefiling procedures.
157.39 Rate treatment for pipeline expansions.

### Subpart B—Open Seasons for Alaska Natural Gas Transportation Projects

**§ 157.30 Purpose.**

This subpart establishes the procedures for conducting open seasons for the purpose of making binding commitments for the acquisition of initial or voluntary expansion capacity on Alaska natural gas transportation projects, as defined herein.

**§ 157.31 Definitions.**

(a) ''Alaska natural gas transportation project'' means any natural gas pipeline system that carries Alaska natural gas to the international border between Alaska and Canada (including related facilities subject to the jurisdiction of the Commission) that is authorized under the Alaska Natural Gas Transportation Act of 1976 or section 103 of the Alaska Natural Gas Pipeline Act.

(b) ''Commission'' means the Federal Energy Regulatory Commission.

(c) ''Voluntary expansion'' means any expansion in capacity of an Alaska natural gas transportation project above the initial certificated capacity, including any increase in mainline capacity, any extension of mainline pipeline facilities, and any lateral pipeline facilities beyond those certificated in the initial certificate order, voluntarily made by the pipeline. An expansion done pursuant to section 105 of the Alaska Natural Gas Pipeline Act is not a voluntary expansion.

**§ 157.32 Applicability.**

These regulations shall apply to any application to the Commission for a certificate of public convenience and necessity or other authorization for an Alaska natural gas transportation project, whether filed pursuant to the Natural Gas Act, the Alaska Natural Gas Transportation Act of 1976, or the Alaska Natural Gas Pipeline Act, and to applications for expansion of such projects. Absent a Commission order to the contrary, these regulations are not applicable in the case of an expansion ordered by the Commission pursuant to section 105 of the Alaska Natural Gas Pipeline Act.

**§ 157.33 Requirement for open season.**

(a) Any application for a certificate of public convenience and necessity or other authorization for a proposed Alaska natural gas transportation project must include a demonstration that the applicant has conducted an open season for capacity on its proposed project, in accordance with the requirements of this subpart. Failure to provide the requisite demonstration will result in an application being rejected as incomplete.

(b) Initial capacity on a proposed Alaska natural gas transportation project may be acquired prior to an open season through pre-subscription agreements, provided that in any open season as required in paragraph (a) of this section, capacity is offered to all prospective bidders at the same rates and on the

[42] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[43] 18 CFR 380.4(a)(2)(ii) (2004).

[44] 5 U.S.C. 601–612.

[45] 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 623. Section 3 of the Small Business Act defines a ''small-business concern'' as a business which is independently-owned and operated and which is not dominant in its field of operation.

same terms and conditions as contained in the pre-subscription agreements. All pre-subscription agreements shall be made public by posting on Internet Web sites and press releases within ten days of their execution. In the event there is more than one such agreement, all prospective bidders shall be allowed the option of selecting the terms rates, terms and conditions contained in any one of the several agreements.

**§ 157.34 Notice of open season.**

(a) *Notice.* A prospective applicant must provide reasonable public notice of an open season, at least 30 days prior to the commencement of the open season, through methods including postings on Internet Web sites, press releases, direct mail solicitations, and other advertising. In addition, a prospective applicant must provide actual notice of an open season to the State of Alaska and to the Federal Coordinator for Alaska Natural Gas Transportation Projects.

(b) *In-State Needs Study.* A prospective applicant must conduct or adopt a study of gas consumption needs and prospective points of delivery within the State of Alaska and rely upon such study to develop the contents of the notice required in paragraph (a) of this section. Such study shall be identified in the notice and if practicable, shall include or consist of a study conducted, approved, or otherwise sanctioned by an appropriate governmental agency, office or commission of the State of Alaska. In its open season proposal, a prospective applicant shall include an estimate based upon the study, of how much capacity will be used in-state.

(c) *Contents of notice.* Notice of the open season required in paragraph (a) of this section, shall contain at least the following information; however, to the extent that any item of such information is not known or determined at the time the notice is issued, the prospective applicant shall make a good faith estimate based on the best information available of all such unknown or undetermined items of required information and further, must identify the source of information relied on, explain why such information is not presently known, and update the information when and if it is later determined during the open season period:

(1) The general route of the proposed project, including receipt and delivery points, and any alternative routes under consideration; delivery points must include those within the State of Alaska as determined by the In-State Study in paragraph (b) of this section.

(2) Size and design capacity (including proposed certificate capacity at the delivery points named in paragraph (c)(1) of this section to the extent that it differs from design capacity), a description of possible designs for expanded capacity beyond initial capacity, together with any estimated date when such expansions designs may be considered;

(3) Maximum allowable operating pressure and expected actual operating pressure;

(4) Delivery pressure at all delivery points named in paragraph (c)(1) of this section;

(5) Projected in-service date;

(6) An estimated unbundled transportation rate for each delivery point named in paragraph (c)(1) of this section, stated on a volumetric or thermal basis, for each service offered, including reservation rates for pipeline capacity, interruptible transportation rates, usage rates, fuel retention percentages, and other applicable charges, or surcharges, such as the Annual Charge Adjustment (ACA); (if rates are estimated on a volumetric basis then the notice must inform bidders that final pro forma service agreements and the sponsor's proposed FERC tariff will have to be submitted with rates based on a thermal basis.)

(7) The estimated cost of service (*i.e.*, estimated cost of facilities, depreciation, rate of return and capitalization, taxes and operational and maintenance expenses), and estimated cost allocations, rate design volumes and rate design;

(8) Based on the In-State Study and the delivery points within the State of Alaska identified in paragraph (c)(1) of this section, there must be an estimated transportation rate for such deliveries, based on the amount of in-state needs shown in the study. Such estimated transportation rate must be based on the costs to make such in-state deliveries and shall not include costs to make deliveries outside the State of Alaska;

(9) Negotiated rate and other rate options under consideration, including any rate amounts and terms of any precedent agreements with prospective anchor shippers that have been negotiated or agreed to outside of the open season process proscribed herein;

(10) Quality specifications and any other requirements applicable to gas to be delivered to the project; provided that a prospective applicant shall not require that potential shippers process or treat their gas at any designated plant or facility;

(11) Terms and conditions for each service offered;

(12) Creditworthiness standards to be applied to, and any collateral requirements for, prospective shippers;

(13) The date, if any, by which potential shippers and the prospective applicant must execute precedent agreements;

(14) A detailed methodology for determining the value of bids for deliveries within the State of Alaska and for deliveries outside the State of Alaska;

(15) The methodology by which capacity will be awarded, in the case of over-subscription, clearly stating all terms that will be considered, including price and contract term. If capacity is oversubscribed and the prospective applicant does not redesign the project to accommodate all capacity requests, only capacity that has been acquired through pre-subscription or was bid in the open season on the same rates, terms, and conditions as any of the pre-subscription agreements shall be subject to allocation on a pro rata basis; no capacity acquired through the open season shall be allocated.

(16) Required bid information, whether bids are binding or non-binding, receipt and delivery point requirements, the form of a precedent agreement and time of execution of the precedent agreement, definition and treatment of non-conforming bids;

(17) The projected date for filing an application with the Commission;

(18) All information pertaining to the proposed service to be offered, projected pipeline capacity and design, proposed tariff provisions, and cost projections, made available to or in the hands of any potential shipper, including any affiliates of the project sponsor and any shippers with pre-subscribed capacity, prior to the issuance of the public notice of open season;

(19) A list of the names and addresses of the prospective applicant's affiliated sales and marketing units and Energy Affiliates involved in the production of natural gas in the State of Alaska. Affiliated unit means ''Affiliate'' as applicably defined in § 358.3(b) of this chapter. Energy Affiliate means ''Energy Affiliate'' as applicably defined in § 358.3(d) of this chapter;

(20) A comprehensive organizational charts showing:

(i) The organizational structure of the prospective applicant's parent corporation(s) with the relative position in the corporate structure of marketing and sales units and any Energy Affiliates involved in the production of natural gas in the State of Alaska.

(ii) The job titles and descriptions, and chain of command for all officers and directors of the prospective

applicant's marketing and sales units and any Energy Affiliates involved in the production of natural gas in the State of Alaska; and

(21) A statement that any officers and directors of the of the prospective applicant's affiliated sales and marketing units and Energy Affiliates involved in the production of natural gas in the State of Alaska named in paragraph (c)(19) of this section will be prohibited from obtaining information about the conduct of the open season or allocation of capacity that is not posted on the ''open season'' Internet website or that is not otherwise also available to the general public or other participants in the open season.

(d) *Timing.*

(1) A prospective applicant must provide prospective shippers at least 90 days from the date on which notice of the open season is given within which to submit requests for transportation services. No bid shall be rejected because a prospective shipper has submitted another bid in another open season conducted under this subpart.

(2) A prospective applicant must consider any bids tendered after the expiration of the open season by qualifying bidders and may reject them only if they cannot be accommodated due to economic, engineering or operational constraints, and a detailed explanation must accompany the rejection.

(3) Within 10 days after precedent agreements have been executed for capacity allocated in the open season, the prospective applicant shall make public on the Internet and through press releases the results of the open season, at least including the name of the prospective shipper, amount of capacity awarded, and term of agreement.

(4) Within 20 days after precedent agreements have been executed for capacity allocated in the open season, the prospective applicant must submit copies of all such precedent agreements to the Commission and copies of any relevant correspondence with bidders for capacity who were not allocated capacity that identifies why such bids were not accepted (all documents identified in this paragraph (d)(4) may be filed under confidential treatment pursuant to § 388.112 of this chapter if desired.

### § 157.35 Undue discrimination or preference.

(a) All binding open seasons shall be conducted without undue discrimination or preference in the rates, terms or conditions of service and all capacity allocated as a result of any open season shall be awarded without undue discrimination or preference of any kind.

(b) Any complaint filed pursuant to § 385.206 of this chapter alleging non-compliance with any of the requirements of this subpart shall be processed under the Commission's Fast Track Processing procedures contained in § 385.206(h).

(c) Each project applicant conducting an open season under this subpart must create or designate a unit or division to conduct the open season that must function independent of the other divisions of the project applicant as well as the project applicant's Marketing and Energy affiliates as those terms are defined in § 358.(d) and (k) of this chapter.

(d) Each project applicant conducting an open season under this subpart that is not otherwise subject to the provisions of part 358 of this chapter must comply with the following sections of that part: Sections 258.4(a)(1) and (3); 358.4(e)(3), (4), (5), and (6); 358.5(a), (b), (c)(3) and (5); and 358.5(d). The exemptions from § 358.4(a)(1) and (3) set forth in § 358.4(a)(4), (5), and (6) of this chapter also apply to each project applicant conducting an open season under this subpart.

### § 157.36 Open seasons for expansions.

Any open season for capacity exceeding the initial capacity of an Alaska natural gas transportation project must provide the opportunity for the transportation of gas other than Prudhoe Bay or Point Thomson production. In considering a proposed voluntary expansion of an Alaska natural gas pipeline project, the Commission will consider the extent to which the expansion will be utilized by shippers other than those who are the initial shippers on the project and, in order to promote competition and open access to the project, may require design changes to ensure that all who are willing to sign long-term firm transportation contracts that some portion of the expansion capacity be allocated to new shippers or shippers seeking to transport natural gas from areas other than Prudhoe Bay and Point Thomson.

### § 157.37 Project design.

In reviewing any application for an Alaska natural gas pipeline project, the Commission will consider the extent to which a proposed project has been designed to accommodate the needs of shippers who have made conforming bids during an open season, as well as the extent to which the project can accommodate low-cost expansion, and may require changes in project design necessity to promote competition and offer a reasonable opportunity for access to the project.

### § 157.38 Prefiling procedures.

No later than 90 days prior to providing the notice of open season required by § 157.34(a), a prospective applicant must file, for Commission approval, a detailed plan for conducting an open season in conformance with these regulations. Upon receipt of a request for such a determination, the Secretary of the Commission shall issue a notice of the request, which will then be published in the **Federal Register**. The notice shall establish a date on which comments from interested persons are due and a date, which shall be within 60 days of receipt of the prospective applicant's request unless otherwise directed by the Commission, by which the Commission will act on the plan.

### § 157.39 Rate treatment of pipeline expansions.

There shall be a rebuttable presumption that rates for any expansion of an Alaska natural gas transportation project shall be determined on a rolled-in basis.

**Note:** The following appendix will not appear in the Code of Federal Regulations.

## Appendix

**Technical Conference Commenters**

Governor Frank H. Murkowski
U.S. Senator Lisa Murkowski
State Representative Ralph Samuels
State Senator Gene Therriault
Tony Palmer, TransCanada
Richard Guerrant, ExxonMobil
Ken Konrad, BP Alaska
Joe Marushack, ConocoPhillips
Ron Brintnell, Enbridge
Bill Corbus, Commissioner, Alaska Department of Revenue
Mark Handley/Dave Anderson, Anadarko
Tony Izzo, Enstar
Rick Mott, ConocoPhillips (as a shipper)
Tom Irwin, Commissioner, Alaska Department of Natural Resources
Jeff Walker, Minerals Management Service, Department of the Interior
Colleen McCarthy, Bureau of Land Management (BLM), Department of the Interior
David Houseknecht, U.S. Geological Survey
Harold Heinze, ANGDA
Jerry Isaac, Upper Tanana Intertribal Coalition
Bob Sattler, Tanana Chiefs Conference

**Commenters in Response to NOPR**

Alaska Natural Gas Development Authority (ANGDA)
Alaska Oil and Gas Conservation Commission (AOGCC)
Alaska Venture Capital Group LLC and Brook Range Petroleum
Corporation (Alaska Venture Capital/Brook Range)

Alliance Pipeline, LP (Alliance)
American Gas Association (AGA)
Anadarko Petroleum Corporation (Anadarko)
Nels Anderson, Jr. (individual)
Arctic Slope Regional Corporation (Arctic Slope)
Ken Baker [1]
Alaska Representative Ethan Berkowitz
BP Exploration (Alaska) Inc., ConocoPhillips Company, and Exxon Mobil Corporation (North Slope Producers)
Calpine Corporation (Calpine)
ChevronTexaco Natural Gas, a Division of Chevron U.S.A. Inc. (ChevronTexaco)
Doyon Limited
Enbridge, Inc. (Enbridge)
Legislative Budget and Audit Committee and Indicated State Legislators (Alaska Legislators) [2]
MidAmerican Energy Holdings Company and Alaska Gas Transmission Company (MidAmerican/AGTA)
Northwest Industrial Gas Users (Northwest Industrials)
Pacific Star Energy LLC (Pacific Star)
B. Sachau, aka Jean Public (individual)
Shell USA (Shell)
State of Alaska (Alaska)
TransCanada Pipeline Limited (TransCanada)
U.S. Department of the Interior (DOI)
U.S. Geological Survey [3]

[FR Doc. 05–3035 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

[1] New River Community and Technical College, Greenbrier Valley Campus.

[2] Representative Ralph Samuels, Chairman of the Alaska Legislative Budget & Audit Committee (separately).

[3] Brenda Johnson, Office of Environmental Affairs Program.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 510

## New Animal Drugs; Change of Sponsor's Address

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's address for Phibro Animal Health.

**DATES:** This rule is effective February 18, 2005.

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

**SUPPLEMENTARY INFORMATION:** Phibro Animal Health, 710 Rte. 46 East, suite 401, Fairfield, NJ 07004, has informed FDA of a change of address to 65 Challenger Rd., 3d floor, Ridgefield Park, NJ 07660. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c) to reflect the change.

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

### List of Subjects in 21 CFR Part 510

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

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

## PART 510—NEW ANIMAL DRUGS

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

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

n 2. Section 510.600 is amended in the table in paragraph (c)(1) by revising the entry for ''Phibro Animal Health'' and in the table in paragraph (c)(2) by revising the entry for ''066104'' to read as follows.

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

* * * * *

(c) * * *

(1) * * *

| Firm name and address | Drug labeler code |
|---|---|
| * * * * * | |
| Phibro Animal Health, 65 Challenger Rd., 3d floor, Ridgefield Park, NJ 07660 | 066104 |
| * * * * * | |

(2) * * *

| Drug labeler code | Firm name and address |
|---|---|
| * * * * * | |
| 066104 | Phibro Animal Health, 65 Challenger Rd., 3d floor, Ridgefield Park, NJ 07660 |
| * * * * * | |

Dated: February 8, 2005.

**Steven D. Vaughn,**

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

[FR Doc. 05–3177 Filed 2–17–05; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 520

## Oral Dosage Form New Animal Drugs; Sulfamethazine Sustained-Release Boluses; Change of Sponsor

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA) from Boehringer Ingelheim Vetmedica, Inc. to Phoenix Scientific, Inc.

**DATES:** This rule is effective February 18, 2005.

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

**SUPPLEMENTARY INFORMATION:** Boehringer Ingelheim Vetmedica, Inc., 2621 North Belt Hwy., St. Joseph, MO 64506–2002, has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 140–270 for Sulfamethazine Sustained Release Bolus to Phoenix Scientific, Inc., 3915 South 48th St. Terr., St. Joseph, MO 64503.

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.

n 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

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

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

**§ 520.2260b [Amended]**

n 2. Section 520.2260b is amended in paragraph (f)(1) by removing ''000010'' and by adding in its place ''059130''.

Dated: February 8, 2005.

**Steven D. Vaughn,**

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

[FR Doc. 05–3178 Filed 2–17–05; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 522

## Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone and Estradiol

**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 a supplemental abbreviated new animal drug application (ANADA) filed by Ivy Laboratories, Division of Ivy Animal Health, Inc. The supplemental ANADA provides for an additional dose of trenbolone acetate and estradiol implant for use in feedlot heifers for increased rate of weight gain and improved feed efficiency.

**DATES:** This rule is effective February 18, 2005.

**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: *lonnie.luther@fda.gov*.

**SUPPLEMENTARY INFORMATION:** Ivy Laboratories, Division of Ivy Animal Health, Inc., 8857 Bond Street, Overland Park, KS 66214, filed a supplement to ANADA 200–346. The supplemental ANADA provides for the use of COMPONENT TE–200 (trenbolone acetate and estradiol), a subcutaneous implant containing 200 milligrams (mg) trenbolone acetate and 20 mg estradiol in heifers fed in confinement for slaughter for increased rate of weight gain and improved feed efficiency. Ivy Laboratories' COMPONENT TE–200 is approved as a generic copy of Intervet, Inc.'s REVALOR–200, approved under NADA 140–992. The application is approved as of January 14, 2005, and the regulations are amended in 21 CFR 522.2477 to reflect the 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), a summary of safety and effectiveness data and information submitted to support approval of this application 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 this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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 522

Animal drugs.

n Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

## PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

n 1. The authority citation for 21 CFR part 522 continues to read as follows:

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

n 2. Section 522.2477 is amended by revising paragraph (b)(1) to read as follows:

**§ 522.2477 Trenbolone acetate and estradiol.**

* * * * *

(b) * * *

(1) No. 021641 for products and uses described in paragraph (d) of this section.

* * * * *

Dated: February 8, 2005.

**Steven D. Vaughn,**

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

[FR Doc. 05–3107 Filed 2–17–05; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 524

## Ophthalmic and Topical Dosage Form New Animal Drugs; Gentamicin Sulfate, Betamethasone Valerate, Clotrimazole Ointment; Technical Amendment

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The supplemental ANADA provides for a new container size, a 20-gram dropper bottle, from which gentamicin sulfate, betamethasone valerate, clotrimazole ointment may be administered for the treatment of acute and chronic canine otitis externa. The regulations are also being amended to correct the indications for use to agree with approved product labeling. This action is being taken to improve the accuracy of the regulations.

**DATES:** This rule is effective February 18, 2005.

**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: *lonnie.luther@fda.gov*.

**SUPPLEMENTARY INFORMATION:** Phoenix Scientific, Inc., 3915 South 48th St. Ter., St. Joseph, MO 64503, filed a supplement to ANADA 200–287 for use of TRIPLEMAX (gentamicin sulfate, U.S.P.; betamethasone valerate, U.S.P.; and clotrimazole, U.S.P. ointment) for the treatment of acute and chronic canine otitis externa. The supplement provides for a new container size, a 20-gram dropper bottle. The supplemental ANADA is approved as of January 21, 2005, and the regulations are amended in 21 CFR 524.1044g to reflect the approval. The basis of approval is discussed in the freedom of information summary.

The regulations are also being amended to correct the indications for use to agree with approved product labeling. This action is being taken to improve the accuracy of the regulations.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a

summary of safety and effectiveness data and information submitted to support approval of this application 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 this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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 Subject in 21 CFR Part 524**

Animal drugs.

n 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 524 is amended as follows:

## PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

n 1. The authority citation for 21 CFR part 524 continues to read as follows:

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

n 2. Section 524.1044g is amended by revising paragraphs (b)(3), (c)(1)(ii), and (c)(2) to read as follows.

**§ 524.1044g Gentamicin sulfate, betamethasone valerate, clotrimazole ointment.**

* * * * *

(b) * * *

(3) No. 059130 for use of 10-, 20-, or 215-g bottles.

(c) * * *

(1) * * *

(ii) From 20- or 215-g bottles: 2 drops for dogs weighing less than 30 lb or 4 drops for dogs weighing 30 lb or more.

(2) *Indications for use.* For the treatment of acute and chronic canine otitis externa associated with yeast (*Malassezia pachydermatis*, formerly *Pityrosporum canis*) and/or bacteria susceptible to gentamicin.

* * * * *

Dated: February 8, 2005.

**Steven D. Vaughn,**

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

[FR Doc. 05–3179 Filed 2–17–05; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

## 29 CFR Part 1910

**[Docket No. S–023A]**

**RIN No. 1218–AC08**

## Updating OSHA Standards Based on National Consensus Standards; General, Incorporation by Reference; Hazardous Materials, Flammable and Combustible Liquids; General Environmental Controls, Temporary Labor Camps; Hand and Portable Powered Tools and Other Hand Held Equipment, Guarding of Portable Powered Tools; Welding, Cutting, and Brazing, Arc Welding and Cutting; Special Industries, Sawmills

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to significant adverse comment, OSHA is withdrawing the direct final rule for Updating OSHA Standards Based on National Consensus Standards; General, Incorporation by Reference; Hazardous Materials, Flammable and Combustible Liquids; General Environmental Controls, Temporary Labor Camps; Hand and Portable Powered Tools and Other Hand Held Equipment, Guarding of Portable Powered Tools; Welding, Cutting, and Brazing, Arc Welding and Cutting; Special Industries, Sawmills, which was published on November 24, 2004 [69 FR 68712]. In that document, OSHA stated that if it received significant adverse comment, the agency would ''publish a notice of significant adverse comment in the **Federal Register** withdrawing this direct final rule * * *'' OSHA published a companion proposed rule identical to the direct final rule on the same day. [69 FR 68706]. The agency will address the significant adverse comment and the other comments on the direct final and proposed rules in a new final rule. OSHA will not institute a second comment period.

**DATES:** The direct final rule published on November 24, 2004 [69 FR 68712] is withdrawn effective February 18, 2005.

**FOR FURTHER INFORMATION CONTACT:** Lee Smith, Director, Office of Safety Systems, Directorate of Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2255.

*Authority and Signature:* This document was prepared under the direction of Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

It is issued pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (*29 U.S.C. 653, 655, 657*) Secretary of Labor's Order 5–2002 (67 FR 65008), and 29 CFR part 1911.

Signed at Washington, DC, this 14th day of February 2005.

**Jonathan L. Snare,**

*Acting Assistant Secretary of Labor.*

[FR Doc. 05–3171 Filed 2–17–05; 8:45 am]

BILLING CODE 4510–26–M

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[NC–200429; FRL–7868–7]**

## Approval and Promulgation of Air Quality Implementation Plans; North Carolina Update to Materials Incorporated by Reference

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

**ACTION:** Notice of administrative change.

**SUMMARY:** EPA is publishing this action to provide the public with notice of the update to the North Carolina State Implementation Plan (SIP) compilation, which appears at 40 CFR 52.1770 (Subpart II). In particular, materials submitted by North Carolina that are incorporated by reference (IBR) into the North Carolina SIP are being updated to reflect EPA-approved revisions to North Carolina's SIP that have occurred since the last update. In this action EPA is also notifying the public of the correction of certain typographical errors in Table I of 40 CFR 52.1770(c).

**DATES:** This rule is effective February 18, 2005.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303; the EPA, Air and Radiation Docket and Information Center, Air Docket (Mail Code 6102T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and the National Archives and Records Administration. 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:** Ms. Jane Spann at the above Region 4 address or at (404) 562–9029.

**SUPPLEMENTARY INFORMATION:** Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the SIP to EPA. Once these control measures and strategies are approved by EPA, after notice and comment, they are incorporated into the federally approved SIP and are identified in part 52 ''Approval and Promulgation of Implementation Plans'', Title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is ''incorporated by reference.'' This means that EPA has approved a given state regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows EPA and the public to monitor the extent to which a state implements a SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997, (62 FR 27968), EPA revised the procedures for incorporating by reference (IBR), into the Code of Federal Regulations, materials submitted by states in their EPA-approved SIP revisions. These changes revised the format for the identification of the SIP in 40 CFR part 52, stream-lined the mechanisms for announcing EPA approval of revisions to a SIP, and stream-lined the mechanisms for EPA's updating of the IBR information contained for each SIP in 40 CFR part 52. The revised procedures also called for EPA to maintain ''SIP Compilations'' that contain the federally-approved regulations and source specific permits submitted by each state agency. These SIP Compilations are contained in 3-ring binders and are updated primarily on an annual basis. Under the revised procedures, EPA is to periodically publish an informational document in the rules section of the **Federal Register** when updates are made to a SIP Compilation for a particular state. EPA's 1997 revised procedures were formally applied to North Carolina on May 20, 1999 (64 FR 27465).

This action represents EPA's publication of the North Carolina SIP Compilation update, appearing in 40 CFR part 52. In addition, notice is provided of the following typographical corrections to Table 1 of § 52.1770(c), as described below:

1. Correcting typographical errors listed in Table 1 of § 52.1770(c), as described below:

A. Where absent, the addition of **Federal Register** citations in the ''EPA Approval Date'' column.

B. Change in **Federal Register** citation to reflect the beginning page of the preamble as opposed to that of the regulatory text.

C. Change of punctuation within the section Titles.

D. Section 2D.0306 title is revised to read as ''Emission Reduction Level-Warning Plan.''

E. Section 2D.0307 title is revised to read as ''Emission Reduction Level-Emergency Plan.''

F. Section 2D.0405 State Effective Date is revised to read ''05/01/99.''

G. Section 2D.0502 EPA Approval Date is revised to read ''07/26/82.''

H. Section 2D.0519 title is revised to read as ''Control of Nitrogen Dioxide and Nitrogen Oxides Emissions.''

I. Section 2D.0520 was repealed and replaced by new rules under Section .1900 ''Open Burning,'' **Federal Register** (62 FR 41277) dated July 01, 1997.

J. Section 2D.0535 title is revised to read as ''Excess Emission Reporting and Malfunctions.''

K. Section 2D.0952 title is revised to read as ''Petition for Alternative Controls for RACT.''

L. Section 2D.0953 removing the duplicate rule ''Vapor Return Piping for Stage II Vapor Recovery.''

M. Section 2Q.0605 title is revised to read as ''Final Action on Permit Applications.''

EPA has determined that today's action falls under the ''good cause'' exemption in the section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs and corrects typographical errors appearing the **Federal Register**. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment for this administrative action is ''unnecessary'' and ''contrary to the public interest'' since the codification (and typographical corrections) only reflect existing law. Immediate notice of this action in the **Federal Register** benefits the public by providing the public notice of the updated North Carolina SIP Compilation and notice of typographical corrections to the North Carolina ''Identification of Plan'' portion of the **Federal Register**.

## Statutory and Executive Order Reviews

### *A. General Requirements*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this administrative action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 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 administrative action also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 administrative action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This administrative action does not involve technical standards; 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. The administrative action also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In this administrative action, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of this administrative action in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This administrative action does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these Statutes and Executive Orders for the underlying rules are discussed in previous actions taken on the State's rules.

*B. Submission to Congress and the Comptroller General*

The Congressional Review Act (CRA) (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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's administrative action simply codifies (and corrects) provisions which are already in effect as a matter of law in Federal and approved State programs. 5 U.S.C. 808(2). These announced actions were effective when EPA approved them through previous rulemaking actions. EPA will submit a report containing this action 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 action in the **Federal Register**. This update to North Carolina's SIP Compilation and correction of typographical errors is not a ''major rule'' as defined by 5 U.S.C. 804(2).

*C. Petitions for Judicial Review*

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. This action is simply an announcement of prior rulemakings that have previously undergone notice and comment rulemaking. Prior EPA rulemaking actions for each individual component of the North Carolina SIP compilation previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 24, 2005.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

Chapter I, title 40, Code of Federal Regulations, is amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart II—North Carolina

n 2. Section 52.1770 is amended by revising paragraph (b) and revising table 1 in paragraph (c) to read as follows:

**§ 52.1770 Identification of plan.**

* * * * *

(b) Incorporation by reference.

(1) Material listed in paragraph (c) of this section with an EPA approval date prior to December 30, 2004, for North Carolina (Table 1 of the North Carolina State Implementation Plan), January 1, 2003, for Forsyth County, North Carolina (Table 2 of the North Carolina State Implementation Plan) and January 1, 2003, for Mecklenburg County, North Carolina (Table 3 of the North Carolina State Implementation Plan), was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) of this section with EPA approval dates after December 30, 2004, for North Carolina (Table 1 of the December 30, 2004, for North Carolina State Implementation Plan), January 1, 2003, for Forsyth County, North Carolina (Table 2 of the North Carolina State Implementation Plan) and January 1, 2003, for Mecklenburg County, North Carolina, (Table 3 of the North Carolina State Implementation Plan) will be incorporated by reference in the next update to these SIP compilation notebooks.

(2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of the dates referenced in paragraph (b)(1).

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at 61 Forsyth Street, SW., Atlanta, GA 30303; the EPA, Air and Radiation Docket and Information Center, Air Docket (Mail Code 6102T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460 and the National Archives and Records Administration. 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.*

(c) EPA approved regulations.

TABLE 1.—EPA APPROVED NORTH CAROLINA REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| **Subchapter 2D Air Pollution Control Requirements** | | | | |
| **Section .0100 Definitions and References** | | | | |
| Sect .0101 | Definitions | 01/15/98 | 11/10/99, 64 FR 61213. | |
| Sect .0103 | Copies of Referenced Federal Regulations. | 12/01/92 | 08/15/94, 59 FR 41708. | |
| Sect .0104 | Incorporation by Reference | 01/15/98 | 11/10/99, 64 FR 61213. | |
| Sect .0105 | Mailing List | 07/01/02 | 09/17/03, 68 FR 54362. | |
| **Section .0200 Air Pollution Sources** | | | | |
| Sect .0201 | Classification of Air Pollution Sources. | 04/12/84 | 10/11/85, 50 FR 41501. | |
| Sect .0202 | Registration of Air Pollution Sources | 01/15/98 | 11/10/99, 64 FR 61213. | |
| **Section .0300 Air Pollution Emergencies** | | | | |
| Sect .0301 | Purpose | 02/01/76 | 06/03/86, 51 FR 19834. | |
| Sect. 0302 | Episode Criteria | 01/15/98 | 11/10/99, 64 FR 61213. | |
| Sect .0303 | Emission Reduction Plans | 04/12/84 | 10/11/85, 50 FR 41501. | |
| Sect .0304 | Preplanned Abatement Program | 04/14/88 | 12/12/88, 53 FR 49881. | |
| Sect .0305 | Emission Reduction Plan—Alert Level. | 04/12/84 | 10/11/85, 50 FR 41501. | |
| Sect .0306 | Emission Reduction Plan—Warning Level. | 04/12/84 | 10/11/85, 50 FR 41501. | |
| Sect .0307 | Emission Reduction Plan—Emergency Level. | 04/12/84 | 10/11/85, 50 FR 41501. | |
| **Section .0400 Ambient Air Quality Standards** | | | | |
| Sect .0401 | Purpose | 12/01/92 | 08/15/94, 59 FR 41708. | |
| Sect .0402 | Sulfur Oxides | 04/12/84 | 10/11/85, 50 FR 41501. | |
| Sect .0403 | Total Suspended Particulates | 07/01/88 | 01/16/90, 55 FR 1419. | |
| Sect .0404 | Carbon Monoxide | 10/01/89 | 3/12/90, 55 FR 9125. | |
| Sect .0405 | Ozone | 05/01/99 | 10/22/02, 67 FR 64989. | |
| Sect .0407 | Nitrogen Dioxide | 10/01/89 | 03/12/90, 55 FR 9125. | |
| Sect .0408 | Lead | 04/12/84 | 10/11/85, 50 FR 41501. | |
| Sect .0409 | Particulate Matter | 07/01/88 | 01/16/90, 55 FR 1419. | |
| Sect .0410 | PM2.5 Particulate Matter | 05/01/99 | 10/22/02, 67 FR 64989. | |
| **Section .0500 Emission Control Standards** | | | | |
| Sect .0501 | Compliance with Emission Control Standards. | 04/01/01 | 08/08/02, 67 FR 51461. | |
| Sect .0502 | Purpose | 03/01/81 | 07/26/82, 47 FR 32118. | |
| Sect .0503 | Particulates from Fuel Burning Indirect Heat Exchangers. | 05/01/99 | 10/22/02, 67 FR 64989. | |
| Sect .0504 | Particulates from Wood Burning Indirect Heat Exchangers. | 07/01/02 | 12/27/02, 67 FR 78980. | |
| Sect .0505 | Control of Particulates from Incinerators. | 07/01/87 | 02/29/88, 53 FR 5974. | |
| Sect .0506 | Particulates from Hot Mix Asphalt Plants. | 03/20/98 | 11/10/99, 64 FR 61213. | |
| Sect .0507 | Particulates from Chemical Fertilizer Manufacturing Plants. | 04/01/03 | 09/17/03, 68 FR 54362. | |
| Sect .0508 | Particulates from Pulp and Paper Mills. | 03/20/98 | 11/10/99, 64 FR 61213. | |
| Sect .0509 | Particulates from Mica or Feldspar Processing Plants. | 04/01/03 | 09/17/03, 68 FR 54362. | |
| Sect .0510 | Particulates from Sand, Gravel, or Crushed Stone Operations. | 03/20/98 | 11/10/99, 64 FR 61213. | |
| Sect .0511 | Particluates from Lightweight Aggregate. | 03/20/98 | 11/10/99, 64 FR 61213. | |
| Sect .0512 | Particulates from Wood Products Finishing Plants. | 11/01/84 | 12/19/86, 51 FR 45468. | |
| Sect .0513 | Particulates from Portland Cement Plants. | 03/20/98 | 11/10/99, 64 FR 61213. | |
| Sect .0514 | Particulates from Ferrous Jobbing Foundries. | 03/20/98 | 11/10/99, 64 FR 61213. | |
| Sect .0515 | Particulates from Miscellaneous Industrial Processes. | 04/01/03 | 09/17/03, 68 FR 54362. | |

TABLE 1.—EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| Sect .0516 | Sulfur Dioxide Emissions from Combustion Sources. | 04/01/03 | 09/17/03, 68 FR 54362. | |
| Sect .0517 | $SO_2$ Emissions from Plants Producing Sulfuric Acid. | 11/01/84 | 12/19/86, 51 FR 45468. | |
| Sect .0519 | Control of Nitrogen Dioxide and Nitrogen Oxides Emissions. | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0520 | Control and Prohibition of Open Burning. | 07/01/96 | 08/01/97, 62 FR 41277 | Repealed. |
| Sect .0521 | Control of Visible Emissions | 03/20/98 | 11/10/99, 64 FR 61213. | |
| Sect .0522 | Control and Prohibition of Odorous Emissions. | 02/01/76 | 06/03/86, 51 FR 19834. | |
| Sect .0523 | Control of Conical Incinerators | 01/01/85 | 09/09/87, 52 FR 33933. | |
| Sect .0527 | Emissions from Spodumene Ore Roasting. | 11/01/84 | 12/19/86, 51 FR 45468. | |
| Sect .0530 | Prevention of Significant Deterioration. | 11/21/96 | 10/15/99, 64 FR 55831. | |
| Sect .0531 | Sources in Nonattainment Areas | 01/15/98 | 11/10/99, 64 FR 61213. | |
| Sect .0532 | Sources Contributing to an Ambient Violation. | 07/01/94 | 02/01/96, 61 FR 3584. | |
| Sect .0533 | Stack Height | 07/01/94 | 02/01/96, 61 FR 3584. | |
| Sect .0535 | Excess Emissions Reporting and Malfunctions. | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0536 | Particulate Emissions from Electric Utility Boilers. | 08/01/91 | 02/14/96, 61 FR 5689. | |
| Sect .0540 | Particulates from Fugitive Non-process Dust Emission Sources. | 03/20/98 | 11/10/99, 64 FR 61213. | |
| Sect .0542 | Control of Particulate Emissions from Cotton Ginning Operations. | 07/01/02 | 12/27/02, 67 FR 78980. | |
| **Section .0600 Air Contaminants; Monitoring, Reporting** | | | | |
| Sect .0601 | Monitoring: Recordkeeping: Reporting. | 04/01/99 | 08/08/02, 67 FR 51461. | |
| Sect .0602 | Definitions | 04/01/99 | 08/08/02, 67 FR 51461. | |
| Sect .0604 | Exceptions to Monitoring and Reporting Requirements. | 04/01/99 | 08/08/02, 67 FR 51461. | |
| Sect .0605 | General Recordkeeping and Reporting Requirements. | 04/01/99 | 08/08/02, 67 FR 51461. | |
| Sect .0606 | Other Coal or Residual Oil Burners | 05/02/88 | 12/12/88, 53 FR 49881. | |
| Sect .0607 | Large Wood and Wood-Fossil Fuel Combination Units. | 04/01/99 | 08/08/02, 67 FR 51461. | |
| Sect .0608 | Program Schedule | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0609 | Monitoring Condition in Permit | 04/12/84 | 10/04/85, 50 FR 41501. | |
| Sect .0610 | Federal Monitoring Requirements | 04/01/99 | 08/08/02, 67 FR 51461. | |
| Sect .0611 | Monitoring Emissions from Other Sources. | 04/01/99 | 08/08/02, 67 FR 51461. | |
| Sect .0612 | Alternative Monitoring and Reporting Procedures. | 04/01/99 | 08/08/02, 67 FR 51461. | |
| Sect .0613 | Quality Assurance Program | 04/01/99 | 08/08/02, 67 FR 51461. | |
| Sect .0614 | Compliance Assurance Monitoring | 04/01/99 | 08/08/02, 67 FR 51461. | |
| Sect .0615 | Delegation | 04/01/99 | 08/08/02, 67 FR 51461. | |
| **Section .0800 Complex Sources** | | | | |
| Sect .0801 | Purpose and Scope | 07/01/94 | 02/01/96, 61 FR 3584. | |
| Sect .0802 | Definitions | 07/01/94 | 02/01/96, 61 FR 3584. | |
| Sect .0803 | Highway Projects | 07/01/94 | 02/01/96, 61 FR 3584. | |
| Sect .0804 | Airport Facilities | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0805 | Parking Facilities | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0806 | Ambient Monitoring and Modeling Analysis. | 07/01/94 | 02/01/96, 61 FR 3584. | |
| **Section .0900 Volatile Organic Compounds** | | | | |
| Sect .0901 | Definitions | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0902 | Applicability | 07/01/00 | 08/27/01, 66 FR 34117. | |
| Sect .0903 | Recordkeeping: Reporting: Monitoring. | 04/01/99 | 08/08/02, 67 FR 51461. | |
| Sect .0905 | Petition for Alternative Controls | 11/08/84 | 12/19/86, 51 FR 45468. | |
| Sect .0906 | Circumvention | 11/08/84 | 12/19/86, 51 FR 45468. | |

TABLE 1.—EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| Sect .0907 | Compliance Schedules for Sources in Nonattainment Areas. | 11/21/96 | 10/15/99, 64 FR 55831 | Repealed. |
| Sect .0908 | Equipment Modification Compliance Schedules. | 11/08/84 | 12/19/86, 51 FR 45468. | |
| Sect .0909 | Compliance Schedules for Sources in New Nonattainment Areas. | 07/01/00 | 08/27/01, 66 FR 34117. | |
| Sect .0910 | Alternate Compliance Schedules | 11/21/96 | 10/15/99, 64 FR 55831 | Repealed. |
| Sect .0911 | Exceptions for Compliance Schedules. | 11/21/96 | 10/15/99, 64 FR 55831 | Repealed. |
| Sect .0912 | General Provisions on Test Methods and Procedures. | 04/01/03 | 09/17/03, 68 FR 54362. | |
| Sect .0913 | Determination of Volatile Content of Surface Coatings. | 07/01/88 | 01/16/90, 55 FR 1420. | |
| Sect .0914 | Determination of VOC Emission Control System Efficiency. | 03/20/98 | 11/10/99, 64 FR 61213. | |
| Sect .0915 | Determination of Solvent Metal Cleaning VOC Emissions. | 11/08/84 | 12/19/86, 51 FR 45468. | |
| Sect .0916 | Determination of VOC Emissions from Bulk Gasoline Terminals. | 07/01/88 | 01/16/90, 55 FR 1420. | |
| Sect .0917 | Automobile and Light-duty Truck Manufacturing. | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0918 | Can Coating | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0919 | Coil Coating | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0920 | Paper Coating | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0921 | Fabric and Vinyl Coating | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0922 | Metal Furniture Coating | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0923 | Surface Coating of Large Appliances | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0924 | Magnet Wire Coating | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0925 | Petroleum Liquid Storage | 12/01/89 | 06/23/94, 59 FR 32362. | |
| Sect .0926 | Bulk Gasoline Plants | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0927 | Bulk Gasoline Terminals | 04/01/03 | 09/17/03, 68 FR 54362. | |
| Sect .0928 | Gasoline Service Stations Stage I | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0930 | Solvent Metal Cleaning | 03/01/91 | 06/23/94, 59 FR 32362. | |
| Sect .0931 | Cutback Asphalt | 12/01/89 | 06/23/94, 59 FR 32362. | |
| Sect .0932 | Gasoline Truck Tanks and Vapor Collection Systems. | 04/01/03 | 09/17/03, 68 FR 54362. | |
| Sect .0933 | Petroleum Liquid Storage in External Floating Roof Tanks. | 07/01/95 | 02/01/96, 62 FR 3589. | |
| Sect .0934 | Coating of Miscellaneous Metal Parts and Products. | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0935 | Factory Surface Coating of Flat Wood Paneling. | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0936 | Graphic Arts | 12/01/89 | 06/23/94, 59 FR 32362. | |
| Sect .0937 | Manufacture of Pneumatic Rubber Tires. | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0938 | Perchloroethylene Dry Cleaning System. | 03/20/98 | 11/10/99, 64 FR 61213 | Repealed. |
| Sect .0939 | Determination of Volatile Organic Compounds Emissions. | 07/01/88 | 01/16/90, 55 FR 1420. | |
| Sect .0940 | Determination of Leak Tightness and Vapor Leaks. | 07/01/88 | 01/16/90, 55 FR 1420. | |
| Sect .0941 | Alternative Method for Leak Tightness. | 03/01/91 | 06/23/94, 59 FR 32362. | |
| Sect .0942 | Determination of Solvent in Filter Waste. | 07/23/80 | 08/27/81, 46 FR 43137. | |
| Sect .0943 | Synthetic Organic Chemical and Polymer Manufacturing. | 03/01/91 | 06/23/94, 59 FR 32362. | |
| Sect .0944 | Manufacture of Polyethylene, Polypropylene, and Polystyrene. | 03/14/85 | 11/19/86, 51 FR 41786. | |
| Sect .0945 | Petroleum Dry Cleaning | 03/14/85 | 11/19/86, 51 FR 41786. | |
| Sect .0947 | Manufacture of Synthesized Pharmaceutical Products. | 07/01/94 | 05/05/95, 60 FR 22284. | |
| Sect .0948 | VOC Emissions from Transfer Operations. | 07/01/00 | 08/27/01, 66 FR 34117. | |
| Sect .0949 | Storage of Miscellaneous Volatile Organic Compounds. | 07/01/00 | 08/27/01, 66 FR 34117. | |
| Sect .0951 | Miscellaneous Volatile Organic Compound Emissions. | 07/01/00 | 08/27/01, 66 FR 34117. | |
| Sect .0952 | Petition for Alternative Controls for RACT. | 05/01/95 | 02/01/96, 62 FR 3589. | |

TABLE 1.—EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| Sect .0953 | Vapor Return Piping for Stage II Vapor Recovery. | 03/20/98 | 11/10/99, 64 FR 61213. | |
| Sect .0954 | Stage II Vapor Recovery | 04/01/03 | 09/17/03, 68 FR 54362. | |
| Sect .0955 | Thread Bonding Manufacturing | 04/01/95 | 02/01/96, 62 FR 3589. | |
| Sect .0956 | Glass Christmas Ornament Manufacturing. | 04/01/95 | 02/01/96, 62 FR 3589. | |
| Sect .0957 | Commercial Bakeries | 04/01/95 | 02/01/96, 62 FR 3589. | |
| Sect .0958 | Work Practices for Sources of Volatile Organic Compounds. | 07/01/00 | 08/27/01, 66 FR 34117. | |
| Sect .0959 | Reserved. | | | |
| **Section .1000 Motor Vehicle Emissions Control Standards** | | | | |
| Sect .1001 | Purpose | 07/01/02 | 10/30/02, 67 FR 66056. | |
| Sect .1002 | Applicability | 07/01/02 | 10/30/02, 67 FR 66056. | |
| Sect .1003 | Definitions | 12/01/82 | 06/02/95, 60 FR 28726. | |
| Sect .1004 | Emissions Standards | 07/01/02 | 10/30/02, 67 FR 66056. | |
| Sect .1005 | Measurement and Enforcement | 07/01/02 | 10/30/02, 67 FR 66056. | |
| **Section .1300 Oxygenated Gasoline Standard** | | | | |
| Sect .1301 | Purpose | 09/01/92 | 06/30/94, 59 FR 33683. | |
| Sect .1302 | Applicability | 09/01/92 | 06/30/94, 59 FR 33683. | |
| Sect .1303 | Definitions | 09/01/92 | 06/30/94, 59 FR 33683. | |
| Sect .1304 | Oxygen Content Standard | 09/01/92 | 06/30/94, 59 FR 33683. | |
| Sect .1305 | Measurement and Enforcement | 09/01/92 | 06/30/94, 59 FR 33683. | |
| **Section .1400 Nitrogen Oxides Emissions** | | | | |
| Sect .1401 | Definitions | 07/15/02 | 12/27/02, 67 FR 78987. | |
| Sect .1402 | Applicability | 07/15/02 | 12/27/02, 67 FR 78987. | |
| Sect .1403 | Compliance Schedules | 07/15/02 | 12/27/02, 67 FR 78987. | |
| Sect .1404 | Recordkeeping: Reporting: Monitoring. | 07/15/02 | 12/27/02, 67 FR 78987. | |
| Sect .1409 | Stationary Internal Combustion Engines. | 07/15/02 | 12/27/02, 67 FR 78987. | |
| Sect .1416 | Emission Allocations for Utility Companies. | 07/15/02 | 12/27/02, 67 FR 78987. | |
| Sect .1417 | Emission Allocations for Large Combustion Sources. | 07/15/02 | 12/27/02, 67 FR 78987. | |
| Sect .1418 | New Electric Generating Units, Large Boilers, and Large I/C Engines. | 07/15/02 | 12/27/02, 67 FR 78987. | |
| Sect .1419 | Nitrogen Oxide Budget Trading Program. | 07/15/02 | 12/27/02, 67 FR 78987. | |
| Sect .1420 | Periodic Review and Reallocations | 07/15/02 | 12/27/02, 67 FR 78987. | |
| Sect .1421 | Allocations for New Growth of Major Point Sources. | 07/15/02 | 12/27/02, 67 FR 78987. | |
| Sect .1422 | Compliance Supplement Pool and Early Emission Reduction Credits. | 07/15/02 | 12/27/02, 67 FR 78987. | |
| Sect .1423 | Large Internal Combustion Engines | 07/15/02 | 12/27/02, 67 FR 78987. | |
| **Section .1900 Open Burning** | | | | |
| Sect .1901 | Purpose, Scope, and Impermissible Open Burning. | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .1902 | Definitions | 01/15/98 | 11/10/99, 64 FR 61213. | |
| Sect .1903 | Permissible Open Burning Without a Permit. | 01/15/98 | 11/10/99, 64 FR 61213. | |
| Sect .1904 | Air Curtain Burners | 07/01/96 | 08/01/97, 62 FR 41277. | |
| **Section .2000 Transportation Conformity** | | | | |
| Sect .2001 | Purpose, Scope and Applicability | 04/01/99 | 12/27/02, 67 FR 78983. | |
| Sect .2002 | Definitions | 04/01/99 | 12/27/02, 67 FR 78983. | |
| Sect .2003 | Transportation Conformity Determination. | 04/01/99 | 12/27/02, 67 FR 78983 | Except for the incorporation by reference of 40 CFR 93.104(e) of the Transportation Conformity Rule. |
| Sect .2004 | Determining Transportation Related Emissions. | 04/01/99 | 12/27/02, 67 FR 78983. | |

TABLE 1.—EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| Sect .2005 | Memorandum of Agreement | 04/01/99 | 12/27/02, 67 FR 78983. | |
| **Subchapter 2Q Air Quality Permits** | | | | |
| **Section .0100 General Provisions** | | | | |
| Sect .0101 | Required Air Quality Permits | 03/20/98 | 11/10/99, 64 FR 61213. | |
| Sect .0102 | Activities Exempted from Permit Requirements. | 07/01/02 | 12/27/02, 67 FR 78980. | |
| Sect .0103 | Definitions | 05/01/99 | 10/22/02, 67 FR 64989. | |
| Sect .0104 | Where to Obtain and File Permit Applications. | 07/01/02 | 12/27/02, 67 FR 78980. | |
| Sect .0105 | Copies of Referenced Documents | 08/15/94 | 02/01/96, 61 FR 3584. | |
| Sect .0106 | Incorporation by Reference | 08/15/94 | 02/01/96, 61 FR 3584. | |
| Sect .0107 | Confidential Information | 05/01/99 | 10/22/02, 67 FR 64989. | |
| Sect .0108 | Delegation of Authority | 03/15/98 | 11/10/99, 64 FR 61213. | |
| Sect .0109 | Compliance Schedule for Previously Exempted Activities. | 04/01/01 | 08/08/02, 67 FR 51461. | |
| Sect .0110 | Retention of Permit at Permitted Facility. | 08/15/94 | 02/01/96, 61 FR 3584. | |
| Sect .0111 | Applicability Determinations | 08/15/94 | 02/01/96, 61 FR 3584. | |
| **Section .0200 Permit Fees** | | | | |
| Sect .0207 | Annual Emissions Reporting | 01/15/98 | 11/10/99, 64 FR 61213. | |
| **Section .0300 Construction and Operating Permits** | | | | |
| Sect .0301 | Applicability | 07/01/94 | 07/28/95, 60 FR 38710. | |
| Sect .0303 | Definitions | 07/01/94 | 07/28/95, 60 FR 38710. | |
| Sect .0304 | Applications | 07/01/99 | 10/22/02, 67 FR 64989. | |
| Sect .0305 | Application Submittal Content | 07/01/94 | 07/28/95, 60 FR 38710. | |
| Sect .0306 | Permits Requiring Public Participation. | 07/01/99 | 10/22/02, 67 FR 64989. | |
| Sect .0307 | Public Participation Procedures | 01/15/98 | 11/10/99, 64 FR 61213. | |
| Sect .0308 | Final Action on Permit Applications | 07/01/94 | 07/28/95, 60 FR 38710. | |
| Sect .0309 | Termination, Modification and Revocation of Permits. | 07/01/99 | 10/22/02, 67 FR 64989. | |
| Sect .0310 | Permitting of Numerous Similar Facilities. | 07/01/94 | 07/28/95, 60 FR 38710. | |
| Sect .0311 | Permitting of Facilities at Multiple Temporary Sites. | 07/01/96 | 08/01/97, 62 FR 41277. | |
| Sect .0312 | Application Processing Schedule | 03/20/98 | 11/10/99, 64 FR 61213. | |
| Sect .0313 | Expedited Application Processing Schedule. | 04/17/97 | 11/10/99, 64 FR 61213. | |
| Sect .0314 | General Permitting Requirements | 07/01/99 | 10/22/02, 67 FR 64989. | |
| Sect .0315 | Synthetic Minor Facilities | 07/01/99 | 10/22/02, 67 FR 64989. | |
| Sect .0316 | Administrative Permit Amendments | 04/01/01 | 08/08/02, 67 FR 51461. | |
| Sect .0317 | Avoidance Conditions | 04/01/01 | 08/08/02, 67 FR 51461. | |
| **Section .0600 Transportation Facility Procedures** | | | | |
| Sect .0601 | Purpose of Section and Requirements for Permit. | 07/01/94 | 02/01/96, 61 FR 3584. | |
| Sect .0602 | Definitions | 07/01/94 | 02/01/96, 61 FR 3584. | |
| Sect .0603 | Applications | 07/28/97 | 12/31/98, 63 FR 72193. | |
| Sect .0604 | Public Participation | 07/01/94 | 02/01/96, 61 FR 3584. | |
| Sect .0605 | Final Action on Permit Applications | 07/01/94 | 02/01/96, 61 FR 3584. | |
| Sect .0606 | Termination, Modification and Revocation of Permits. | 07/01/94 | 02/01/96, 61 FR 3584. | |
| Sect .0607 | Application Processing Schedule | 04/17/97 | 11/10/99, 64 FR 61213. | |
| **Section .0800 Exclusionary Rules** | | | | |
| Sect .0801 | Purpose and Scope | 05/01/99 | 10/22/02, 67 FR 64989. | |
| Sect .0802 | Gasoline Servicing Stations and Dispensing Facilities. | 08/01/95 | 09/20/96, 61 FR 49413. | |
| Sect .0803 | Coating, Solvent Cleaning, Graphic Arts Operations. | 05/01/99 | 10/22/02, 67 FR 64989. | |
| Sect .0804 | Dry Cleaning Facilities | 08/01/95 | 09/20/96, 61 FR 49414. | |
| Sect .0805 | Grain Elevators | 04/01/01 | 08/08/02, 67 FR 51461. | |
| Sect .0806 | Cotton Gins | 04/01/02 | 08/08/02, 67 FR 51461. | |

TABLE 1.—EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| Sect .0807 | Emergency Generators | 04/01/02 | 08/08/02, 67 FR 51461. | |
| Sect .0808 | Peak Shaving Generators | 07/01/99 | 10/22/02, 67 FR 64989. | |

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[FR Doc. 05–3062 Filed 2–17–05; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### 49 CFR Part 1

### Pipeline and Hazardous Materials Safety Administration

### 49 CFR Chapter I

### Research and Innovative Technology Administration

### 49 CFR Chapter XI

**[Docket No. OST 1999–6189]**

**RIN 9991–AA47**

## Pipeline and Hazardous Materials Safety Administration, and to the Administrator, Research and Innovative Technology Administration; Establishment and Delegation of Powers and Duties

**AGENCY:** Office of the Secretary of Transportation (OST), DOT.

**ACTION:** Final rule.

**SUMMARY:** Two new administrations, the Pipeline and Hazardous Materials Safety Administration and the Research and Innovative Technology Administration, are being established within the United States Department of Transportation pursuant to the Norman Y. Mineta Research and Special Programs Improvement Act. Each new administration is established effective February 20, 2005. Accordingly, by this action, the Secretary delegates to the Administrator, Pipeline and Hazardous Materials Safety Administration, and the Administrator, Research and Innovative Technology Administration, functions required for the operation of each new administration. In addition, this final rule renames chapters I and XI of subtitle B of title 49 CFR.

**DATES:** *Effective Date:* This final rule is effective on February 20, 2005.

**FOR FURTHER INFORMATION CONTACT:** David K. Tochen, Deputy Assistant General Counsel, Office of the Assistant General Counsel for Environmental, Civil Rights, and General Law, Department of Transportation, 400 Seventh Street, SW., Room 10102, Washington, DC 20590; Telephone (202) 366–9153.

**SUPPLEMENTARY INFORMATION:**

### Background

The Norman Y. Mineta Research and Special Programs Improvement Act [Pub. L. 108–426, 118 Stat. 2423 (November 30, 2004)] amends title 49, United States Code, by reorganizing the Research and Special Program Administration (RSPA) into two new administrations, the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Research and Innovative Technology Administration (RITA). PHMSA succeeds to all the authority exercised by RSPA with regard to pipeline and hazardous materials safety. RITA succeeds to substantially all the research authority currently exercised by RSPA, and includes other duties and powers of the Secretary that advance the Department's research, development, and technology objectives. In addition, two existing organizations of the Department, the Bureau of Transportation Statistics and the Office of Intermodalism, are moved to RITA (49 CFR Chapter XI). 49 CFR part 1 enumerates powers and duties that each modal administration within the Department of Transportation is responsible for carrying out. This rule amends 49 CFR part 1 to reflect the Secretary's delegation of authority to the Administrators of PHMSA and RITA, respectively.

The Administrators of PHMSA and RITA may redelegate their respective powers and duties described in this document if not inconsistent with statute, departmental regulations, policies, and orders governing delegations.

As this rule relates to Departmental organization, procedures, and practice, notice and comment on it are unnecessary under 5 U.S.C. 553(b). In addition, the Secretary finds that prior notice and opportunity to comment are unnecessary, and good cause exists to dispense with the 30-day delay in the effective date requirement so that PHMSA and RITA may operate pursuant to the changes noted above beginning February 20, 2005.

Ministerial amendments to a number of other parts in title 49 of the Code of Federal Regulations that pertain to functions of the new administrations will be issued in the near future.

### Regulatory Analyses and Notices

*A. Executive Order 12866 and DOT Regulatory Policies and Procedures*

This final rule is not considered a significant regulatory action under Executive Order 12866 (''Regulatory Planning and Process''), and the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). There are no costs associated with this rule.

*B. Executive Order 13132*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the consultation requirements of Executive Order 13132 do not apply.

*C. Executive Order 13175*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

*D. Regulatory Flexibility Act*

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act (5 U.S.C. 553), the provision of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

*E. Paperwork Reduction Act*

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*F. Unfunded Mandates Reform Act*

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

**List of Subjects in 49 CFR Part 1**

Authority delegations (Government agencies), Organization and functions (Government agencies).

n In consideration of the foregoing, Title 49, Code of Federal Regulations Subtitles A and B, are amended as follows:

**Subtitle A—Office of the Secretary**

## PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

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

**Authority:** 49 U.S.C. 322; 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); Pub. L. 101–552, 104 Stat. 2736; Pub. L. 106–159, 113 Stat. 1748; Pub. L. 107–71, 115 Stat. 597; Pub. L. 107–295, 116 Stat. 2064; Pub. L. 107–295, 116 Stat 2065; Pub. L. 107–296, 116 Stat. 2135; 41 U.S.C. 414; Pub. L. 108–426, 118 Stat. 2423.

n 2. Amend § 1.2 by revising paragraphs (g) and (i) to read as follows:

**§ 1.2 Definitions.**

* * * * *

(g) The Pipeline and Hazardous Materials Safety Administrator.

* * * * *

(i) The Research and Innovative Technology Administrator.

* * * * *

n 3. Amend § 1.3 by revising paragraphs (b)(7) and (b)(9) to read as follows:

**§ 1.3 Organization of the Department.**

* * * * *

(b) * * *

(7) The Pipeline and Hazardous Materials Safety Administration, headed by the Administrator.

* * * * *

(9) The Research and Innovative Technology Administration, headed by the Administrator.

* * * * *

n 4. Amend § 1.4 by revising paragraphs (h) and (k) to read as follows:

**§ 1.4 General responsibilities.**

(h) *The Pipeline and Hazardous Materials Safety Administration.* Is responsible for:

(1) Administering a national program of safety in natural gas and hazardous liquid pipeline transportation including identifying pipeline safety concerns, developing uniform safety standards, and promulgating and enforcing safety regulations.

(2) Administering a national program of safety, including security, in multi-modal hazardous materials transportation including identifying hazardous materials safety concerns, developing uniform safety standards, and promulgating and enforcing safety and security regulations.

* * * * *

(k) *The Research and Innovative Technology Administration.* Is responsible for:

(1) Coordinating, facilitating, and reviewing the Department's research and development programs and activities, except as limited by section 4(b)(1) of the Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. 108–426, 118 Stat. 2423 (November 30, 2004)).

(2) After consultation with modal and OST offices, making recommendations to the Secretary on all modal and OST research budgets.

(3) Serving as the focal point for Departmental research, development, and technology endeavors, in coordination with the Under Secretary for Policy.

(4) Planning, developing, initiating and managing programs in transportation research and development. Programs undertaken by RITA shall not be duplicative of similar programs undertaken by any modal or OST office. Maintaining the capability to perform research, development, and analysis in transportation planning and socio-economic effects, program management, and provide advice on technology in DOT policy development. Particular efforts will be made on analyzing transportation systems problems and developing innovative research products, processes and applications to solve them, advanced transportation concepts, and multimodal transportation. RITA will develop and maintain vital statistics and related transportation information databases.

(5) Providing leadership on technical, navigation, communication, and systems engineering activities.

(6) Providing a point of contact for the Department with the academic community to encourage transportation research.

(7) Providing university transportation research grants.

(8) Managing a Transportation Safety Institute which designs and conducts training programs responsive to the requirements of Government and industry as expressed by the operating administrations of the Department.

(9) Carrying out comprehensive transportation statistics research, analysis, and reporting.

(10) Providing oversight of the activities of the Bureau of Transportation Statistics.

(11) Providing oversight of the activities of the Volpe National Transportation Systems Center.

(12) Coordinating intermodal research initiatives and planning activities.

(13) Serving as a focal point within the Federal government for coordination of intermodal transportation research and development policy, in coordination with the Under Secretary for Policy.

* * * * *

n 5. Amend § 1.22 by revising paragraph (a) to read as follows:

**§ 1.22 Structure.**

(a) Secretary and Deputy Secretary. The Secretary and Deputy Secretary are assisted by the following, all of which report directly to the Secretary: The Under Secretary for Policy; the Executive Secretariat; the Board of Contract Appeals; the Departmental Office of Civil Rights; the Office of Small and Disadvantaged Business Utilization; the Office of Intelligence, Security, and Emergency Response; the Office of Public Affairs; and the Office of the Chief Information Officer. The Assistant Secretaries, the General Counsel, and the Inspector General also report directly to the Secretary.

* * * * *

n 6. Amend § 1.23 by revising paragraph (b) to read as follows:

**§ 1.23 Spheres of primary responsibility.**

* * * * *

(b) The Under Secretary for Policy. Provides leadership in the development of policy for the Department, supervises the policy activities of Assistant Secretaries with primary responsibility for aviation, international, and other transportation policy development and carries out other powers and duties prescribed by the Secretary. Assists the Secretary and Deputy Secretary in carrying out a variety of executive and managerial policies, programs and initiatives. Serves as the focal point within the Federal Government for coordination of intermodal transportation policy which brings together departmental intermodal perspectives, advocates intermodal interests, and provides secretarial leadership and visibility on issues that involve or affect more than one operating administration.

* * * * *

n 7. Add § 1.46 to read as follows:

**§ 1.46 Delegations to the Administrator of the Research and Innovative Technology Administration.**

The Administrator of the Research and Innovative Technology Administration is delegated authority for the following:

(a) *Coordination of Departmental research and development programs and activities.* (1) Coordinate, facilitate, and review all Departmental research and development programs and activities, except as limited by section 4(b)(1) of the Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. 108–426, 118 Stat. 2423).

(2) After consultation with modal and OST offices, RITA shall make recommendations to the Secretary on all modal and OST research budgets.

(b) *Science and technology.* (1) With respect to scientific and technological matters, serve as principal advisor to the Secretary and representative of the Department to the academic community, the private sector, professional organizations, and other Government agencies.

(2) Serve as principal liaison official for the Department of Transportation with the Office of Science and Technology Policy in the Executive Office of the President, the National Science and Technology Council, and the President's Committee of Advisors on Science and Technology.

(3) Serve as primary official responsible for coordination and oversight of the Department's implementation of section 2 of the Federal Technology Transfer Act of 1986 (15 U.S.C. 3710a), relating to the transfer of Federal technology to the marketplace; and section 12(d) of the National Technology Transfer and Advancement Act of 1996 (Pub. L. 104–113), as implemented by OMB Circular A–119: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities.

(4) Serve as Chair and Executive Secretary of the Department of Transportation's Research, Development and Technology Planning Council.

(5) Serve as Chair and Executive Secretary of the Department of Transportation Research, Development and Technology Planning Team.

(6) Carry out the functions vested in the Secretary by section 5108 of the Transportation Equity Act for the 21st Century (23 U.S.C. 508), as extended by the Surface Transportation Extension Act of 2004, Part V, Public Law 108–310, September 30, 2004, 118 Stat. 1144.

(7) Advocate Department of Transportation policy and program coordination efforts associated with transportation research.

(8) Represent the Department of Transportation on departmental, national and international committees and meetings dealing with transportation R&D.

(9) Manage the strategic planning process for transportation R&D across the Department of Transportation and, through the National Science and Technology Council, across the Federal Government.

(10) Conduct transportation system-level assessments and policy research.

(11) Facilitate the creation of transportation public/private partnerships.

(12) Foster innovation in the transportation sector.

(13) Disseminate information on departmental, national, and international transportation R&D activities.

(14) Manage and coordinate a nationwide program of transportation research, education and technology transfer through grants to university transportation centers and foster university participation in the planning, conduct and analysis of transportation research.

(15) Manage department- and government-wide (inter/multimodal) transportation R&D programs.

(16) Oversee advisory boards that deal with transportation system-level R&D assessments and issues, such as the National Research Council Committee on the Federal Transportation R&D Strategic Planning Process.

(c) *Advanced vehicle technology.* Carry out the functions vested in the Secretary by section 5111 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5506), as extended by the Surface Transportation Extension Act of 2004, Part V, Public Law 108–310, September 30, 2004, 118 Stat. 1144.

(d) *Remote sensing technology.* Carry out the functions vested in the Secretary by section 5113 of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note), as extended by the Surface Transportation Extension Act of 2004, Part V, Public Law 108–310, September 30, 2004, 118 Stat. 1144.

(e) *University transportation research.* Carry out the functions vested in the Secretary by section 5110 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5505), as extended by the Surface Transportation Extension Act of 2004, Part V, Public Law 108–310, September 30, 2004, 118 Stat. 1144.

(f) *Volpe National Transportation Systems Center.* Exercise the authority vested in the Secretary with respect to the activities of the Volpe National Transportation Systems Center and carry out the functions vested in the Secretary by 49 U.S.C. 328 with respect to the working capital fund for financing the activities of the Volpe National Transportation Systems Center.

(g) *Transportation Safety Institute.* Exercise authority over the Transportation Safety Institute.

(h) *Transportations Statistics.* Exercise the authority and carry out the functions vested in the Secretary by 49 U.S.C. 112(d)(1)(C) relating to transportation statistics, analysis, and reporting.

(i) *Intermodalism.* Carry out the functions vested in the Secretary by 49 U.S.C. 5503(d).

(j) *Aviation information.* (1) Carry out the functions vested in the Secretary by 49 U.S.C. 329(b)(1) relating to the collection and dissemination of information on civil aeronautics.

(2) Carry out the functions vested in the Secretary by section 4(a)(7) of the Civil Aeronautics Board Sunset Act of 1984 (October 4, 1984; Pub. L. 98–443) relating to the reporting of the extension of unsecured credit to political candidates (section 401, Federal Election Campaign Act of 1971; 2 U.S.C. 451), in conjunction with the General Counsel and the Assistant Secretary for Aviation and International Affairs.

(3) Carry out the functions vested in the Secretary by: 49 U.S.C. 40113 (relating to taking such actions and issuing such regulations as may be necessary to carry out responsibilities under the Act), 49 U.S.C. 41702 (relating to the duty of carriers to provide safe and adequate service), 49 U.S.C. 41708 and 41709 (relating to the requirement to keep information and the forms in which it is to be kept), and 49 U.S.C. 41701 (relating to establishing just and reasonable classifications of carriers and rules to be followed by each) as appropriate to carry out the responsibilities under this paragraph in conjunction with the General Counsel and the Assistant Secretary for Aviation and International Affairs.

(k) *Hazardous materials information.* In coordination with the Under Secretary for Transportation Policy, work with the Operating Administrations to determine data needs, collection strategies, and analytical techniques appropriate for implementing 49 U.S.C. 5101 *et seq.*

n 8. Revise § 1.53 to read as follows:

**§ 1.53 Delegations to the Administrator of the Pipeline and Hazardous Materials Safety Administration.**

The Administrator of the Pipeline and Hazardous Materials Safety

Administration is delegated authority for the following:

(a) Pipelines. (1) Exercise the authority and carry out the functions vested in the Secretary by the Federal pipeline safety laws (49 U.S.C. 60101 *et seq.*).

(2) Exercise the authority and carry out the functions vested in the Secretary under section 28 of the Mineral Leasing Act, as amended (30 U.S.C. 185).

(3) Exercise the authority and carry out the functions vested in the Secretary under section 21 of the Deepwater Port Act of 1974, as amended (33 U.S.C. 1520) relating to the establishment, enforcement and review of regulations concerning the safe construction, operation or maintenance of pipelines on Federal lands and the Outer Continental Shelf.

(4) Exercise the authority and carry out the functions vested in the Secretary under section 5 of the International Bridge Act of 1972 (33 U.S.C. 535) as it relates to pipelines not over navigable waterways.

(5) Exercise the authority and carry out the functions vested in the Secretary under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 *et seq.*) with respect to the establishment, enforcement and review of regulations concerning pipeline safety.

(6) Exercise the authority and carry out the functions delegated to the Secretary under sections 4(a) and 5(c) of Executive Order 12316 (46 FR 42237, Aug. 20, 1981) (delegating sections 107(c)(1)(c) and 108(b), respectively, of the Comprehensive Environmental Response, Compensation, and Liability Act of 1981, as amended (42 U.S.C. 9601 *et seq.*)) as they relate to pipelines.

(7) Exercise the authority and carry out the functions vested in the Secretary by section 7005 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (recodified at 49 U.S.C. 60301 by Pub. L. 103–272) as they relate to pipeline safety user fees.

(8) Exercise the authority and carry out the functions vested in the Secretary by 49 U.S.C. 6101 *et seq.* as they relate to pipeline damage prevention One Call programs.

(9) Exercise the authority and carry out the functions vested in the Secretary by the Pipeline Safety Improvement Act of 2002 (Pub. L. 107–355, 116 Stat. 2985).

(b) *Hazardous materials.* Except as delegated by § 1.74:

(1) Carry out the functions vested in the Secretary by 49 U.S.C. 5121(a), (b) and (c), 5122, 5123, and 5124 relating to investigations, records, inspections, penalties, and specific relief, with particular emphasis on the shipment of hazardous materials and the manufacture, fabrication, marking, maintenance, reconditioning, repair or test of multi-modal containers that are represented, marked, certified, or sold for use in the transportation of hazardous materials.

(2) Carry out the functions vested in the Secretary by all other provisions of the Federal hazardous material transportation law (49 U.S.C. 5101 *et seq.*), except as delegated by sections 1.47(j)(2), 1.49(s)(2), and 1.73(d)(2).

(3) Serve as the Department's point of contact and consult with the Environmental Protection Agency on matters arising under section 3003 of the Resources Conservation and Recovery Act (42 U.S.C. 6923) and section 9 of the Toxic Substances Control Act (15 U.S.C. 2608).

(c) Carry out the functions vested in the Secretary by section 4(e) of the International Safe Container Act (46 U.S.C. 1503(e)).

(d) Carry out the functions vested in the Secretary by sections 5703, 5704, 5705, 5706, and 5707 of the Sanitary Food Transportation Act of 1990 (49 U.S.C. 5701–5714).

(e) Exercise the authority and carry out the functions delegated to the Secretary in the following sections of Executive Order 12777 (56 FR 54757, Oct. 22, 1991):

(1) Section 2(b)(2) relating to the establishment of procedures, methods, equipment and other requirements to prevent discharges from, and to contain oil and hazardous substances in, pipelines, motor carriers, and railroads; and

(2) Section 2(d)(2) relating to the issuance of regulations requiring the owners or operators of pipelines, motor carriers, and railroads, subject to the Federal Water Pollution Control Act (33 U.S.C. 1321 *et seq.*), to prepare and submit response plans. For pipelines subject to the Federal Water Pollution Control Act, this authority includes the approval of means to ensure the availability of private personnel and equipment to remove, to the maximum extent practicable, a worst case discharge, the review and approval of response plans, and the authorization of pipelines to operate without approved response plans.

**§ 1.71 [Removed and reserved].**

n 9. Section 1.71 is removed and reserved.

n 10. Revise the section heading and introductory text to read as follows:

**§ 1.74 Delegations to the Under Secretary for Transportation Policy.**

The Under Secretary for Transportation Policy is delegated authority under the Federal hazardous materials transportation law, 49 U.S.C. 5101 *et seq.*, to:

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**Subtitle B—Other Regulations Relating to Transportation**

**CHAPTER I—PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

n 11. In subtitle B, revise the heading of 49 CFR chapter I to read as set forth above.

**CHAPTER XI—RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

n 12. Also in subtitle B, revise the heading of Chapter XI to read as set forth above.

Issued this 13th day of February, 2005 at Washington, DC.

**Norman Y. Mineta,**

*Secretary of Transportation.*

[FR Doc. 05–3245 Filed 2–16–05; 11:15 am]

BILLING CODE 4910–62–P

# Proposed Rules

Federal Register
Vol. 70, No. 33
Friday, February 18, 2005

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

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NE–12–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Rolls-Royce plc RB211 Trent 875, 877, 884, 884B, 892, 892B, and 895 Series 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 plc (RR) RB211 Trent 875, 877, 884, 892, 892B, and 895 series turbofan engines. That AD currently requires repetitive application of dry film lubricant (DFL) to low pressure compressor (LPC) fan blade roots. This proposed AD would require the same actions but at more frequent intervals than the existing AD, add the Trent 884B engine to the list of engine models affected, add a fan blade part number (P/N) to the affected list of fan blades, and would relax the initial DFL repetitive application compliance time for certain fan blades that have never been removed from the disk. This proposed AD results from discovering DFL in worse condition than anticipated on fan blades fitted to disks previously run for a significant period. This proposed AD also results from the need to update the list of engine models affected, and to update the list of fan blade part numbers affected. We are proposing this AD to prevent LPC fan blade loss, which could result in an uncontained engine failure and possible aircraft damage.

**DATES:** We must receive any comments on this proposed AD by April 19, 2005.

**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. 2001–NE–12–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 examine the AD docket, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:** Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7175, 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. 2001–NE–12—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.

### 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 May 16, 2002, the FAA issued AD 2002–10–15, Amendment 39–12761 (67 FR 36803, May 28, 2002). That AD requires repetitive application of DFL to LPC fan blade roots. That AD resulted from an aborted take-off resulting from LPC fan blade loss, and reports of four cracked LPC fan blade roots.

### Actions Since AD 2002–10–15 was Issued

Since that AD was issued, we have determined from a sampling of DFL coatings on fan blades, that the DFL coating condition has some variation. The condition appears worse than anticipated on fan blades fitted to disks previously run for a significant period. Also, since that AD was issued, we discovered that the Trent 884B engine needs to be added to the applicability list, and fan blade, P/N FW23552, needs to be added to the list of affected blades.

### Special Flight Permits Paragraph Removed

Paragraph (d) of the current AD, AD 2002–10–15, contains a paragraph pertaining to special flight permits. Even though this final rule does not contain a similar paragraph, we have made no changes with regard to the use of special flight permits to operate the airplane to a repair facility to do the work required by this AD. In July 2002, we published a new Part 39 that contains a general authority regarding special flight permits and airworthiness directives; see Docket No. FAA–2004–8460, Amendment 39–9474 (69 FR 47998, July 22, 2002). Thus, when we now supersede ADs we will not include a specific paragraph on special flight permits unless we want to limit the use of that general authority granted in section 39.23.

### Replacement of References to Manual Tasks, Repair Schemes, and Coatings

In this proposed AD, we have replaced references in AD 2002–10–15 to Aircraft Maintenance Manual task 72–31–11–300–801–R00 (Repair Scheme FRS A031 by air spray method only), Engine Manual task 72–31–11–R001 (Repair Scheme FRS A028), and lubricants, Dow Corning 321R (Rolls-Royce (RR) Omat item 4/51), Rocol Dry Moly Spray (RR Omat item 4/52), Molydag 709 (RR Omat item 444), or PL.237/R1 (RR Omat item 4/43), with a reference to RR Alert Service Bulletin No. RB.211–72–AD347, Revision 6, dated April 22, 2004, which contains that information.

### Bilateral Agreement Information

These engine models are manufactured in the U.K. and are type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, 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. Therefore, we are proposing this AD, which would:

- Require repetitive application of DFL to LPC fan blade roots at more frequent intervals than the existing AD;
- Add the Trent 884B engine to the applicability;
- Add a fan blade P/N to the affected list of fan blades; and
- Relax the initial DFL repetitive application compliance time for certain fan blades that have never been removed from the disk.

### Costs of Compliance

There are approximately 388 RR RB211 Trent 875, 877, 884, 884B, 892, 892B, and 895 series turbofan engines of the affected design in the worldwide fleet. We estimate that 106 engines installed on airplanes of U.S. registry would be affected by this proposed AD. We also estimate that it would take approximately six work hours per engine to perform the DFL application, and that the average labor rate is $65 per work hour. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to perform one repetitive application of DFL to the affected engines to be $41,340.

### Authority for This Rulemaking

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

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

### Regulatory Findings

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

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

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

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

3. 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. 2001–NE–12–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 39–12761 (67 FR 36803, May 28, 2002) and by adding a new airworthiness directive, to read as follows:

**Rolls-Royce plc:** Docket No. 2001–NE–12–AD.

**Comments Due Date**

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by April 19, 2005.

**Affected ADs**

(b) This AD supersedes AD 2002–10–15, Amendment 39–12761.

**Applicability**

(c) This AD applies to Rolls-Royce plc (RR) RB211 Trent 875, 877, 884, 884B, 892, 892B, and 895 series turbofan engines with low pressure compressor (LPC) fan blade part numbers (P/Ns): FK 30838, FK30840, FK30842, FW12960, FW12961, FW12962, FW13175, FW18548, or FW23552. These engines are installed on, but not limited to, Boeing 777 series airplanes.

**Unsafe Condition**

(d) This AD results from the discovery of dry film lubricant (DFL) condition appearing worse than anticipated on fan blades fitted to disks previously run for a significant period. This AD also results from the need to update the list of engine models affected, and to update the list of fan blade part numbers affected. The actions specified in this AD are intended to prevent LPC fan blade loss, which could result in an uncontained engine failure and possible aircraft damage.

**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.

(f) Apply an approved DFL to LPC fan blade roots as follows:

(1) For LPC fan blades P/Ns FW13175, FW12960, FW12961, FW12962, FW18548, and FW23552 that have never been removed from the disk, apply DFL at the first removal from the disk or before 1,200 cycles-in-service (CIS), whichever occurs first.

(2) For LPC fan blades P/Ns FW13175, FW12960, FW12961, FW12962, FW18548, and FW23552 that have been removed from the disk since entering service, apply DFL before accumulating 600 cycles-since-new (CSN) or before accumulating 600 cycles-since-last DFL application, or within 200 CIS from the effective date of this AD, whichever occurs later.

(3) For LPC fan blades P/Ns FK30842, FK30840, and FK300838, apply DFL before accumulating 600 CSN or before accumulating 600 cycles-since-last DFL application, or within 100 CIS after July 2, 2002 (effective date of superseded AD 2002–10–15), whichever occurs first.

(4) Thereafter, reapply DFL to LPC fan blade roots within 600 cycles-since-last DFL application.

(5) Information on applying DFL to fan blade roots can be found in RR Alert Service Bulletin No. RB.211–72–AD347, Revision 6, dated April 22, 2004.

**Alternative Methods of Compliance**

(g) 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.

**Related Information**

(h) Civil Aviation Authority Airworthiness Directive G–2004–0008, dated April 29, 2004, also addresses the subject of this AD.

Issued in Burlington, Massachusetts, on February 10, 2005.

**Francis A. Favara,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 05–3191 Filed 2–17–05; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF STATE

## 22 CFR Part 51

**[Public Notice 4993]**

**RIN 1400–AB93**

## Electronic Passport

**AGENCY:** Department of State.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend the passport regulations to incorporate changes required by the electronic passport. The rule would define ''electronic passport,'' would include a damaged electronic chip as an additional basis for possible invalidation of a passport, would abolish the U.S. passport amendment process except for the convenience of the U.S. Government, and would enlarge the reasons for issuing a replacement passport at no fee. The rule would also add unpaid fees as a ground for invalidating a passport.

**DATES:** The Department will accept comments from the public up to 45 days from February 18, 2005.

**ADDRESSES:** Written comments and questions regarding the proposed rule should be addressed to: Chief, Legal Division, Office of Passport Policy, Planning and Advisory Services, 2100 Pennsylvania Ave., NW., 3rd Floor, Washington, DC 20037. You may also send comments by e-mail to: *PassportRules@state.gov*.

Persons with access to the internet may also view this notice and provide comments by going to the regulations.gov Web site at: *http://www.regulations.gov/index.cfm*. You must include the Regulatory Identification Number (RIN) in the subject line of your message.

**FOR FURTHER INFORMATION CONTACT:** Sharon Palmer-Royston, Office of Passport Policy, Planning and Advisory Services, Bureau of Consular Affairs, who may be reached at (202) 663–2662.

**SUPPLEMENTARY INFORMATION:** Section 1101(a)(30) of Title 8, United States Code (U.S.C.), defines a passport as any travel document issued by a competent authority showing the bearer's origin, identity and nationality, which is valid for the admission of the bearer into a foreign country. Acquisition of United States nationality is provided for by Title III of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1401, *et seq.*), including the acquisition of U.S. nationality but not citizenship under 8 U.S.C. 1408 by individuals born in an outlying possession of the United States. Section 1185(b) of Title 8, U.S.C., requires U.S. citizens to bear a valid U.S. passport to enter or depart the United States unless excepted—exceptions are provided in 22 CFR 53.2. The Secretary of State has sole authority to grant and issue passports, pursuant to 22 U.S.C. 211a. Before a passport is issued to any person by or under authority of the United States, such person must subscribe to and submit a written application, as required by 22 U.S.C. 213. During its period of validity, a passport (when issued to a U.S. citizen for the maximum period authorized by law) is a document establishing proof of United States citizenship, pursuant to 22 U.S.C. 2705. 22 CFR 51.2(b) provides that unless authorized by the Department no person shall bear more than one valid or potentially valid U.S. passport at any one time.

The Department plans to introduce an enhanced version of the traditional passport, using an embedded electronic chip to digitally carry the information printed on the data page, a biometric version of the bearer's photo, and coding to prevent any digital data from being altered or removed. The contents of the data page of the traditional passport have been established for a very long time by international usage and by the International Civil Aviation Organization (ICAO). The current Machine Readable Passport format has been the international standard, used by the United States, since 1982 (ICAO Publication 9303, Machine Readable Travel Documents, Part I, Machine Readable Passports, Fifth Edition 2003). The first passport using the enhanced, electronic passport format is expected to be issued in mid-2005. After that, the issuance technology would be sequentially placed into all passport agencies, so that, within a year, all new passports would be issued in this format. All valid old-style passports would continue to be valid until they normally expire unless they were individually invalidated.

The technology selected for the electronic passport is the 64 kilobyte contactless integrated circuit chip with an antenna. The electronic chip itself has a very short read distance, approximately four inches. This choice is compatible with standards and recommendations of ICAO. The standards and recommendations are found in ICAO Publication 9303, Machine Readable Travel Documents, Part 1, Machine Readable Passports, Fifth Edition 2003; and in the recommendations found in Technical Reports and an Annex supplementing that publication relating to the technology supporting the use of electronic chips in travel documents. Specifically, the three Technical Reports are ''Development of a Logical Data Structure—LDS for Optimal Capacity Expansion Technologies,'' Revision 1.7, May 18, 2004; ''Development and Specification of Globally Interoperable Biometric Standards for Machine Assisted Identity Confirmation Using Machine Readable Travel Documents,'' Version 2.0, May 21, 2004; ''PKI for Machine Readable Travel Documents Offering ICC Read-only Access,'' Version 1.1, October 1, 2004. The Annex is ''Use of Contactless Integrated Circuits in Machine Readable Travel Documents,'' Version 4.0, May 5, 2004.

The electronic chip will carry the information on the data page of the passport plus a biometric identifier to enhance the ability to identify the bearer. The biometric chosen for the initial version of the U.S. electronic passport is the facial image, one of three biometrics currently identified by the International Civil Aviation Organization (ICAO) as suitable for inclusion in international travel documents, although the facial image was mandatory. Under the proposed rule, border inspectors would compare the passport bearer with the digital facial image stored on the electronic chip. ICAO also recognizes fingerprints and iris scans as acceptable biometrics. As biometric technology is rapidly advancing, the inclusion of facial image data in U.S. passports is considered a first step in ensuring that an effective biometric system is incorporated into the U.S. passport system.

Using an embedded electronic chip in the passport to store the information from the passport data page will enhance the security of the document and is expected to benefit travelers by improving the ability of border officials to verify personal identities. The Department plans to use this format because of the enhanced security features and improved port of entry performance provided by the electronic chip technology.

The Department considers the inclusion of biometric identifiers in international travel documents, made

possible by electronic chip technology, to be a critical step in upgrading border security for the United States. The biometric identifier contained in the electronic passport is a digitized photograph of the bearer that will be able to be used with internationally interoperable facial recognition technology. The Department of Homeland Security will begin to implement reader technology through pilot programs by the end of the year. It is imperative that the Department enhance the ability to confirm that the bearer of a passport is the person to whom the passport was issued. This confirmation at ports of entry helps to prevent misuse of the U.S. passport by individuals who are terrorists, criminals, or others who present a security risk.

To verify that the data written on the electronic chip has not been tampered with, the Department proposes to employ digital signatures compliant with the ICAO Public Key Infrastructure (PKI) technology. In order to ensure that the data contained in the electronic chip matches the data printed in the physical book, electronic chip technology requires that the data on the electronic chip be written only once and not changed. Because the electronic chip technology selected may not be amended once written, United States passports would no longer be amended. Instead of amending passports when personal or administrative information changes, the passport would be replaced. If a bearer's personal information changes and the bearer makes a request within one year of original issuance, the replacement would be provided without payment of a fee. As described below, the discontinuation of amendments would be effective for all passports on the effective date of this rule. However, for the convenience of the U.S. Government, in rare cases such as travel under escort, when a person is returning to the United States and would no longer be entitled to a U.S. passport after return, the validity period could be manually limited and this limitation would be reflected on a later page.

Under the proposed rule, the passport's electronic chip would duplicate the data that appears on the visible data page of the passport: the bearer's name, date of birth and place of birth, the passport number, the dates of issuance and expiration, the issuing authority, the document type, the passport application reference number, and the photo in digitized format. It would also contain a unique chip identification number. Upon issuance, a series of numbers, called a digital signature, is stored on the chip, adding a major security improvement to the passport. The digital signature prevents anyone from changing the stored data. The stored information will be read at ports of entry around the world equipped with compatible readers. When activated by the port of entry reader, the electronic chip responds to the query by providing the stored information.

Recent press stories about the use of this technology have noted that the information will not be ''encrypted'' and mention the concern about identity theft by unauthorized persons through either skimming (the surreptitious reading of the electronic information without the holder's knowledge) or eavesdropping (intercepting information from the electronic chip while it is being read at an official port of entry station). The United States does not intend to encrypt the data for the following reasons: the personal data stored on the passport's electronic chip consists simply of the information traditionally and visibly displayed on the passport data page; encrypted data takes longer to read, increasing port of entry processing time; and in order to be globally interoperable, encryption would require a higher level of technology and more complicated technical coordination with other nations.

Although surreptitiously activating the electronic chip remotely and then reading the return signal amid ambient electronic noise is considered technically very difficult, the Department is taking measures to prevent skimming of the unencrypted data. By the time the first electronic passport is issued, the Department intends to place an anti-skimming feature in the passport.

Eavesdropping can only occur while the electronic chip is being read using a specially designed reader furnished with the proper public key. Eavesdropping is difficult to achieve, however, in a secured port of entry environment. In such an environment, the equipment needed to eavesdrop would be obvious and detectable to authorities managing the port of entry. The State Department will work vigorously with other governments to encourage them to eliminate the threat of eavesdropping by requiring all chip readers to be electronically shielded to prevent signals from being transmitted beyond the reader.

Under the proposed rule, a passport that contains a damaged, defective, or otherwise nonfunctioning electronic chip or with observable wear and tear that render it unfit for further use as a travel document may be invalidated by the Department of State. While an electronic passport with a nonfunctioning electronic chip may continue to be used if the data page is not damaged, it would nonetheless lack the ability to be read by chip readers at ports of entry and would not reflect the security features inherent in the electronic chip technology. If the damage were caused deliberately, the passport would be invalidated upon discovery. Individuals whose passports contain failed electronic chips may choose to obtain a replacement passport for the balance of the original validity period by applying presenting the passport, and new photos; or they may apply for a new full validity passport by applying presenting the passport, new photos and applicable fees.

**Defining the Electronic Passport**

Section 51.1 of Title 22, Code of Federal Regulations (CFR) defines the terms used in part 51. This rule would amend § 51.1 by adding a new paragraph (j) providing that an electronic passport is a passport containing an electronically readable device, a chip, encoded with the bearer's personal information contained on the data page, a digitized version of the bearer's photograph, a unique chip number and a digital signature to protect the integrity of the electronically readable information.

**Damaged, Defective or Otherwise Nonfunctioning Electronic Chip**

Section 51.6 of Title 22, Code of Federal Regulations (CFR), governs the validity of damaged United States passports. This rule would amend § 51.6 by adding new language providing that a damaged, defective, or otherwise nonfunctioning electronic chip may be grounds for invalidating a United States passport. A passport with an intact data page but a nonfunctioning electronic chip would still be used as a travel document. However, detected attempts to alter chip data or to substitute a different electronic chip would result in invalidation.

**Passport Amendments and Extensions Discontinued**

In order to protect the security of the electronic passport, the passport data page and the electronic chip would contain the same information. When important information contained in a passport, as for example, the bearer's name or the passport validity period, is changed, instead of manually amending the passport to reflect the new information, the passport would be cancelled and a new passport would be issued. This is necessary because the

electronic chip may not be changed once written. Issuance of a new passport would ensure that the data page and the chip information would continue to be identical. However, for the convenience of the U.S. Government, the validity period of a passport may be amended in a small number of cases where it would be impossible or inadvisable to issue a new passport.

In addition, valid old-style passports would be treated in the same way, and starting on the effective date of this regulation, they also would no longer be amended. While this change will impose an additional cost for some individuals who seek a new passport to reflect a change in personal data, it would improve the value of the passport as an identity document and increase passport security by confining all personal data to the data page. Discontinuing passport amendments would improve port of entry efficiency for both the passport bearer and port of entry officers by simplifying the comparison of the bearer's identity to the passport document.

The Department encourages Americans to keep their U.S. passports up to date as a document of identity. Doing so will help prevent unexpected problems that may occur when the identity shown on their passport does not match other identity materials. To encourage individuals to maintain passports that accurately reflect their current identities and to alleviate some of the cost burden, an individual whose personal information has changed within the first year of validity of a new passport would be able to return the passport, along with a completed application, new photos and proof of the personal information change for replacement with a new full validity passport at no additional cost.

Sections 51.4, 51.20, 51.32, and 51.66, and the title of Subpart E of Title 22, Code of Federal Regulations (CFR) refer to or govern the procedure whereby United States passports are amended and extended. This rule would delete all references to the amendment or extension of U.S. passports.

## Application for Replacement Passport

Pursuant to Title 22 of the United States Code, Section 211a *et seq.* and E.O. 11295, 31 FR 10603 (Aug. 5, 1966), the Secretary has broad authority to issue regulations governing the issuance of passports. There is no statutory requirement to permit amendments to passports, as opposed to requiring that a new passport be issued when personal, or other, information changes. The Secretary has in the past exercised regulatory discretion to permit amendments. The current regulations in § 51.20 of Title 22, Code of Federal Regulations (CFR) require that an application for a passport or for an amendment of a passport shall be completed upon such forms as prescribed by the Department. An applicant for a passport amendment uses a specified application form. This rule would delete, in the first sentence of § 51.20, the words ''an amendment,'' to reflect the decision to discontinue amendments.

Section 51.64 of Title 22, Code of Federal Regulations (CFR) sets out the requirements for replacement of a passport at no cost. This rule would add new categories of such passports. To encourage individuals to maintain a passport that accurately reflects their identity, the rule would provide that individuals who have changed their name and apply for a replacement passport within one year of the original issuance may be issued a replacement passport at no cost. This rule would also allow issuance at no cost of a replacement passport, for the balance of its period of validity, for one whose passport is needed by law enforcement or the judiciary for evidentiary purposes. A passport whose electronic chip has failed could be replaced at no cost by a passport issued for the balance of the original validity period.

Nearly all passports applied for abroad, except one-year limited validity emergency passports, are printed in the United States. At the time of application, all applicable fees are collected. This amendment would reflect that those who have been issued a one-year validity passport abroad because of emergency travel may apply for a full validity replacement passport within one year of the issuance of the limited passport for no additional cost.

## New Ground for Invalidating a Passport

Under the proposed rule, if full payment of all applicable passport fees is not presented, as for example when a check is returned or a credit card charge is disputed after delivery of a passport, the Department, in addition to taking action to collect the delinquent fees under 22 CFR part 34 and the Federal Claims Collection Act, could also send the delinquent bearer a letter to the bearer's last available address notifying him or her that the passport has been invalidated because the applicable fees have not been received. An invalidated passport cannot be used for travel. This proposed rule would add unpaid fees as a ground for invalidating a passport.

## Regulatory Findings

### *Administrative Procedure Act*

The Department is publishing this rule as a proposed rule, with a 45-day provision for public comments. The Department is providing for a shorter period than the 60 days suggested by Section 6(a) of E.O. 12866 because we believe 45 days will provide the public with a meaningful opportunity to comment while advancing important national security and foreign policy goals. In order to protect the security of U.S. borders, it is essential that the Department get the electronic passport program up and running as soon as possible. In addition, a prompt launch of the program will increase our credibility and good will with visa waiver program countries, who under U.S. law are required to implement similar biometric passport programs.

### *Regulatory Flexibility Act/Executive Order 13272: Small Business*

These proposed changes to the regulations are hereby certified as not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601–612, and Executive Order 13272, section 3(b).

### *The Small Business Regulatory Enforcement Fairness Act of 1996*

This proposed rule is not a major rule, as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. This rule would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign based companies in domestic and export markets.

### *The Unfunded Mandates Reform Act of 1995*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UFMA), Public Law 104–4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule would not result in any such expenditure nor would it significantly or uniquely affect small governments.

*Executive Orders 12372 and 13132: Federalism*

This regulation would not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor would the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

*Executive Order 12866: Regulatory Review*

The Department of State has reviewed this proposed rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of the proposed regulation justify its costs. The Department does not consider the proposed rule to be an economically significant regulatory action within the scope of section 3(f)(1) of the Executive Order since it is not likely to have an annual effect on the economy of $100 million or more or to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. However, the proposed rule does have important policy implications and involves a critical component of upgrading border security for the United States. Accordingly, it has been provided to the Office of Management and Budget (OMB) for review, along with the related Paperwork Reduction Act submissions described below.

By eliminating amendments to passports except for the convenience of the U.S. Government, the proposed regulation would impose additional costs on persons who, under the existing regulations, could obtain amendments (such as name changes, corrections in identifying data, or extensions of limited validity periods), at no charge (except for postage, expediting fees and special return postage). An individual whose name has changed or whose personal data is incorrectly reflected on the passport would be able to obtain a replacement passport within one year of the passport's issuance at no charge (except for postage, expediting fees and special return postage) but would incur the additional expense of new passport photographs for the replacement passport. The estimated average cost for photographs is $11 per set, and the Department estimates that there will be 20,000 applicants for no charge replacement passports each year. Thus, the Department estimates that the added cost burden on those eligible to seek replacement passports without charge would be $220,000 annually.

Under the proposed regulation, a person who sought to have his or her passport amended more than one year after the date of passport issuance would have to apply for a new passport and incur the costs of photographs ($11 estimated average cost), the passport processing fee ($55 for a full validity 10-year passport, $40 for a passport valid for five years for persons under 16 years of age), the execution fee if not eligible to apply by mail ($30) and a new security surcharge ($12), for a per person additional cost, depending on fee applicability, of between $63–108. The security surcharge was authorized by the Consolidated Appropriations Act, 2005 (Public Law 108–447, Division B, Title IV, Diplomatic and Consular Programs appropriation), which set the amount at $12. The surcharge will be separately implemented through an amendment to the Department of State's Schedule of Fees for Consular Services, which is expected to be published shortly under RIN 1400–AB94.) The Department estimates that 180,000 individuals who would have been able to obtain no-cost amendments under the existing regulations will apply for new passports annually and incur such costs under the proposed regulation. We arrived at the estimate by subtracting 30,000 uses of Department of State Form DS–19 (U.S. Passport Amendment/Validation Application, OMB Information Collection 1405–0007) for the addition of visa pages from the total of approximately 230,000 uses of Form DS–19 in FY 2004. We also subtracted the estimated 20,000 applications for no-charge passports based on name changes or incorrect personal information changes within the first year of validity, as described above. The remaining 180,000 would be applying for fee passports. Multiplying 180,000 applications by the maximum $108 additional per person cost results in an estimated cost burden of $19,440,000. Because not every applicant would incur the maximum additional per person cost (some are children and others are adults who could apply by mail without incurring an execution fee), we believe that this figure exceeds the actual cost burden that will be imposed.

The electronic chip is designed to be very durable. If an electronic chip fails, the bearer may apply for a no cost replacement passport issued for the balance of the original validity period. However, given the durability of the chip and the fact that an electronic passport with a nonfunctioning chip may continue to be used if the data page is not damaged, we do not anticipate receiving many such applications. Accordingly, we anticipate that the economic effect would be minimal.

*Executive Order 12988: Civil Justice Reform*

The Department has reviewed the regulations in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

*The Paperwork Reduction Act of 1995*

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulation. The Department of State has determined that this proposal contains collection of information requirements for the purposes of the PRA. In conjunction with the proposed rule, the Department has submitted to OMB its request for emergency review of four information collections, which are the subject of separate **Federal Register** notices and requests for public comment.

Two of the four collections involve existing forms that are scheduled for PRA renewal in 2005. The Department proposes to revise and update the instructions associated with existing information collections number 1405–0004 (DS–11, Application for a U.S. Passport) and 1405–0020 (DS–82, Application for a U.S. Passport by Mail). Among other changes, the revisions would notify applicants that a passport may be invalidated for lack of payment of the requisite fees.

The Department has also submitted for OMB review two new collections of information. One of the new collections would introduce a new form, DS–5504 (U.S. Passport Re-Application Form), to permit application for a replacement full-validity passport within one year of passport issuance based on a change of name, incorrect data, or the emergency issuance abroad of a one-year full-fee passport. The other new collection (DS–4085, Application for Additional Visa Pages) would replace existing information collection number 1405–0007, which relates to Form DS–19. Form DS–19 is currently used to apply for amendment of a U.S. passport or request issuance of extra visa pages. Because passport amendments no longer would be made under the proposed rule, Form DS–19 would be discontinued. In its place, Form DS–

4085 would be introduced solely to enable holders of a valid U.S. passport to request that extra visa pages be added to the passport.

**List of Subjects in 22 CFR Part 51**

Administrative practice and procedure, Drug traffic control, Passports and visas.

Accordingly, for the reasons set forth in the preamble, 22 CFR chapter I would be amended as follows:

## PART 51—PASSPORTS

1. The authority citation for part 51 continues to read as follows:

**Authority:** 22 U.S.C. 211a, 213, 2651a, 2671(d)(3), 2714 and 3926; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966–1970 Comp., p 570; sec. 236, Public Law 106–113, 113 Stat. 1501A–430; 18 U.S.C. 1621(a)(2).

2. Section 51.1 is amended to add a new paragraph (j) to read as follows:

**§ 51.1 Definitions.**

* * * * *

(j) *Electronic passport* means a passport containing an electronically readable device, an electronic chip encoded with the bearer's personal information printed on the data page, a digitized version of the bearer's photograph, a unique chip number, and a digital signature to protect the integrity of the stored information. Additional biometric information that may be required in the future will be the subject of a separate Federal rulemaking process.

3. In § 51.4, paragraph (f) is revised and a new paragraph (h)(3) is added to read as follows:

**§ 51.4 Validity of passports.**

* * * * *

(f) *Limitation of validity.* The validity period of a passport may be limited by the Secretary to less than the normal validity period. The bearer of a limited passport may apply for a new passport, using the proper application, and submitting the limited passport, applicable fees, photos and additional documentation, if required, to support the issuance of a new passport.

* * * * *

(h) * * *

(3) The Department has sent a written notice to the bearer at the bearer's last known address that the passport has been invalidated because the Department has not received the applicable fees.

4. Section 51.6 is revised to read as follows:

**§ 51.6 Damaged, mutilated or altered passport.**

Any passport which has been materially changed in physical appearance or composition, or contains a damaged, defective or otherwise nonfunctioning electronic chip, or which includes unauthorized changes, obliterations, entries or photographs, or has observable wear and tear that renders it unfit for further use as a travel document may be invalidated.

5. The first sentence of § 51.20 is revised to read as follows:

**§ 51.20 General.**

An application for a passport, a replacement passport, extra visa pages, or other passport related service shall be completed upon such forms as may be prescribed by the Department. * * *

6. Section 51.32 is revised to read as follows:

**§ 51.32 Passport amendments.**

Except for the convenience of the U.S. Government, no passport book will be amended.

7. Section 51.64 is revised to read as follows:

**§ 51.64 Replacement passports.**

A passport issuing office may issue a replacement passport for the following reasons without payment of applicable fees:

(a) To correct an error or rectify a mistake of the Department.

(b) When the bearer has changed his or her name or other personal identifier listed on the data page of the passport, and applies for a replacement passport within one year of the date of the passport's original issuance.

(c) When the bearer of an emergency full fee passport issued for a limited validity period applies for a full validity passport within one year of the date of the passport's original issuance.

(d) When a passport is retained by law enforcement or the judiciary for evidentiary purposes and the bearer is still eligible to have a passport.

(e) When a passport is issued to replace a passport with a failed electronic chip for the balance of the original validity period.

8. Section 51.66, paragraph (a) is revised to read as follows:

**§ 51.66 Expedited passport processing.**

(a) Within the United States, an applicant for a passport service (including issuance, replacement or the addition of visa pages) may request expedited processing by a Passport Agency. All requests by applicants for in-person services at a Passport Agency shall be considered requests for expedited processing, unless the Department has determined that the applicant is required to apply at a Passport Agency.

* * * * *

9. The title of part 51, subpart E is revised to read as follows:

* * * * *

## Subpart E—Limitations on Issuance or Use of Passports

* * * * *

Dated: February 10, 2005.

**Maura Harty,**

*Assistant Secretary for Consular Affairs, Department of State.*

[FR Doc. 05–3080 Filed 2–17–05; 8:45 am]

BILLING CODE 4710–06–P

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[CGD01–05–011]**

**RIN 1625–AA00, AA87**

## Safety and Security Zones; TOPOFF 3, New London, CT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish safety and security zones around waterfront areas in New London, Connecticut during the Congressionally-mandated third Top Officials exercise scheduled for April 2005. These zones are necessary to provide for the safety and security of participants in the exercise, the surrounding shore and maritime communities from potential sabotage or subversive acts aimed at this large scale, high profile exercise. These temporary safety and security zones prohibit persons or vessels from entering unless authorized by the Captain of the Port, Long Island Sound or designated representative.

**DATES:** Comments and related material must reach the Coast Guard on or before March 11, 2005.

**ADDRESSES:** You may mail comments and related material to Waterways Management Division, Coast Guard Group/Marine Safety Office Long Island Sound, 120 Woodward Avenue, New Haven, CT 06512. Coast Guard Group/Marine Safety Office Long Island Sound maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as

being available in the docket, will become part of this docket and will be available for inspection or copying at Group/Marine Safety Office Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant A. Logman, Chief, Waterways Management Division, Coast Guard Group/Marine Safety Office Long Island Sound at (203) 468–4429.

**SUPPLEMENTARY INFORMATION:**

## Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting comments and related material. Persons submitting comments should include their names and addresses, identify the docket number for this rulemaking (CGD01–05–011), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes. We will consider all comments and material received during the comment period. We may change this proposed rule in view of the comments received. The period for submitting comments is 21 days from publication of this NPRM. The Coast Guard finds good cause for a reduced comment period. A shortened comment period will provide the public with the ability to comment on this regulation, will provide the Coast Guard time to consider the comments and incorporate them into a final rule, if appropriate, and will provide adequate time for the final rule to be published for notification to the public in advance of its effective date. To ensure that the public is given ample opportunity to provide input to this proposed rulemaking in spite of the reduced comment period, Coast Guard Group/Marine Safety Office Long Island Sound will make this NPRM widely available to the maritime community and general public through notification in the Local Notice to Mariners, marine safety information bulletins and through local waterways users groups.

If, as we anticipate we make this temporary final rule effective less than 30 days after publication in the **Federal Register**, we will explain in that publication, as required by 5 U.S.C. (d)(3), our good cause for doing so.

## Public Meeting

We do not now plan to hold a public meeting, but you may submit a request for a meeting by writing to Coast Guard Group/Marine Safety Office Long Island Sound at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

## Background and Purpose

The third Top Officials (TOPOFF 3) exercise, will take place from April 4 through April 10, 2005. TOPOFF 3 is the third of the Congressionally-mandated weapons of mass destruction (WMD) national exercise series. TOPOFF 3 will use a series of exercise activities of increasing complexity, and will simulate a terrorist WMD campaign with simulated attacks occurring in the States of Connecticut and New Jersey. Additional TOPOFF activities will be conducted within the United Kingdom as part of a partnership to strengthen security in both nations. The specific scenarios for the exercise are still being developed. In New London, Connecticut, these activities will take place mainly in the vicinity of Fort Trumbull State Park. Additional activities associated with this exercise will take place in the vicinity of Ocean Beach in New London.

There will be approximately 800 participants in TOPOFF 3, from various federal, state and local agencies. Numerous high-level public officials will participate, including United States Congressmen and Senators. Participants will be transported to Fort Trumbull via land and water transportation. Due to the high visibility and high profile of the participants, safety and security zones are warranted to safeguard participants and the surrounding community from sabotage or other subversive acts, accidents or other hazards of a similar nature.

## Discussion of Proposed Rule

This rule would create safety and security zones surrounding Fort Trumbull State Park and Ocean Beach in New London, Connecticut. The safety and security zones proposed herein would be effective from April 2, 2005 through April 10, 2005. This effective period covers the scheduled exercise dates from April 4 through April 10, 2005, and provides for an additional period leading up to the exercise to provide for monitoring and searching of the area being utilized for the exercise.

The safety and security zones surrounding Fort Trumbull State Park will encompass the waters of the Thames River approximately 100-yards from Fort Trumbull State Park and the Parks piers. The Fort Trumbull Safety and Security Zone includes all waters of the Thames River bounded as follows: beginning at the end of the New England Seafood pier at approximate position 41°20′49.7″ N, 072°05′41.6″ W, thence running in an easterly direction to position 41°20′50.9″ N, 072°05′36.5″ W, thence in a southeasterly direction to position 41°20′43.1″ N, 072°05′19.7″ W, then south to position 41°20′34.9″ N, 072°05′19.6″ W, thence southwesterly to a point on the western shore of the Thames River at position, 41°20′26.6″ N, 072°05′38.9″ W, thence northerly along the western shore of the Thames River to a position on the shore of the Thames River at position 41°20′29.3″ N, 072°05′39.7″ W, thence along the shore of the Thames River to the point of beginning.

The safety and security zones surrounding Ocean Beach will encompass the waters of Long Island Sound approximately 100-yards off of Ocean Beach. The Ocean Beach Safety and Security Zone includes all waters of Long Island Sound bounded by lines as follows: beginning at a position on the shore of New London, Connecticut at position 41°18′31.4″ N, 072°05′39.6″ W, thence running southeasterly to position 41°18′29.3″ N, 072°05′36.9″ W, thence running southwesterly to position 41°18′11.8″ N, 072°06′2.8″ W, thence running northwesterly to position 41°18′14.5″ N, 072°06′6.1″ W, thence running northeasterly along the shore to the point of beginning.

Entry into these zones is prohibited unless authorized by the Captain of the Port, Long Island Sound. Any violation of the safety and security zones described herein is punishable by, among others, civil and criminal penalties, in rem liability against the offending vessel, and license sanctions.

## Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This regulation

may have some impact on the public, but the potential impact would be minimized for the following reasons: vessels may transit in all areas of the Thames River and Long Island Sound other than those areas covered by the safety and security zones proposed herein. Vessels wishing to transit to Fort Trumbull Marina may request permission to transit through the Fort Trumbull and Ocean Beach Safety and Security Zones from the Captain of the Port, Long Island Sound or their on-scene representatives. Commercial fishing vessels wishing to operate in the zones may request permission to enter the zones in advance of their effective dates from the COTP, Long Island Sound. Additionally, there will be extensive advanced notifications made to the maritime community via the Local Notice to Mariners, marine information broadcasts and local area maritime committees. The safety and security zones have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety and protection deemed necessary for this high visibility event.

**Small Entities**

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: commercial vessels wishing to transit, fish or anchor in the portions of the Thames River or Long Island Sound covered by the proposed rule. For the reasons outlined in the Regulatory Evaluation section above, this rule would not have a significant impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT A. Logman at the address listed in **ADDRESSES** above.

**Collection of Information**

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

**Federalism**

The Coast Guard has analyzed this proposed rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

**Unfunded Mandates Reform Act**

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

**Taking of Private Property**

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

**Civil Justice Reform**

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

**Protection of Children**

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

**Indian Tribal Governments**

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

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

**Energy Effects**

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

**Technical Standards**

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

This proposed rule does not use technical standards. Therefore, we did

not consider the use of voluntary consensus standards.

**Environment**

The Coast Guard has considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1D, this proposed rule would be categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

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

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

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

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

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

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

2. From 12:01 a.m. on April 2, 2005 to 11:59 p.m. on April 10, 2005 add temporary § 165.T01–011 to read as follows:

### § 165.T01–011 Security and Safety Zone: TOPOFF 3, New London, CT

(a) *Locations.* (1) *Fort Trumbull Safety and Security Zone.* The following area is a safety and security zone: All waters of the Thames River in an area bounded as follows: beginning at the end of the New England Seafood pier at approximate position 41°20′49.7″ N, 072°05′41.6″ W, thence running in an easterly direction to position 40°20′50.9″ N, 072°05′36.5″ W, thence in a southeasterly direction to position 41°20′43.1″ N, 072°05′19.7″ W, then south to position 41°20′34.9″ N, 072°05′19.6″ W, thence southwesterly to a point on the western shore of the Thames river at position, 41°20′26.6″ N, 072°05′38.9″ W, thence northerly along the western shore of the Thames River to a position on the shore of the Thames River at position 41°20′29.3″ N, 072°05′39.7″ W, thence along the shore of the Thames River to the point of beginning.

(2) *Ocean Beach Safety and Security Zone.* The following area is a safety and security zone: All waters of Long Island Sound off of New London, Connecticut in an area bounded as follows: beginning at a position on the shore of New London Connecticut at position 41°18′31.4″ N, 072°05′39.6″ W, thence running southeasterly to position 41°18′29.3″ N, 072°05′36.9″ W, thence running position southwesterly to position 41°18′11.8″ N, 072°06′2.8″ W, thence running northwesterly to position 41°18′14.5″ N, 072°06′6.1″ W, thence running northeasterly along the shore to the point of beginning.

(b) *Effective date.* This rule is effective from 12:01 a.m. on April 2, 2005 until 11:59 p.m. on April 10, 2005.

(c) *Regulations.* (1) In accordance with the general regulations in 165.23 and 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the Captain of the Port (COTP), Long Island Sound.

(2) All persons and vessels shall comply with the instructions of the COTP, or the designated on-scene U.S. Coast Guard representative. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and Federal law enforcement vessels.

Dated: February 11, 2005.

**Peter J. Boynton,**

*Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.*

[FR Doc. 05–3120 Filed 2–17–05; 8:45 am]

BILLING CODE 4910–15–P

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 167

**[USCG–2005–20380]**

## Port Access Routes Study of Potential Vessel Routing Measures To Reduce Vessel Strikes of North Atlantic Right Whales

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of study; request for comments.

**SUMMARY:** The Coast Guard is conducting a Port Access Route Study (PARS) to analyze potential vessel routing measures and consider adjusting existing vessel routing measures in order to reduce vessel strikes of the highly endangered North American right whale. Potential vessel routing measures are being considered to protect the right whale from ship strikes in their two major aggregation areas, while minimizing adverse impacts on vessel operations. This study will focus on the northern region: first on Cape Code Bay, and then, if it can be accomplished within the timeframe required by applicable legislation, the area off Race Point at the northern end of Cape Code (Race Point) and the Great South Channel, and the southern region: Along the seacoast in the approaches to the Ports of Jacksonville and Fernandina Beach, Florida, and Brunswick, Georgia. The recommendations of the study may lead to future rulemaking actions or appropriate international agreements.

**DATES:** Comments and related material must reach the Docket Management Facility on or before April 19, 2005.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG–2005–20380 to the Docket Managaement 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 of study, call George Detweiler, Office of Vessel Traffic Management, Coast Guard, telephone 202–267–0574,or send e-mail to *Gdetweiler@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee K. Wright, Program Manager, Docket Operations, telephone 202–366–0271.

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Request for Comments**

We encourage you to participate in this study by submitting comments and related materials. All comments received will be posted, without change, to *http://dms.dot.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

*Submitting Comments:* If you submit a comment, please include your name and address, identify the docket number

for this notice of study (USCG–2005–20380), 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.

*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*.

**Definitions**

The following definitions are from the International Maritime Organization's (IMO's) publication ''Ships' Routing'' (except those marked by an asterisk) and should help you review this notice:

*Area to be avoided* or *ATBA* means a routing measure comprising an area within defined limits in which either navigation is particularly hazardous or it is exceptionally important to avoid casualties and which should be avoided by all vessels, or certain classes of vessels.

*Deep-water route* means within defined limits, which has been accurately surveyed for clearance of sea bottom and submerged obstacles as indicated on nautical charts.

*Inshore traffic zone* means a routing measure comprising a designated area between the landward boundary of a traffic separation scheme and the adjacent coast, to be used in accordance with the provisions of Rule 10(d), as amended, of the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS).

*Precautionary area* means a routing measure comprising an area within defined limits where vessels must navigate with particular caution and within which the direction of traffic flow may be recommended.

*Recommended route* means a route of undefined width, for the convenience of vessels in transit, which is often marked by centerline buoys.

*Recommended track* is a route which has been specially examined to ensure so far as possible that it is free of dangers and along which vessels are advised to navigate.

*Regulated Navigation Area* or *RNA** means a water area within a defined boundary for which regulations for vessels navigating within the area have been established under 33 CFR part 165.

*Roundabout* means a routing measure comprising a separation point or circular separation zone and a circular traffic lane within defined limits. Traffic within the roundabout is separated by moving in a counterclockwise direction around the separation point or zone.

*Separation Zone* or *separation line* means a zone or line separating the traffic lanes in which vessels are proceeding in opposite or nearly opposite directions; or from the adjacent sea area; or separating traffic lanes designated for particular classes of vessels proceeding in the same direction.

*Traffic lane* means an area within defined limits in which one-way traffic is established. Natural obstacles, including those forming separation zones, may constitute a boundary.

*Traffic Separation Scheme* or *TSS* means a routing measure aimed at the separation of opposing streams of traffic by appropriate means and by the establishment of traffic lanes.

*Two-way route* means a route within defined limits inside which two-way traffic is established, aimed at providing safe passage of ships through waters where navigation is difficult or dangerous.

*Vessel routing system* means any system of one or more routes or routing measures aimed at reducing the risk of casualties; it includes traffic separation schemes, two-way routes, recommended tracks, areas to be avoided, no anchoring areas, inshore traffic zones, roundabouts, precautionary areas, and deep-water routes.

**Background and Purpose**

*Why is this study being conducted?* The National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration recently published an advance notice of proposed rulemaking (NMFS ANPRM) (69 FR 30857, June 1, 2004) in the **Federal Register**, which announced that it is considering regulations to implement a strategy to reduce ship strikes of right whales (Strategy). The goal of the Strategy is to address the lack of recovery of the right whale by reducing the likelihood and threat of ship strikes.

Section 626 of the Coast Guard and Maritime Transportation Act of 2004 (the 2004 Act) (enacted August 9, 2004) mandates that the Coast Guard shall: (1) Cooperate with the National Oceanic and Atmospheric Administration ''in analyzing potential vessel routing measures for reducing vessel strikes of North Atlantic Right Whales, as described in the notice published at pages 30857 through 30861 of volume 69 of the **Federal Register**;'' and (2) provide a final report of the analysis to Congress within 18 months after the date of enactment of the Act.

The Coast Guard is charged with enforcing the Marine Mammal Protection Act (MMPA), the Endangered Species Act (ESA), and the regulations issued under those statutes. One of the Coast Guard's primary strategic goals is the protection to the marine environment, including the conservation of living marine resources and enforcement of living marine resource laws.

The Coast Guard works in collaboration with NMFS to prevent ship strikes. The Coast Guard issues local and written periodic notices to mariners concerning ship strikes, issues NAVTEX messages alerting mariners to the location of right whales, and actively participates in the Mandatory Ship Reporting (MSR) System that provides information to mariners entering right whale habitat. In addition, the Coast Guard provides patrols dedicated to enforcement of the ESA and the MMPA, provides limited vessel and aircraft support to facilitate right whale research and monitoring, and disseminates NMFS information packets to vessels boarded in or near right whale waters. NMFS asked the Coast Guard for assistance in its ship-strike rulemaking by conducting this PARS.

*When are port access route studies required?* Under the Ports and Waterways Safety Act (PWSA) (33 U.S.C. 1223(c)), the Commandant of the Coast Guard may designate necessary

fairways and traffic separation schemes (TSSs) to provide safe access routes for vessels proceeding to and from U.S. ports. The PWSA provides that such designation of fairways and TSSs must recognize, within the designated areas, the paramount right of navigation over all other uses.

The PWSA requires the Coast Guard to conduct a study of potential traffic density and the need for safe access routes for vessels before establishing or adjusting fairways or TSSs. Through the study process, we must coordinate with Federal, State, and foreign state agencies (as appropriate) and consider the views of maritime community representatives, environmental groups, and other interested stakeholders. A primary purpose of this coordination is, to the extent practicable, to reconcile the need for safe access routes with other reasonable waterway uses.

*What are the timetable, study area, and process of this PARS?* The Vessel Traffic Management Division (G–MWV) of Coast Guard Headquarters will conduct this PARS. The study will begin immediately and must be completed by September, 2005, in order for the Coast Guard and NMFS to prepare their required report to Congress by January, 2006.

The study area is divided into two regions described as follows:

1. *Northern region:* Cape Cod Bay; the area off Race Point at the northern end of Cape Cod (Race Point) and the Great South Channel.

2. *Southern region:* The area bounded to the north by a line drawn at latitude 31° 27′N (which coincides with the northernmost boundary of the mandatory ship reporting system) and to the south by a line drawn at latitude line 29° 45′N. The eastern offshore boundary is formed by a line drawn at longitude 81° 00′W and the western boundary is formed by the shoreline. Included in this area are the ports of Jacksonville and Fernandina, FL, and Brunswick, GA.

As part of this study, we will consider previous studies, analyses of vessel traffic density, and agency and stakeholder experience in and public comments on vessel traffic management, navigation, ship handling, and affects of weather. We encourage you to participate in the study process by submitting comments in response to this notice.

We will publish the results of the PARS in the **Federal Register**. The study may—

1. Recommend implementing the vessel routing measures identified in the NMFS ANPRM for the two areas;

2. Recommend creating vessel routing measures other than those proposed in the NMFS ANPRM for the two areas;

3. Validate existing vessel routing measures, if any, and conclude that no changes are necessary; or

4. Recommend changes be made to the existing vessel routing measures, if any, in order to reduce the threat of ship strikes of right whales.

The recommendations may lead to future rulemakings or appropriate international agreements.

**Possible Scope of the Recommendations**

We expect that information gathered during the study will identify any problems and appropriate solutions. The study may recommend that, in any or all of the study areas, all or some of the following items be accomplished:

1. Maintain current vessel routing measures, if any.
2. Establish Traffic Separation Schemes (TSS) at the entrances to the identified ports.
3. Designate recommended or mandatory routes.
4. Create one or more precautionary areas.
5. Create one or more inshore traffic zones.
6. Create deep-draft routes.
7. Establish area(s) to be avoided (ATBA).
8. Establish, disestablish, or modify anchorage grounds.
9. Establish a Regulated Navigation Area (RNA) with specific vessel operating requirements to ensure safe navigation near shallow water.
10. Identify any other appropriate ships' routing measures to be used.

**Questions**

To help us conduct the port access route study, we request comments on the following questions, although comments on other issues addressed in this document are also welcome. In responding to a question, please explain your reasons for each answer and follow the instructions under ''Public Participation and Request for comments'' above.

1. What navigational hazards do vessels operating in the study areas face? Please describe.
2. Are there strains on the current vessel routing system, such as increasing traffic density? If so, please describe.
3. What are the benefits and drawbacks to modifying existing vessel routing measures, if any, or establishing new routing measures such as those described in the NMFS ANPRM? If so, please describe.
4. What impacts, both positive and negative, would changes to existing routing measures, if any, or new routing measures, such as those described in the NMFS ANPRM, have on the study area?

Dated: February 10, 2005.

**Howard L. Hime,**

*Acting Director of Standards, Marine Safety, Security and Environmental Protection.*

[FR Doc. 05–3117 Filed 2–17–05; 8:45 am]

BILLING CODE 4910–15–M

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 60

**[OAR–2004–0490, FRL–7874–1]**

**RIN 2060–AM79**

## Standards of Performance for Stationary Combustion Turbines

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing standards of performance for new stationary combustion turbines in 40 CFR part 60, subpart KKKK. The new standards would reflect changes in nitrogen oxides ($NO_X$) emission control technologies and turbine design since standards for these units were originally promulgated in 40 CFR part 60, subpart GG. The $NO_X$ and sulfur dioxide ($SO_2$) standards have been established at a level which brings the emission limits up to date with the performance of current combustion turbines and their emissions.

**DATES:** Comments must be received on or before April 19, 2005, or 30 days after the date of any public hearing, if later.

*Public Hearing.* If anyone contacts EPA by March 10, 2005, requesting to speak at a public hearing, EPA will hold a public hearing on March 21, 2005. If you are interested in attending the public hearing, contact Ms. Eloise Shepherd at (919) 541–5578 to verify that a hearing will be held.

**ADDRESSES:** Submit your comments, identified by Docket ID No. OAR–2004–0490, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Agency Web site: *http://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- *E-mail:* Send your comments via electronic mail to *a-and-r-docket@epa.gov,* Attention Docket ID No. OAR–2004–0490.

• *Fax:* Fax your comments to (202) 566–1741, Attention Docket ID No. OAR–2004–0490.

• *Mail:* Send your comments to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Mailcode 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OAR–2004–0490. Please include a total of two copies. The EPA requests a separate copy also be sent to the contact person identified below (*see* **FOR FURTHER INFORMATION CONTACT**). In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503.

• *Hand Delivery:* Deliver your comments to: EPA Docket Center (EPA/DC), EPA West Building, Room B108, 1301 Constitution Ave., NW., Washington DC, 20460, Attention Docket ID No. OAR–2004–0490. Such deliveries are accepted only during the normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays), and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. OAR–2004–0490. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket,* 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 EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the Federal regulations.gov Web sites are ''anonymous access'' systems, 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 EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102).

*Docket:* 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.*, 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 Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jaime Pagan, Combustion Group, Emission Standards Division (C439–01), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5340; facsimile number (919) 541–5450; e-mail address *''pagan.jaime@epa.gov.''*

**SUPPLEMENTARY INFORMATION:**

*Organization of This Document.* The following outline is provided to aid in locating information in this preamble.

I. General Information
  A. Does This Action Apply to Me?
  B. What Should I Consider as I Prepare My Comments for EPA?
II. Background Information
III. Summary of the Proposed Rule
  A. Does the Proposed Rule Apply to Me?
  B. What Pollutants Would Be Regulated?
  C. What Is the Affected Source?
  D. What Emission Limits Must I Meet?
  E. If I Modify or Reconstruct My Existing Turbine, Does the Proposed Rule Apply To Me?
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  H. Why Can I No Longer Claim a Fuel-Bound Nitrogen Allowance?
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V. Environmental and Economic Impacts
  A. What Are the Air Impacts?
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VI. Statutory and Executive Order Reviews
  A. Executive Order 12866: Regulatory Planning and Review
  B. Paperwork Reduction Act
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  D. Unfunded Mandates Reform Act
  E. Executive Order 13132: Federalism
  F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
  G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use
  I. National Technology Transfer and Advancement Act

## I. General Information

### *A. Does This Action Apply to Me?*

*Regulated Entities.* Categories and entities potentially regulated by this action are those that own and operate new stationary combustion turbines with a peak rated power output greater than or equal to 1 megawatt (MW). Regulated categories and entities include:

| Category | NAICS | SIC | Examples of regulated entities |
|---|---|---|---|
| Any industry using a new stationary combustion turbine as defined in the proposed rule. | 2211 | 4911 | Electric services. |
| | 486210 | 4922 | Natural gas transmission. |
| | 211111 | 1311 | Crude petroleum and natural gas. |
| | 211112 | 1321 | Natural gas liquids. |
| | 221 | 4931 | Electric and other services, combined. |

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in section 60.4305 of the proposed rule. For further information concerning applicability and rule determinations, contact the appropriate State or local agency representative. For information concerning the analyses performed in developing the New Source Performance Standards (NSPS), consult the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*B. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, regulations.gov or e-mail. Send or deliver information identified as CBI to only the following address: Mr. Jaime Pagan, c/o OAQPS Document Control Officer (Room C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. OAR–2004–0490. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions. The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

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

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

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

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

*Docket.* The docket number for the proposed NSPS (40 CFR part 60, subpart KKKK) is Docket ID No. OAR–2004–0490.

*World Wide Web (WWW).* In addition to being available in the docket, an electronic copy of the proposed rule is also available on the WWW through the Technology Transfer Network Website (TTN Web). Following signature, EPA will post a copy of the proposed rule on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If you need more information regarding the TTN, call the TTN HELP line at (919) 541–5384.

## II. Background Information

This action proposes NSPS that would apply to new stationary combustion turbines greater than or equal to 1 MW that commence construction, modification or reconstruction after February 18, 2005. The NSPS are being proposed pursuant to section 111 of the Clean Air Act (CAA) which requires the EPA to promulgate and periodically revise the NSPS, taking into consideration available control technologies and the costs of control. The EPA promulgated the NSPS for stationary gas turbines in 1979 (44 FR 52798). Since promulgation of the NSPS for stationary gas turbines, many advances in the design and control of emissions from stationary turbines have occurred. Nitrogen oxides and $SO_2$ are known to cause adverse health and environmental effects. The proposed standards represent reductions in the $NO_X$ and $SO_2$ limits of over 80 and 93 percent, respectively. The output-based standards in the proposed rule would allow owners and operators the flexibility to meet their emission limit targets by increasing the efficiency of their turbines.

## III. Summary of the Proposed Rule

*A. Does the Proposed Rule Apply to Me?*

Today's proposed standards would apply to new stationary combustion turbines with a power output at peak load greater than or equal to 1 MW. The applicability of the proposed rule is similar to that of existing 40 CFR part 60, subpart GG, except that the proposed rule would apply to new stationary combustion turbines, and their associated heat recovery steam generators (HRSG) and duct burners. A new stationary combustion turbine is defined as any simple cycle combustion turbine, regenerative cycle combustion turbine, or combined cycle steam/electric generating system that is not self-propelled and that commences construction, modification, or reconstruction after February 18, 2005. The new stationary combustion turbines subject to the proposed standards are exempt from the requirements of 40 CFR part 60, subpart GG. Heat recovery steam generators and duct burners subject to the proposed rule would be exempt from the requirements of 40 CFR part 60, subparts Da and Db.

*B. What Pollutants Would Be Regulated?*

The pollutants to be regulated by the proposed standards are $NO_X$ and $SO_2$.

*C. What Is the Affected Source?*

The affected source for the proposed stationary combustion turbine NSPS is each stationary combustion turbine with a power output at peak load greater than or equal to 1 MW, that commences construction, modification, or reconstruction after February 18, 2005. Integrated gasification combined cycle (IGCC) combustion turbine facilities covered by subpart Da of 40 CFR part 60 (the Utility NSPS) are exempt from the requirements of the proposed rule.

*D. What Emission Limits Must I Meet?*

The format of the proposed standards for $NO_X$ is an output-based emission limit in units of emissions mass per unit useful recovered energy, nanograms/Joule (ng/J) or pounds per megawatt-hour (lb/MW-hr). There are four subcategories, and thus four separate output-based $NO_X$ limits. These are presented in Table 1 of this preamble. The output of the turbine does not include any steam turbine output and refers to the rating of the combustion turbine itself.

TABLE 1.—$NO_X$ EMISSION STANDARDS (NG/J)

| Combustion turbine fuel type | Combustion turbine size | |
|---|---|---|
| | <30 MW | ≥30 MW |
| Natural gas | 132 (1.0 lb/MW-hr) | 50 (0.39 lb/MW-hr) |
| Oil and other fuel | 234 (1.9 lb/MW-hr) | 146 (1.2 lb/MW-hr) |

We have determined that it is appropriate to exempt emergency combustion turbines from the $NO_X$ limit. We have defined these units as turbines that operate in emergency situations. For example, turbines used to supply electric power when the local utility service is interrupted are considered to fall under this definition. In addition, we are proposing that combustion turbines used by manufacturers in research and development of equipment for both combustion turbine emission control techniques and combustion turbine efficiency improvements be exempted from the $NO_X$ limit. Given the small number of turbines that are expected to fall under this category and since there is not one definition that can provide an all-inclusive description of the type of research and development work that qualifies for the exemption from the $NO_X$ limit, we have decided that it is appropriate to make these exemption determinations on case by case basis only.

The proposed standard for $SO_2$ is the same for all turbines regardless of size and fuel type. You may not cause to be discharged into the atmosphere from the subject stationary combustion turbine any gases which contain $SO_2$ in excess of 73 ng/J (0.58 lb/MW-hr). You would be able to choose to comply with the $SO_2$ limit itself or with a limit on the sulfur content of the fuel. We are proposing this sulfur content limit to be 0.05 percent by weight (500 parts per million by weight (ppmw)).

*E. If I Modify or Reconstruct My Existing Turbine, Does the Proposed Rule Apply to Me?*

The proposed standards would apply to stationary combustion turbines that are modified or reconstructed after February 18, 2005. The guidelines for determining whether a source is modified or reconstructed are given in 40 CFR 60.14 and 60.15, respectively.

*F. How Do I Demonstrate Compliance?*

In order to demonstrate compliance with the $NO_X$ limit, an initial performance test is required. If you are using water or steam injection, you must continuously monitor your water or steam to fuel ratio in order to demonstrate compliance and you are not required to perform annual stack testing to demonstrate compliance. If you are not using water or steam injection, you would conduct performance tests annually following the initial performance test in order to demonstrate compliance. Alternatively, you may choose to demonstrate continuous compliance with the use of a continuous emission monitoring system (CEMS) or parametric monitoring; if you choose this option, you are not required to conduct subsequent annual performance tests.

If you are using a $NO_X$ CEMS, the initial performance test required under 40 CFR 60.8 may, alternatively, coincide with the relative accuracy test audit (RATA). If you choose this as your initial performance test, you must perform a minimum of nine reference method runs, with a minimum time per run of 21 minutes, at a single load level, between 90 and 100 percent of peak (or the highest achievable) load. You must use the test data both to demonstrate compliance with the applicable $NO_X$ emission limit and to provide the required reference method data for the RATA of the CEMS. The requirement to test at three additional load levels is waived.

*G. What Monitoring Requirements Must I Meet?*

If you are using water or steam injection to control $NO_X$ emissions, you would have to install and operate a continuous monitoring system to monitor and record the fuel consumption and the ratio of water or steam to fuel being fired in the turbine. Alternatively, you could use a CEMS consisting of $NO_X$ and oxygen ($O_2$) or carbon dioxide ($CO_2$) monitors. During each full unit operating hour, each monitor would complete a minimum of one cycle of operation for each 15-minute quadrant of the hour. For partial unit operating hours, at least one valid data point would be obtained for each quadrant of the hour in which the unit operates.

If you operate any new turbine which does not use water or steam injection to control $NO_X$ emissions, you would have to perform annual stack testing to demonstrate continuous compliance with the $NO_X$ limit. Alternatively, you could elect either to use a $NO_X$ CEMS or perform continuous parameter monitoring as follows:

(1) For a diffusion flame turbine without add-on selective catalytic reduction (SCR) controls, you would define at least four parameters indicative of the unit's $NO_X$ formation characteristics, and you would monitor these parameters continuously;

(2) For any lean premix stationary combustion turbine, you would continuously monitor the appropriate parameters to determine whether the unit is operating in the lean premixed combustion mode;

(3) For any turbine that uses SCR to reduce $NO_X$ emissions, you would continuously monitor appropriate parameters to verify the proper operation of the emission controls; and

(4) For affected units that are also regulated under part 75 of this chapter, if you elect to monitor the $NO_X$ emission rate using the methodology in appendix E to part 75 of this chapter, or the low mass emissions methodology in 40 CFR 75.19, the monitoring requirements of the turbine NSPS may be met by performing the parametric monitoring described in section 2.3 of appendix E of part 75 of this chapter or in 40 CFR 75.19(c)(1)(iv)(H).

Alternatively, you could petition the Administrator for other acceptable methods of monitoring your emissions. If you choose to use a CEMS or perform parameter monitoring to demonstrate

continuous compliance, annual stack testing is not required.

If you operate any stationary combustion turbine subject to the provisions of the proposed rule, and you choose not to comply with the $SO_2$ stack limit, you would monitor the total sulfur content of the fuel being fired in the turbine. There are several options for determining the frequency of fuel sampling, consistent with appendix D to part 75 of this chapter for fuel oil; and the sulfur content would be determined and recorded once per unit operating day for gaseous fuel, unless a custom fuel sampling schedule is used. Alternatively, you could elect not to monitor the total sulfur content of the fuel combusted in the turbine, if you demonstrate that the fuel does not to exceed a total sulfur content of 300 ppmw. This demonstration may be performed by using the fuel quality characteristics in a current, valid purchase contract, tariff sheet, or transportation contract, or through representative fuel sampling data which show that the sulfur content of the fuel does not exceed 300 ppmw.

If you choose to monitor combustion parameters or parameters indicative of proper operation of $NO_X$ emission controls, the appropriate parameters would be continuously monitored and recorded during each run of the initial performance test, to establish acceptable operating ranges, for purposes of the parameter monitoring plan for the affected unit.

If you are required to periodically determine the sulfur content of the fuel combusted in the turbine, a minimum of three fuel samples would be collected during the performance test. For liquid fuels, the samples for the total sulfur content of the fuel must be analyzed using American Society of Testing and Materials (ASTM) methods D129–00, D2622–98, D4294–02, D1266–98, D5453–00 or D1552–01. For gaseous fuels, ASTM D1072–90 (Reapproved 1999); D3246–96; D4468–85 (Reapproved 2000); or D6667–01 must be used to analyze the total sulfur content of the fuel.

The applicable ranges of some ASTM methods mentioned above are not adequate to measure the levels of sulfur in some fuel gases. Dilution of samples before analysis (with verification of the dilution ratio) may be used, subject to the approval of the Administrator.

*H. What Reports Must I Submit?*

For each affected unit for which you continuously monitor parameters or emissions, or periodically determine the fuel sulfur content under the proposed rule, you would submit reports of excess emissions and monitor downtime, in accordance with 40 CFR 60.7(c). Excess emissions would be reported for all 4-hour rolling average periods of unit operation, including start-up, shutdown, and malfunctions where emissions exceed the allowable emission limit or where one or more of the monitored process or control parameters exceeds the acceptable range as determined in the monitoring plan.

## IV. Rationale for the Proposed Rule

*A. Why Did EPA Choose Output-Based Standards?*

We have written the proposed standards to incorporate output-based $NO_X$ and $SO_2$ limits. The primary benefit of output-based standards is that they recognize energy efficiency as a form of pollution prevention. The use of more efficient technologies reduces fossil fuel use and leads to reductions in the environmental impacts associated with the production and use of fossil fuels. Another benefit is that output-based standards allow sources to use energy efficiency as a part of their emissions control strategy. This provides an additional compliance option that can lead to reduced compliance costs as well as lower emissions.

Several States have initiated regulations or permits-by-rule for distributed generation (DG) units, including combustion turbines. States that have made efforts to regulate DG sources include California, Texas, New York, New Jersey, Connecticut, Delaware, Maine, and Massachusetts. Those State rules include emission limits that are output-based, and many allow generators that use combined heat and power (CHP) to take credit for heat recovered. For example, Texas recently passed a DG permit-by-rule regulation that gives facilities 100 percent credit for steam generation thermal output, and incorporates HRSG and duct burners under the same limit. The California Air Resources Board (CARB) also has output-based emission limits which allow DG units that use CHP to take a credit to meet the standards, at a rate of 1 MW-hr for each 3.4 million British thermal units (MMBtu) of heat recovered, or essentially, 100 percent. The draft rules for New York and Delaware also allow DG sources using CHP to receive credit toward compliance with the emission standards.

*B. How Did EPA Determine the Proposed $NO_X$ Limits?*

Over the last several years $NO_X$ performance in combustion turbines has improved dramatically. At the current time, lean premix turbines, or dry low $NO_X$, dominate the market for combustion turbines fired by natural gas. To determine the proposed $NO_X$ limits, we evaluated stack test data for stationary combustion turbines of different sizes. The data provided us with information on actual $NO_X$ emissions performance in relation to the size of the unit and the type of fuel being used. In addition, we obtained information from turbine manufacturers on the $NO_X$ levels that they guarantee for their new stationary combustion turbines. We only used these manufacturer guarantees to confirm the $NO_X$ levels observed in the stack test data that we studied.

We considered requiring the use of SCR in setting the limit for $NO_X$. However, we determined that the costs for SCR were high compared to the incremental difference in emission concentration. Newer large turbines without add-on controls can readily achieve 9 or 10 parts per million (ppm). The use of SCR might bring this level down to 2 to 4 ppm. In addition, SCR may be difficult to implement for turbines operating under variable loads. We determined that the incremental benefit in emissions reductions did not justify the costs and technical challenges associated with the addition and operation of SCR. Therefore, we did not base the $NO_X$ emission limit on this add-on control. However, add-on control technologies may be required at the State or local level, for Prevention of Significant Deterioration (PSD) and New Source Review (NSR) programs.

We identified a distinct difference in the technologies and capabilities between small and large turbines. We found the breaking point between these two turbine types to be 30 MW. Smaller turbines have less space to install $NO_X$ reducing technologies such as lean premix combustor design. In addition, the smaller combustion chamber of small turbines provides inadequate space for the adequate mixing needed for very low $NO_X$ emission levels. The design differences between small and large turbines leads to different emission characteristics. When we examined data of $NO_X$ emissions versus turbine size, there was a clear difference in $NO_X$ emissions for turbines below and above 30 MW. In addition, manufacturer guarantees are, generally speaking, higher for smaller turbines, because of differences in design and technologies. The 30 MW cutoff is consistent with the manufacturer guarantees.

As explained below, the output-based $NO_X$ limits being proposed are based on

concentration levels that are achievable by new stationary combustion turbines without the use of add-on controls such as SCR. Also, it is important to note that the output-based limits were determined using thermal efficiencies typical of full-load operation.

Small Natural Gas Fired Turbines

We are proposing the $NO_X$ limit for small (less than 30 MW) natural gas-fired turbines to be 132 ng/J, or 1.0 lb/MW-hr. This limit is based on a $NO_X$ emission concentration of 25 ppm and a turbine efficiency of 30 percent. Multiple manufacturers guarantee 25 ppm $NO_X$ for natural gas-fired turbines of all sizes, including those less than 30 MW. Since actual $NO_X$ emissions are considerably lower than the guaranteed levels for most turbines, an emission limit based on a $NO_X$ level of 25 ppm at 15 percent $O_2$ for small natural gas-fired turbines can readily be achieved without the use of additional controls. We also gathered many recent source tests, supporting the conclusion that the majority of new small natural gas-fired turbines can achieve $NO_X$ levels lower than 25 ppm at 15 percent $O_2$ without the use of add-on controls. Regarding efficiency, a significant number of small turbines are simple cycle; therefore, we selected the baseline efficiency of 30 percent for small simple cycle natural gas-fired turbines.

Large Natural Gas Fired Turbines

We are proposing a $NO_X$ emission limit of 50 ng/J (0.39 lb/MW-hr) for large natural gas-fired turbines (greater than or equal to 30 MW). The proposed $NO_X$ output-based limit for large natural gas-fired turbines is based on a $NO_X$ emission concentration of 15 ppm at 15 percent $O_2$ and a combined cycle turbine efficiency of 48 percent, which also equates to a $NO_X$ emission concentration of 9 ppm at 15 percent $O_2$ and a simple cycle turbine at an efficiency of 29 percent. Many manufacturers guarantee $NO_X$ emissions of 15 ppm at 15 percent $O_2$ for large natural gas-fired turbines, and a few even guarantee $NO_X$ levels at or below 9 ppm at 15 percent $O_2$. In addition, we have gathered a number of source tests which confirm that these turbines can achieve these levels without the use of add-on controls. Therefore, this emission limit may be achieved by most large natural gas combustion turbines without the use of add-on controls. Other options for new turbine owners and operators include the following: Add a SCR add-on control device to a simple cycle turbine which does not have a low $NO_X$ guarantee, or locate their turbine where the exhaust heat can be recovered as useful output (a combined cycle unit or CHP unit).

Distillate Oil Fired Turbines

Very few turbines sold today are solely distillate oil-fired. However, a significant number of turbines which primarily fire natural gas also have the capability to fire distillate oil. We are proposing a $NO_X$ emission limit of 234 ng/J (1.9 lb/MW-hr) for small distillate oil-fired turbines, and 146 ng/J (1.2 lb/MW-hr) for large distillate oil-fired turbines. When firing distillate oil fuel, the majority of turbine manufacturers guarantee a $NO_X$ emission level of 42 ppm at 15 percent $O_2$, regardless of turbine size. We confirmed through the analysis of recent source test reports provided by States that this level is achievable by the majority of new distillate oil-fired turbines without the use of add-on controls. The basis for the output-based emission limits for distillate oil-fired turbines is 42 ppm $NO_X$ at 15 percent $O_2$; for small turbines, a 30 percent efficiency, and for large turbines, a 48 percent efficiency. The 30 percent efficiency for small oil-fired turbines is consistent with that of simple-cycle units, while the 48 percent efficiency for large oil-fired turbines is consistent with that of combined-cycle units. This approach is appropriate since there are almost no oil-fired simple-cycle turbines in the ''greater than 30 MW'' category. We would like to request comment on this issue and the appropriateness of the $NO_X$ limits for oil-fired simple-cycle turbines that are greater than 30 MW. Furthermore, since according to our information, most of these simple-cycle turbines are used as peaking units, we would like to request comments on an alternative approach that allows large oil-fired peaking units to meet the same $NO_X$ limit that applies to the small units.

The proposed output-based $NO_X$ limits for oil-fired combustion turbines can be achieved when operating at loads near 100 percent, where the thermal efficiency tends to be the highest. However, at part-loads, there may be concern about higher output-based $NO_X$ levels emitted due to the lower thermal efficiencies that are characteristic under those conditions. We request comment on the ability of oil-fired combustion turbines to meet the proposed $NO_X$ limits under part-load operation.

Other Fuels

It is expected that few turbines would burn fuels other than natural gas and distillate oil. Turbines that burn other fuels would have to comply with the $NO_X$ emission limit for distillate oil. We understand that there are concerns about certain fuels, such as landfill, digester and other waste gases, process, refinery or syn gases, and other alternative fuels. Of particular concern are the fuels that are of lower heating value or of highly variable heating value, that are in locations where these fuels would be flared or otherwise disposed without energy recovery. Landfill and digester gases have considerably lower heating values than natural gas, making it more difficult to comply with an output-based emission limit. If the installation of these turbines became impossible due to lack of ability to comply with the NSPS, these gases might otherwise just be vented to the atmosphere or flared, without the benefit of any useful energy recovery as would have been achieved with a combustion turbine. Because of these issues, we are requesting public comment on the output-based $NO_X$ limit for alternative fuels.

Simple-Cycle and Combined-Cycle Combustion Turbines

Although we believe that proposing different $NO_X$ limits for small and large turbines is appropriate, an alternative approach considered was to set different $NO_X$ limits for simple-cycle and combined-cycle combustion turbines burning natural gas. Simple-cycle turbines are not able to recover exhaust heat as combined-cycle turbines do. As a result, the output-based $NO_X$ levels of simple-cycle turbines will tend to be higher than those for combined-cycle units. Even though we have taken into account these differences between simple- and combined-cycle turbines in the proposed $NO_X$ limits, we would like to request comment on this issue. If data is presented showing that it would be more appropriate to set different $NO_X$ limits for simple-cycle and combined-cycle gas-fired turbines, rather than based on turbine size, we would consider a range of 0.2 lb/MW-hr to 0.6 lb/MW-hr.

Supporting data for the proposed $NO_X$ limits were received from contacts with turbine manufacturers, State agencies and EPA Regional offices, the 2003 Gas Turbine World Handbook, the 2003–2004 Diesel and Gas Turbine Worldwide Catalog, $NO_X$ performance tests, and State permit data. For more details regarding the supporting data used in this analysis, please consult the docket.

*C. How Did EPA Determine the Proposed $SO_2$ Limit?*

Because of the lower levels of sulfur in today's fuels, including distillate oil and natural gas, lower $SO_2$ emissions can be achieved. Low sulfur fuel oil (500 ppmw sulfur content or less) has

recently become widely available, since it is required by EPA regulations on diesel fuels used for highway and non-road applications. In addition, ultra low sulfur (15 ppmw or less sulfur content) diesel fuel will become available over the next few years as more recent EPA rules for fuels used on highway and non-road applications come into effect. According to EPA estimates done for the Non-Road Diesel Rule (69 FR 38958), the cost differential to produce low sulfur (500 ppmw sulfur content) is only about 2.5 cents per gallon. It is expected that stationary combustion turbines burning low sulfur diesel fuel will have lower maintenance expenses associated with reduced formation of acid compounds inside the turbine. These lower maintenance expenses are expected to reduce or even eliminate the overall costs associated with the use of low sulfur fuel oil on stationary combustion turbines. For these reasons, we have set a $SO_2$ emission limit which corresponds to a 500 ppmw sulfur fuel content for distillate oil fuel. Natural gas also has naturally low levels of sulfur.

All owners and operators of new turbines are expected to comply with low sulfur content in fuel rather than stack testing for $SO_2$, since this option is significantly easier and less costly to perform than stack testing. In addition, if the levels are shown to be below 300 ppmw sulfur, fuel monitoring is not required. Fuels are often supplied with specifications which include stringent sulfur standards, requiring levels lower than 500 ppmw, oftentimes at or below the 300 ppmw range. If the fuel is demonstrated to be lower than 300 ppmw sulfur, you could use proof from the fuel vendor's tariff sheet or purchase contract in order to become exempt from monitoring your total sulfur content or $SO_2$ emissions. We believe that 300 ppmw provides an adequate margin of compliance. If your fuel is greater than 300 ppmw, you must follow a fuel monitoring schedule as outlined in the proposed rule.

### *D. What Other Criteria Pollutants Did EPA Consider?*

In order to characterize the current emissions levels from new stationary combustion turbines, the Reasonably Achievable Control Technology (RACT), Best Available Control Technology (BACT) and Lowest Achievable Emissions Rate (LAER) Clearinghouse (RBLC) was queried to obtain data on permits for newly installed turbines. The EPA's AP–42 Emission Factors Background Document was also consulted for information on pollutant formation mechanisms. In addition, several turbine manufacturers were contacted to determine their guaranteed emission concentrations.

Emissions from combustion turbines are primarily $NO_X$ and carbon monoxide (CO). Particulate matter (PM) is also a primary pollutant for combustion turbines using liquid fuels. While $NO_X$ formation is strongly dependent on the high temperatures developed in the combustor, emissions of CO and PM are primarily the result of incomplete combustion. Ash and metallic additives in the fuel may also contribute to PM in the exhaust. Available emissions data in EPA's AP–42 indicate that the turbine's operating load has a considerable effect on the resulting emission levels. Combustion turbines are typically operated at high loads (greater than or equal to 80 percent of rated capacity) to achieve maximum thermal efficiency and peak combustor zone flame temperatures. Information on each pollutant is listed below, including formation, control, and emission concentrations.

#### Carbon Monoxide

Carbon monoxide is a product of incomplete combustion. Carbon monoxide results when there is insufficient residence time at high temperature, or incomplete mixing to complete the final step in fuel carbon oxidation. The oxidation of CO to $CO_2$ at combustion turbine temperatures is a slow reaction compared to most hydrocarbon oxidation reactions. In combustion turbines, failure to achieve CO burnout may result from quenching by dilution air. With liquid fuels, this can be aggravated by carryover of larger droplets from the atomizer at the fuel injector. Carbon monoxide emissions are also dependent on the loading of the combustion turbine. For example, a combustion turbine operating under full load would experience greater fuel efficiencies, which will reduce the formation of CO.

Turbine manufacturers have significantly reduced CO emissions from combustion turbines by developing lean premix technology. Most of the newer designs for turbines incorporate lean premix technology. Lean premix combustion design not only produces lower $NO_X$ than diffusion flame technology, but also lowers CO and volatile organic compounds (VOC), due to increased combustion efficiency. In the most recent version of AP–42 emission factors, (April 2000), CO emission factors for lean premix turbines are 9.9 e-2 lb/MMBtu, while for diffusion flame turbines, the CO emission factor is 3.2 e-1 lb/MMBtu. Virtually all new combustion turbines sold are lean premix combustor technology turbines. Siemens Westinghouse, Solar Turbines, and General Electric (GE) Heavy Duty Turbine manufacturers typically guarantee CO emissions from 9 to 50 ppm for natural gas, and 20 to 50 ppm for diesel fuel. On a case-by-case basis, some manufacturers will guarantee lower emissions for CO.

Stationary combustion turbines do not contribute significantly to ambient CO levels. Almost 80 percent of CO emissions nationwide result from on-road vehicles and non-road vehicles and engines. High levels of CO generally occur in areas that have heavy traffic congestion. Currently, there are only eight areas in the U.S. that are classified as non-attainment for CO. As a result, control measures for CO emissions from stationary combustion turbines historically have not been instituted nationwide. In California, for example, only one air district has a CO emission limit for combustion turbines. Because of advances in turbine technology and increases in thermal and combustion efficiencies, CO emissions from combustion turbines have been mostly regulated in local areas of non-attainment for CO.

Any new major stationary source or major modification located in an area attaining the National Ambient Air Quality Standard (NAAQS) is subject to PSD requirements and must conduct an analysis to ensure the application of BACT. Similarly, if the source is in a non-attainment area, it is subject to non-attainment NSR and must conduct an analysis to ensure the application of LAER. The RBLC provides State agencies with the best technologies and emission rates determined by other States on a nationwide basis. Several BACT and LAER determinations in the RBLC included the use of an oxidation catalyst to control CO emissions from stationary combustion turbines. Out of the 42 permits for CO for combustion turbines reported since January 2003, 15 required the use of oxidation catalysts for CO reduction. Other requirements included good combustion practices and good combustion design. Emission limitations ranged from 2 ppm to 14 ppm for CO with the use of oxidation catalysts, and 4 ppm to 132 ppm CO for good combustion practices and design.

Based on the available information, we propose that no CO emission limitations be developed for the combustion turbine NSPS. With the advancement of turbine technology and more complete combustion through increased efficiencies, and the prevalence of lean premix combustion technology in new turbines, it is not necessary to further reduce CO in the

proposed rule. Because of these advances, the addition of an oxidation catalyst would be cost prohibitive, on a dollar per ton basis, relative to the limited additional emissions reductions to be realized. However, individual States may continue to evaluate CO limits on a case-by-case basis, as has been done historically and as has been required in the NSR Program.

Volatile Organic Compounds

Volatile organic compounds are also products of incomplete combustion. These compounds are discharged into the atmosphere when fuel remains unburned or is burned only partially during the combustion process. The pollutants commonly classified as VOC can encompass a wide spectrum of organic compounds, some of which are hazardous air pollutants. With natural gas, some organics are carried over as unreacted, trace constituents of the gas, while others may be pyrolysis products of the heavier hydrocarbon constituents. With liquid fuels, large droplet carryover to the quench zone accounts for much of the unreacted and partially pyrolized volatile organic emissions. Similar to CO emissions, VOC emissions are affected by the gas turbine operating load conditions. Volatile organic compounds emissions are higher for gas turbines operating at low loads as compared to similar gas turbines operating at higher loads.

Owners of combustion turbines have improved combustion practices to increase combustion efficiency in the turbine, thereby limiting the unburned fuel. In addition, lean premix technology has significantly reduced VOC emissions from combustion turbines by increasing the combustion efficiency. Because of better combustion practices, and the prevalence of lean premix combustion technology in new turbines, it is not necessary to regulate VOC in the proposed rule. Therefore, we propose that no VOC emission limitations be developed for the combustion turbine NSPS.

Particulate Matter

Particulate matter emissions from turbines result primarily from carryover of noncombustible trace constituents in the fuel. Particulate matter emissions are negligible with natural gas firing due to the low sulfur content of natural gas. Emissions of PM are only marginally significant with distillate oil firing because of the low ash content. The sulfur content of distillate fuel is decreasing due to requirements from other regulations such as the non-road diesel engine rule. Particulate matter emissions from distillate oil-fired turbines would decrease even further as the sulfur content of distillate oil decreases. Furthermore, there are very few new turbines that solely fire distillate oil. A fraction have the ability to fire distillate oil (dual-fuel units), but generally speaking, most owners and operators fire natural gas the majority of the time.

A review of the BACT and LAER determinations in the RBLC since January of 2003 showed that no add-on controls were required to limit PM for any of the turbines. Permit requirements included the use of clean fuel or good combustion practices. Emission limitations required by permits in the RBLC database with permit dates after January of 2003 ranged from 9 pounds per hour (lb/hr) to 27 lb/hr for PM for natural gas, and 27 to 44 lb/hr for PM for diesel-fired turbines. General Electric is the only manufacturer who provides PM guarantees on their heavy duty turbines, and these guarantees ranged from 3 lb/hr to 15 lb/hr for natural gas, and 6 lb/hr to 34 lb/hr for diesel fuel.

As fuels continue to get cleaner, PM would be greatly reduced. In addition, the $NO_X$ limits set forth in the proposed rule would also limit PM emissions by reducing nitrate formation. Therefore, we feel that an emission limitation for PM emissions from stationary combustion turbines is not necessary.

*E. How Did EPA Determine Testing and Monitoring Requirements for the Proposed Rule?*

Monitoring provisions in subpart GG of 40 CFR part 60 only addressed turbines that used water injection for $NO_X$ control. Over the years, EPA has approved on a case-by-case basis alternative monitoring methods for turbines that do not use water injection for $NO_X$ control, since this technology has become increasingly archaic. Some requested the use of a $NO_X$ CEMS, since the turbines had these monitoring systems already in place for other regulatory requirements, such as the acid rain regulations or PSD/NSR permits. In the July 8, 2004 amendments to subpart GG of 40 CFR part 60, Stationary Gas Turbine NSPS (69 FR 41346), we added the option to utilize a $NO_X$ CEMS in place of water to fuel ratio monitoring. We also included in the July 8, 2004 final rule a provision allowing sources to use CEMS to monitor their $NO_X$ emissions for turbines that do not use water or steam injection.

In today's action, we are proposing monitoring requirements similar to those in 40 CFR part 60, subpart GG. For turbines that do not use water or steam injection, we are proposing annual stack testing to demonstrate continuous compliance. We considered other monitoring requirements, including CEMS and parametric monitoring. However, costs were high compared to costs for annual stack testing and annual stack testing provides a reliable means of demonstrating compliance. Therefore, annual stack testing is an appropriate monitoring method, and would help ensure continuous compliance with the new $NO_X$ limits.

We also considered the use of portable analyzers as monitoring requirements. Recent testing by EPA has shown portable analyzers to be a reliable method of monitoring emissions, and they are believed to be as good as the traditional EPA method tests. Costs are comparable to EPA method tests. Portable analyzers are, therefore, a viable option to traditional method stack tests and the proposed rule allows the use of ASTM D6522–00 to measure the $NO_X$ concentration during performance testing.

Many of the large turbines in the utility sector are already equipped with $NO_X$ CEMS for compliance with other regulations, such as 40 CFR part 75. It is appropriate to allow the use of $NO_X$ CEMS to demonstrate compliance with the proposed rule, particularly when they are already installed on-site for other regulatory purposes. Continuous emission monitoring systems are, therefore, the natural choice for these large turbines, and we are allowing the use of data from these certified CEMS for demonstrating compliance instead of an annual stack test.

Also, we included additional options for owners and operators to establish parameters which would be appropriate to monitor in order to correlate $NO_X$ emissions with these data. Historically, some turbines have used parametric monitoring for compliance with 40 CFR part 75 requirements. For example, the owner/operator of a lean premix turbine might establish during the initial performance test that when the turbine is running in the lean premix mode, it is in compliance. Certain parameters, such as load or combustion temperature, might let the owner or operator know when the turbine is in compliance. Another option is for owners or operators to petition the Administrator for approval of another monitoring strategy.

*F. Why Are Heat Recovery Steam Generators Included in 40 CFR Part 60, Subpart KKKK?*

For sources that are combined cycle turbine systems using supplemental heat, turbine $NO_X$ emissions would be

measured after the duct burner, since emissions and output associated with duct burners are included in the $NO_X$ emission limit. Any combined cycle units that are subject to the $NO_X$ CEMS requirements for 40 CFR part 75 would most likely have installed the CEMS after the duct burner, on the HRSG stack. Another reason to require measurement of $NO_X$ emissions after the duct burner is that add-on $NO_X$ control systems, such as SCR, are generally located after the duct burner. Turbine $NO_X$ performance testing should be conducted after the $NO_X$ control device and would, therefore, include any emissions from the duct burner.

In addition, all of the data that we have gathered where emissions were tested with and without duct burner firing show that duct burners have little to no effect on $NO_X$ emissions. Minimal additions and reductions were noted in several recent source tests, as well as an EPA sponsored test conducted by the EPA's Emissions Measurement Center. Thus, it is appropriate to include heat recovery sources such as duct burners in the proposed rule.

*G. What Emission Limits Must I Meet if I Fire More Than One Type of Fuel?*

New combustion turbines that fire both natural gas and distillate oil (or some other combination of fuels) are required to meet the corresponding emission limit for the fuel being fired in the turbine at that time.

*H. Why Can I No Longer Claim a Fuel-Bound Nitrogen Allowance?*

We are not including a fuel-bound nitrogen allowance in the proposed rule. In subpart GG of 40 CFR part 60, this provision allowed sources to claim a credit for nitrogen content in their fuel, up to a certain limit, attributing a part of their $NO_X$ emissions to the fuel. We concluded that this provision is outdated since the nitrogen content of fuel is now lower than it has been in the past and is no longer an issue. The vast majority of new turbines are fired by natural gas. Many of these turbines are permitted to fire only pipeline quality natural gas, which is virtually nitrogen free. We do not anticipate any new turbines needing to utilize the fuel-bound nitrogen allowance, and are, therefore, not proposing it.

*I. Why Isn't My IGCC Turbine Covered in 40 CFR Part 60, Subpart KKKK?*

We consider gasification as an emissions control technology for solid fuels. Therefore, we consider it appropriate to cover combustion turbines fueled by gasified coal under the Utility NSPS. Combustion turbines fueled by gasified coal and not meeting the heat input requirements of the Utility NSPS would be covered by the proposed rule under the ''other fuel'' category.

## V. Environmental and Economic Impacts

In setting the standards, the CAA requires us to consider alternative emission control approaches, taking into account the estimated costs and benefits, as well as the energy, solid waste and other effects. The EPA requests comment on whether it has identified the appropriate alternatives and whether the proposed standards adequately take into consideration the incremental effects in terms of emission reductions, energy and other effects of these alternatives. The EPA will consider the available information in developing the final rule.

*A. What Are the Air Impacts?*

We estimate that approximately 355 new stationary combustion turbines will be installed in the United States over the next 5 years and affected by the rule, as proposed. No more than ten of these units may need to install add-on controls to meet the $NO_X$ limits required under the rule, as proposed. However, these ten new turbines will already be required to install add-on controls to meet $NO_X$ reduction requirements under PSD/NSR. Thus, we concluded that the $NO_X$ and CO reductions resulting from the rule, as proposed, will essentially be zero. The expected $SO_2$ reductions as a result of the rule, as proposed, would be approximately 830 tons per year (tpy) in the 5th year after promulgation of the standards.

Although we expect the proposed rule to result in a slight increase in electrical supply generated by unaffected sources (*e.g.* existing stationary combustion turbines), we do not believe that this will result in higher $NO_X$ and $SO_2$ emissions from these sources. Other emission control programs such as the Acid Rain Program and PSD/NSR already promote or require emission controls that would effectively prevent emissions from increasing. All the emissions reductions estimates and assumptions have been documented in the docket to the proposed rule.

*B. What Are the Energy Impacts?*

We do not expect any significant energy impacts resulting from the rule, as proposed. The only energy requirement is a potential small increase in fuel consumption, resulting from back pressure caused by operating a add-on emission control device, such as an SCR. However, most entities would be able to comply with the proposed rule without the use of any add-on control devices.

*C. What Are the Economic Impacts?*

The EPA prepared an economic impact analysis to evaluate the impacts the proposed rule would have on combustion turbines producers, consumers of goods and services produced by combustion turbines, and society. The analysis showed minimal changes in prices and output for products made by the industries affected by the proposed rule. The price increase for affected output is less than 0.003 percent, and the reduction in output is less than 0.003 percent for each affected industry. Estimates of impacts on fuel markets show price increases of less than 0.01 percent for petroleum products and natural gas, and price increases of 0.04 and 0.06 percent for base-load and peak-load electricity, respectively. The price of coal is expected to decline by about 0.002 percent, and that is due to a small reduction in demand for this fuel type. Reductions in output are expected to be less than 0.02 percent for each energy type, including base-load and peak-load electricity.

The social costs of the rule, as proposed, are estimated at $0.4 million (2002 dollars). Social costs include the compliance costs, but also include those costs that reflect changes in the national economy due to changes in consumer and producer behavior in response to the compliance costs associated with a regulation. For the proposed rule, changes in energy use among both consumers and producers to reduce the impact of the regulatory requirements of the rule lead to the estimated social costs being less than the total annualized compliance cost estimate of $3.4 million (2002 dollars). The primary reason for the lower social cost estimate is the increase in electricity supply generated by unaffected sources (*e.g.* existing stationary combustion turbines), which offsets mostly the impact of increased electricity prices to consumers. The social cost estimates discussed above do not account for any benefits from emission reductions associated with the proposed rule.

For more information on these impacts, please refer to the economic impact analysis in the public docket.

## VI. Statutory and Executive Order Reviews

*A. Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must

determine whether a regulatory action is ''significant'' and, therefore, subject to review by OMB and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

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

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order. The EPA submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations would be documented in the public record.

*B. Paperwork Reduction Act*

The information collection requirements in the proposed rule have been submitted for approval to OMB under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned ICR No. 2177.01.

The proposed rule contains monitoring, reporting, and recordkeeping requirements. The information would be used by EPA to identify any new, modified, or reconstructed stationary combustion turbines subject to the NSPS and to ensure that any new stationary combustion turbines comply with the emission limits and other requirements. Records and reports would be necessary to enable EPA or States to identify new stationary combustion turbines that may not be in compliance with the requirements. Based on reported information, EPA would decide which units and what records or processes should be inspected.

The proposed rule would not require any notifications or reports beyond those required by the General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to EPA policies in 40 CFR part 2, subpart B, Confidentiality of Business Information.

The annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after [date the final rule is published in the **Federal Register**]) is estimated to be 20,542 labor hours per year at an average total annual cost of $1,797,264. This estimate includes performance testing, continuous monitoring, semiannual excess emission reports, notifications, and recordkeeping. There are no capital/start-up costs or operation and maintenance costs associated with the monitoring requirements over the 3-year period of the ICR.

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

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for the ICR under Docket ID No. OAR–2004–0490. See information under the **ADDRESSES** section of this preamble to find instructions for sending comments to this docket and for viewing comments submitted to the docket. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for EPA. Please include the EPA Docket ID No. and OMB control number in any correspondence.

Since OMB is required to make a decision concerning the ICR between 30 and 60 days after February 18, 2005, a comment to OMB is best assured of having its full effect if OMB receives it by March 21, 2005. In the final rule, EPA will respond to any OMB or public comments on the information collection requirements contained in the proposed rule.

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business whose parent company has fewer than 100 or 1,000 employees, depending on size definition for the affected North American Industry Classification System (NAICS) code, or fewer than 4 billion kilowatt-hours (kW-hr) per year of electricity usage; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. It should be noted that small entities in 1 NAICS code would be affected by the proposed rule, and the small business definition applied to each industry by NAICS code is that listed in the Small Business Administration (SBA) size standards (13 CFR part 121).

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined, based on the existing combustion turbines inventory and presuming the percentage of small entities in that inventory is representative of the percentage of small entities owning new turbines in the 5th year after promulgation, that one small entity out of 29 in the industries impacted by the proposed rule will

incur compliance costs (in this case, only monitoring, recordkeeping, and reporting costs since control costs are zero) associated with the proposed rule. This small entity owns one affected turbine in the projected set of new combustion turbines. This affected small entity is estimated to have annual compliance costs of 0.3 percent of its revenues. The proposed rule is likely to also increase profits for the small firms and increase revenues for the many small communities (in total, 28 small entities) using combustion turbines that are not affected by the proposed rule as a result of the very slight increase in market prices. For more information on the results of the analysis of small entity impacts, please refer to the economic impact analysis in the docket.

Although the proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of the rule on small entities. In the proposed rule, the Agency is applying the minimum level of control and the minimum level of monitoring, recordkeeping, and reporting to affected sources allowed by the CAA. In addition, as mentioned earlier in this preamble, new turbines with capacities under 1 MW are not subject to the proposed rule. This provision should reduce the size of small entity impacts. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

*D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objective of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the proposed rule contains no Federal mandates that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Thus, the proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that the proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, the proposed rule is not subject to the requirements of section 203 of the UMRA.

*E. Executive Order 13132: Federalism*

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

The proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to the proposed rule.

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

Executive Order 13175 (65 FR 67249, November 6, 2000) requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

The proposed rule does not have tribal implications. It 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. We do not know of any stationary combustion turbines owned or operated by Indian tribal governments. However, if there are any, the effect of the proposed rule on communities of tribal governments would not be unique or disproportionate to the effect on other communities. Thus, Executive Order 13175 does not apply to the proposed rule.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have 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 regulation is preferable to other potentially effective and reasonably feasible alternatives.

The proposed rule is not subject to Executive Order 13045 because it is not an economically significant action as defined under Executive Order 12866.

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

Executive Order 13211 (66 FR 28355, May 22, 2001) provides that agencies shall prepare and submit to the

Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, a Statement of Energy Effects for certain actions identified as ''significant energy actions.'' Section 4(b) of Executive Order 13211 defines ''significant energy actions'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1) (i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a ''significant energy action.'' Although the proposed rule is considered to be a significant regulatory action under Executive Order 12866, it is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

An increase in petroleum product output, which includes increases in fuel production, is estimated at less than 0.01 percent, or about 600 barrels per day based on 2004 U.S. fuel production nationwide. A reduction in coal production is estimated at 0.00003 percent, or about 3,000 short tons per year based on 2004 U.S. coal production nationwide. The reduction in electricity output is estimated at 0.02 percent, or about 5 billion kW-hr per year based on 2000 U.S. electricity production nationwide.

Production of natural gas is expected to increase by 4 million cubic feet ($ft^3$) per day. The maximum of all energy price increases, which include increases in natural gas prices as well as those for petroleum products, coal, and electricity, is estimated to be the 0.04 percent increase in peak-load electricity rates nationwide. Energy distribution costs may increase by no more than the same amount as electricity rates. We expect that there will be no discernable impact on the import of foreign energy supplies, and no other adverse outcomes are expected to occur with regards to energy supplies.

Also, the increase in cost of energy production should be minimal given the very small increase in fuel consumption resulting from back pressure related to operation of add-on emission control devices, such as SCR. All of the estimates presented above account for some passthrough of costs to consumers as well as the direct cost impact to producers. Therefore, we conclude that the rule, as proposed, will not have a significant adverse effect on the supply, distribution, or use of energy. For more information on these estimated energy effects, please refer to the economic impact analysis for the proposed rule. This analysis is available in the public docket.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The proposed rule involves technical standards. The EPA cites the following methods in the proposed rule: EPA Methods 1, 2, 3A, 7E, 19, and 20 of 40 CFR part 60, appendix A; and Performance Specifications (PS) 2 of 40 CFR part 60, appendix B.

In addition, the proposed rule cites the following standards that are also incorporated by reference (IBR) in 40 CFR part 60, section 17: ASTM D129–00, ASTM D1072–90 (Reapproved 1999), ASTM D1266–98, ASTM D1552–01, ASTM D2622–98, ASTM D3246–81 or –92 or –96, ASTM D4057–95 (Reapproved 2000), ASTM D4084–82 or –94, ASTM D4177–95 (Reapproved 2000), ASTM D4294–02, ASTM D4468–85 (Reapproved 2000), ASTM D5287–97 (Reapproved 2002), ASTM D5453–00, ASTM D5504–01, ASTM D6228–98, ASTM D6522–00, ASTM D6667–01, and Gas Processors Association Standard 2377–86.

Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods/performance specifications. No applicable voluntary consensus standards were identified for EPA Method 19. The search and review results have been documented and are placed in the docket for the proposed rule.

In addition to the voluntary consensus standards EPA uses in the proposed rule, the search for emissions measurement procedures identified 11 other voluntary consensus standards. The EPA determined that nine of these 11 standards identified for measuring air emissions or surrogates subject to emission standards in the proposed rule were impractical alternatives to EPA test methods/performance specifications for the purposes of the proposed rule. Therefore, the EPA does not intend to adopt these standards. See the docket for the reasons for the determinations of these methods.

Two of the 11 voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of the proposed rule because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, ''Flow Measurement by Velocity Traverse,'' for EPA Method 2 (and possibly 1); and ASME/BSR MFC 12M, ''Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters,'' for EPA Method 2.

Sections 60.4345, 60.4360, 60.4400 and 60.4415 of the proposed rule discuss the EPA testing methods, performance specifications, and procedures required. Under 40 CFR 63.7(f) and 63.8(f) of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any of the EPA testing methods, performance specifications, or procedures.

**List of Subjects in 40 CFR Part 60**

Administrative practice and procedure, Air pollution control, Environmental protection, Intergovernmental relations, Nitrogen oxides, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: February 9, 2005.

**Stephen L. Johnson,**

*Acting Administrator.*

For the reasons stated in the preamble, title 40, chapter I, part 60, of the Code of Federal Regulations is proposed to be amended as follows:

## PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

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

2. Part 60 is amended by adding subpart KKKK to read as follows:

## Subpart KKKK—Standards of Performance for Stationary Combustion Turbines for Which Construction Is Commenced After February 18, 2005 or for Which Modification or Reconstruction is Commenced on or After [Date 6 Months After Date Final Rule Is Published in the Federal Register]

### Introduction

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60.4400 How do I conduct the initial and subsequent performance tests, regarding $NO_X$?
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60.4410 How do I establish a valid parameter range if I have chosen to continuously monitor parameters?
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**Definitions**

60.4420 What definitions apply to this subpart?

**Tables to Subpart KKKK of Part 60**

Table 1 to Subpart KKKK of Part 60—Nitrogen Oxide Emission Limits for New Stationary Combustion Turbines

### Introduction

#### § 60.4300 What is the purpose of this subpart?

This subpart establishes emission standards and compliance schedules for the control of emissions for new stationary combustion turbines that were constructed, modified or reconstructed after February 18, 2005.

### Applicability

#### § 60.4305 Does this subpart apply to my stationary combustion turbine?

(a) If you are the owner or operator of a stationary combustion turbine with a power output at peak load equal to or greater than 1 megawatt (MW), which commences construction, modification, or reconstruction after February 18, 2005, your turbine is subject to this subpart. Only power output from the combustion turbine should be included when determining whether or not this subpart is applicable to your turbine. Any associated recovered heat or steam turbine output should not be included when determining your peak power output. However, this subpart does apply to emissions from any associated heat recovery steam generators (HRSG) and duct burners.

(b) Stationary combustion turbines regulated under this subpart are exempt from the requirements of subpart GG of this part. Heat recovery steam generators and duct burners regulated under this subpart are exempted from the requirements of subparts Da and Db of this part.

#### § 60.4310 What types of operations are exempt from these standards of performance?

(a) Emergency combustion turbines, as defined in § 60.4420(g), are exempt from the nitrogen oxides ($NO_X$) emission limits in § 60.4320.

(b) Stationary combustion turbines engaged by manufacturers in research and development of equipment for both combustion turbine emission control techniques and combustion turbine efficiency improvements are exempt from the $NO_X$ emission limits in § 60.4320 on a case-by-case basis as determined by the Administrator.

### Emission Limits

#### § 60.4315 What pollutants are regulated by this subpart?

The pollutants regulated by this subpart are $NO_X$ and sulfur dioxide ($SO_2$).

#### § 60.4320 What emission limits must I meet for nitrogen oxides ($NO_X$)?

You must meet the emission limits for nitrogen oxides specified in Table 1 to this subpart.

#### § 60.4325 What emission limits must I meet for $NO_X$ if my turbine burns both natural gas and distillate oil (or some other combination of fuels)?

You must meet the emission limits specified in Table 1 to this subpart. If you are burning natural gas, you must meet the corresponding limit for a natural gas-fired turbine when you are burning that fuel. Similarly, when you are burning distillate oil and fuels other than natural gas, you must meet the corresponding limit for distillate oil and fuels other than natural gas for the duration of the time that you burn that particular fuel.

#### § 60.4330 What emission limits must I meet for sulfur dioxide ($SO_2$)?

You must comply with one or the other of the following conditions:

(a) You must not cause to be discharged into the atmosphere from the subject stationary combustion turbine any gases which contain $SO_2$ in excess of 73 nanograms per Joule (ng/J) (0.58 pounds per megawatt-hour (lb/MW–hr)), or

(b) You must not burn in the subject stationary combustion turbine any fuel which contains total sulfur in excess of 0.05 percent by weight (500 parts per million by weight (ppmw)).

### Monitoring

#### § 60.4335 How do I demonstrate compliance for $NO_X$ if I use water or steam injection?

(a) If you are using water or steam injection to control $NO_X$ emissions, you must install, calibrate, maintain and operate a continuous monitoring system to monitor and record the fuel consumption and the ratio of water or steam to fuel being fired in the turbine.

(b) Alternatively, you may use continuous emission monitoring, as follows:

(1) Install, certify, maintain, and operate a continuous emission monitoring system (CEMS) consisting of a $NO_X$ monitor and a diluent gas (oxygen ($O_2$) or carbon dioxide ($CO_2$))

monitor, to determine the hourly $NO_X$ emission rate in pounds per million British thermal units (lb/MMBtu); and

(2) Install, calibrate, maintain, and operate a fuel flow meter (or flow meters) to continuously measure the heat input to the affected unit; and

(3) Install, calibrate, maintain, and operate a watt meter (or meters) to continuously measure the gross electrical output of the unit in megawatt-hours; and

(4) For cogeneration units, install, calibrate, maintain, and operate meters for steam flow rate, temperature, and pressure, to continuously measure the total thermal energy output in British thermal units per hour (Btu/hr).

**§ 60.4340 How do I demonstrate continuous compliance for $NO_X$ if I do not use water or steam injection?**

(a) If you are not using water or steam injection to control $NO_X$ emissions, you must perform annual performance tests in accordance with § 60.4400 to demonstrate continuous compliance.

(b) As an alternative, you may install, calibrate, maintain and operate one of the following continuous monitoring systems:

(1) Continuous emission monitoring as described in §§ 60.4335(b) and 60.4345, or

(2) Continuous parameter monitoring as follows:

(i) For a diffusion flame turbine without add-on selective catalytic reduction (SCR) controls, you must define at least four parameters indicative of the unit's $NO_X$ formation characteristics, and you must monitor these parameters continuously.

(ii) For any lean premix stationary combustion turbine, you must continuously monitor the appropriate parameters to determine whether the unit is operating in the lean premixed (low-$NO_X$) combustion mode.

(iii) For any turbine that uses SCR to reduce $NO_X$ emissions, you must continuously monitor appropriate parameters to verify the proper operation of the emission controls.

(iv) For affected units that are also regulated under part 75 of this chapter, if you elect to monitor the $NO_X$ emission rate using the methodology in appendix E to part 75 of this chapter, or the low mass emissions methodology in § 75.19, the requirements of this paragraph (b) may be met by performing the parametric monitoring described in section 2.3 of appendix E or in § 75.19(c)(1)(iv)(H).

**§ 60.4345 What are the requirements for the continuous emission monitoring system equipment, if I choose to use this option?**

If the option to use a $NO_X$ CEMS is chosen:

(a) Each $NO_X$ diluent CEMS must be installed and certified according to Performance Specification 2 (PS 2) in appendix B to this part, except the 7-day calibration drift is based on unit operating days, not calendar days. Procedure 1 in appendix F to this part is not required. Alternatively, a $NO_X$ diluent CEMS that is installed and certified according to appendix A to part 75 of this chapter is acceptable for use under this subpart. The relative accuracy test audit (RATA) of the CEMS shall be performed on a lb/MMBtu basis.

(b) As specified in § 60.13(e)(2), during each full unit operating hour, both the $NO_X$ monitor and the diluent monitor must complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each 15-minute quadrant of the hour, to validate the hour. For partial unit operating hours, at least one valid data point must be obtained with each monitor for each quadrant of the hour in which the unit operates. For unit operating hours in which required quality assurance and maintenance activities are performed on the CEMS, a minimum of two valid data points (one in each of two quadrants) are required for each monitor to validate the $NO_X$ emission rate for the hour.

(c) Each fuel flowmeter shall be installed, calibrated, maintained, and operated according to the manufacturer's instructions. Alternatively, fuel flowmeters that meet the installation, certification, and quality assurance requirements of appendix D to part 75 of this chapter are acceptable for use under this subpart.

(d) Each watt meter, steam flow meter, and each pressure or temperature measurement device shall be installed, calibrated, maintained, and operated according to manufacturer's instructions.

(e) The owner or operator shall develop and keep on-site a quality assurance (QA) plan for all of the continuous monitoring equipment described in paragraphs (a), (c), and (d) of this section. For the CEMS and fuel flow meters, the owner or operator may satisfy the requirements of this paragraph by implementing the QA program and plan described in section 1 of appendix B to part 75 of this chapter.

**§ 60.4350 How do I use data from the continuous emission monitoring equipment to identify excess emissions?**

For purposes of identifying excess emissions:

(a) All CEMS data must be reduced to hourly averages as specified in § 60.13(h).

(b) For each unit operating hour in which a valid hourly average, as described in § 60.4345(b), is obtained for both $NO_X$ and diluent monitors, the data acquisition and handling system must calculate and record the hourly $NO_X$ emission rate in units of lb/MMBtu, using the appropriate equation from method 19 in appendix A to this part. For any hour in which the hourly average $O_2$ concentration exceeds 19.0 percent $O_2$ (or the hourly average $CO_2$ concentration is less than 1.0 percent $CO_2$), a diluent cap value of 19.0 percent $O_2$ or 1.0 percent $CO_2$ (as applicable) may be used in the emission calculations.

(c) Correction of measured $NO_X$ concentrations to 15 percent $O_2$ is not allowed.

(d) If you have installed and certified a $NO_X$ diluent CEMS to meet the requirements of part 75 of this chapter, only quality assured data from the CEMS shall be used to identify excess emissions under this subpart. Periods where the missing data substitution procedures in subpart D of part 75 are applied are to be reported as monitor downtime in the excess emissions and monitoring performance report required under § 60.7(c).

(e) All required fuel flow rate, steam flow rate, temperature, pressure, and megawatt data must be reduced to hourly averages.

(f) Calculate the hourly average $NO_X$ emission rates, in units of the emission standards under § 60.4320, using the following equation:

(1) For simple-cycle operation:

$$E = \frac{(NO_X)_h * (HI)_h}{P} \qquad \text{(Eq. 1)}$$

Where:

E = hourly $NO_X$ emission rate, in lb/MW-hr,

$(NO_X)_h$ = hourly $NO_X$ emission rate, in lb/MMBtu,

$(HI)_h$ = hourly heat input rate to the unit, in MMBtu/hr, measured using the fuel flowmeter(s), *e.g.*, calculated using Equation D–15a in appendix D to part 75 of this chapter, and

P = gross energy output of the turbine in MW.

(2) For combined-cycle operation, use Equation 1 of this subpart, except that the gross energy output is calculated as the sum of the total electrical energy

generated by the turbine, the additional electrical energy (if any) generated by the heat recovery steam generator, and 100 percent of the total thermal energy output, expressed in equivalent MW, as in the following equations:

$$P = (Pe)_t + (Pe)_c + Ps \qquad \text{(Eq. 2)}$$

Where:

$(Pe)_t$ = electrical energy output of the turbine in MW,

$(Pe)_c$ = electrical energy output (if any) of the heat recovery steam generator) in MW, and

$$Ps = \frac{Q * H}{3.413 \times 10^6 \text{ Btu/MW-hr}} \qquad \text{(Eq. 3)}$$

Where:

Ps = thermal energy of the steam, expressed as equivalent electrical energy, in MW,

Q = measured steam flow rate in lb/hr,

H = enthalpy of the steam at measured temperature and pressure relative to ISO standard conditions, in Btu/lb, and

$3.413 \times 10^6$ = conversion from Btu/hr to MW.

(3) For mechanical drive applications, use the following equation:

$$E = \frac{(NO_X)_m}{BL * AL} \qquad \text{(Eq. 4)}$$

Where:

E = emissions in lb/MW–hr,

$(NO_X)_m$ = nitrogen oxides emission rate in lb/hr,

BL = manufacturer's base load rating of turbine, in MW, and

AL = actual load as a percentage of the base load.

(g) Use the calculated hourly average emission rates from paragraph (f) of this section to assess excess emissions on a 4-hour rolling average basis, as described in § 60.4380(b)(1).

### § 60.4355 How do I establish and document a proper parameter monitoring plan?

(a) The steam or water to fuel ratio or other parameters that are continuously monitored as described in §§ 60.4335 and 60.4340 must be monitored during the performance test required under § 60.8, to establish acceptable values and ranges. You may supplement the performance test data with engineering analyses, design specifications, manufacturer's recommendations and other relevant information to define the acceptable parametric ranges more precisely. You must develop and keep on-site a parameter monitoring plan which explains the procedures used to document proper operation of the $NO_X$ emission controls. The plan must:

(1) Include the indicators to be monitored and show there is a significant relationship to emissions and proper operation of the $NO_X$ emission controls,

(2) Pick ranges (or designated conditions) of the indicators, or describe the process by which such range (or designated condition) will be established,

(3) Explain the process you will use to make certain that you obtain data that is representative of the emissions or parameters being monitored (such as detector location, installation specification if applicable),

(4) Describe quality assurance and control practices that are adequate to ensure the continuing validity of the data,

(5) Describe the frequency of monitoring and the data collection procedures which you will use (*e.g.*, you are using a computerized data acquisition over a number of discrete data points with the average (or maximum value) being used for purposes of determining whether an exceedance has occurred),

(6) Submit justification for the proposed elements of the monitoring. If a proposed performance specification differs from manufacturer recommendation, you must explain the reasons for the differences. You must submit the data supporting the justification, but you may refer to generally available sources of information used to support the justification. You may rely on engineering assessments and other data, provided you demonstrate factors which assure compliance or explain why performance testing is unnecessary to establish indicator ranges. When establishing indicator ranges, you may choose to simplify the process by treating the parameters as if they were correlated. Using this assumption, testing can be divided into two cases:

(i) All indicators are significant only on one end of range (*e.g.*, for a thermal incinerator controlling volatile organic compounds (VOC) it is only important to insure a minimum temperature, not a maximum). In this case, you may conduct your study so that each parameter is at the significant limit of its range while you conduct your emissions testing. If the emissions tests show that the source is in compliance at the significant limit of each parameter, then as long as each parameter is within its limit, you are presumed to be in compliance.

(ii) Some or all indicators are significant on both ends of the range. In this case, you may conduct your study so that each parameter that is significant at both ends of its range assumes its extreme values in all possible combinations of the extreme values (either single or double) of all of the other parameters. For example, if there were only two parameters, A and B, and A had a range of values while B had only a minimum value, the combinations would be A high with B minimum and A low with B minimum. If both A and B had a range, the combinations would be A high and B high, A low and B low, A high and B low, A low and B high. For the case of four parameters all having a range, there are 16 possible combinations.

(b) For affected units that are also subject to part 75 of this chapter and that use the low mass emissions methodology in § 75.19 or the $NO_X$ emission measurement methodology in appendix E to part 75, you may meet the requirements of this paragraph by developing and keeping on-site (or at a central location for unmanned facilities) a QA plan, as described in § 75.19(e)(5) or in section 2.3 of appendix E to part 75 of this chapter and section 1.3.6 of appendix B to part 75 of this chapter.

### § 60.4360 How do I determine the total sulfur content of the turbine's combustion fuel?

You must monitor the total sulfur content of the fuel being fired in the turbine, except as provided in § 60.4365. The sulfur content of the fuel must be determined using total sulfur methods described in § 60.4415. Alternatively, if the total sulfur content of the gaseous fuel during the most recent performance test was less than 0.0250 weight percent (250 ppmw), ASTM D4084–82, 94, D5504–01, or D6228–98, or Gas Processors Association Standard 2377–86 (all of which are incorporated by reference—see § 60.17), which measure the major sulfur compounds, may be used.

### § 60.4365 How can I be exempted from monitoring the total sulfur content of the fuel?

You may elect not to monitor the total sulfur content of the fuel combusted in the turbine, if the fuel is demonstrated not to exceed 300 ppmw total sulfur. You must use one of the following sources of information to make the required demonstration:

(a) The fuel quality characteristics in a current, valid purchase contract, tariff sheet or transportation contract for the fuel, specifying that the maximum total sulfur content of the fuel is 300 ppmw or less; or

(b) Representative fuel sampling data which show that the sulfur content of the fuel does not exceed 300 ppmw. At

a minimum, the amount of fuel sampling data specified in section 2.3.1.4 or 2.3.2.4 of appendix D to part 75 of this chapter is required.

### § 60.4370 How often must I determine the sulfur content of the fuel?

The frequency of determining the sulfur content of the fuel must be as follows:

(a) *Fuel oil.* For fuel oil, use one of the total sulfur sampling options and the associated sampling frequency described in sections 2.2.3, 2.2.4.1, 2.2.4.2, and 2.2.4.3 of appendix D to part 75 of this chapter (*i.e.*, flow proportional sampling, daily sampling, sampling from the unit's storage tank after each addition of fuel to the tank, or sampling each delivery prior to combining it with fuel oil already in the intended storage tank).

(b) *Gaseous fuel.* If you elect not to demonstrate sulfur content using options in § 60.4365, and the fuel is supplied without intermediate bulk storage, the sulfur content value of the gaseous fuel must be determined and recorded once per unit operating day.

## Reporting

### § 60.4375 What reports must I submit?

For each affected unit required to continuously monitor parameters or emissions, or to periodically determine the fuel sulfur content under this subpart, you must submit reports of excess emissions and monitor downtime, in accordance with § 60.7(c). Excess emissions must be reported for all periods of unit operation, including start-up, shutdown, and malfunction.

### § 60.4380 How are excess emissions and monitor downtime defined for $NO_X$?

For the purpose of reports required under § 60.7(c), periods of excess emissions and monitor downtime that must be reported are defined as follows:

(a) For turbines using water or steam to fuel ratio monitoring:

(1) An excess emission is any unit operating hour for which the 4-hour rolling average steam or water to fuel ratio, as measured by the continuous monitoring system, falls below the acceptable steam or water to fuel ratio needed to demonstrate compliance with § 60.4320, as established during the performance test required in § 60.8. Any unit operating hour in which no water or steam is injected into the turbine will also be considered an excess emission.

(2) A period of monitor downtime is any unit operating hour in which water or steam is injected into the turbine, but the essential parametric data needed to determine the steam or water to fuel ratio are unavailable or invalid.

(3) Each report must include the average steam or water to fuel ratio, average fuel consumption, and the combustion turbine load during each excess emission.

(b) For turbines using continuous emission monitoring, as described in §§ 60.4335(b) and 60.4345:

(1) An hour of excess emissions is any unit operating hour in which the 4-hour rolling average $NO_X$ emission rate exceeds the applicable emission limit in § 60.4320. For the purposes of this subpart, a ''4-hour rolling average $NO_X$ emission rate'' is the arithmetic average of the average $NO_X$ emission rate in ng/J (lb/MW-hr) measured by the continuous emission monitoring equipment for a given hour and the three unit operating hour average $NO_X$ emission rates immediately preceding that unit operating hour. Calculate the rolling average if a valid $NO_X$ emission rate is obtained for at least 1 of the 4 hours.

(2) A period of monitor downtime is any unit operating hour in which the data for any of the following parameters are either missing or invalid: $NO_X$ concentration, $CO_2$ or $O_2$concentration, fuel flow rate, steam flow rate, steam temperature, steam pressure, or megawatts.

(c) For turbines required to monitor combustion parameters or parameters that document proper operation of the $NO_X$ emission controls:

(1) An excess emission is a 4-hour rolling unit operating hour average in which any monitored parameter does not achieve the target value or is outside the acceptable range defined in the parameter monitoring plan for the unit.

(2) A period of monitor downtime is a unit operating hour in which any of the required parametric data are either not recorded or are invalid.

### § 60.4385 How are excess emissions and monitoring downtime defined for $SO_2$?

If you choose the option to monitor the sulfur content of the fuel, excess emissions and monitoring downtime are defined as follows:

(a) For samples of gaseous fuel and for oil samples obtained using daily sampling, flow proportional sampling, or sampling from the unit's storage tank, an excess emission occurs each unit operating hour included in the period beginning on the date and hour of any sample for which the sulfur content of the fuel being fired in the combustion turbine exceeds 0.05 weight percent and ending on the date and hour that a subsequent sample is taken that demonstrates compliance with the sulfur limit.

(b) If the option to sample each delivery of fuel oil has been selected, you must immediately switch to one of the other oil sampling options (*i.e.*, daily sampling, flow proportional sampling, or sampling from the unit's storage tank) if the sulfur content of a delivery exceeds 0.05 weight percent. You must continue to use one of the other sampling options until all of the oil from the delivery has been combusted, and you must evaluate excess emissions according to paragraph (a) of this section. When all of the fuel from the delivery has been burned, you may resume using the as-delivered sampling option.

(c) A period of monitor downtime begins when a required sample is not taken by its due date. A period of monitor downtime also begins on the date and hour of a required sample, if invalid results are obtained. The period of monitor downtime ends on the date and hour of the next valid sample.

### § 60.4390 What are my reporting requirements if I operate an emergency combustion turbine or a research and development turbine?

(a) If you operate an emergency combustion turbine, you are exempt from the $NO_X$ limit and must submit an initial report to the Administrator stating your case.

(b) Combustion turbines engaged by manufacturers in research and development of equipment for both combustion turbine emission control techniques and combustion turbine efficiency improvements may be exempted from the $NO_X$ limit on a case-by-case basis as determined by the Administrator. You must petition for the exemption.

### § 60.4395 When must I submit my reports?

All reports required under § 60.7(c) must be postmarked by the 30th day following the end of each calendar quarter.

## Performance Tests

### § 60.4400 How do I conduct the initial and subsequent performance tests, regarding $NO_X$?

(a) You must conduct an initial performance test, as required in § 60.8.

(1) There are two general methodologies that you may use to conduct the performance tests. For each test run:

(i) Measure the $NO_X$ concentration (in parts per million (ppm)), using Method 7E or Method 20 in appendix A to this part or ASTM D6522–00. Also, concurrently measure the stack gas flow rate, using Methods 1 and 2 in appendix A to this part, and measure and record

the electrical and thermal output from the unit. Then, use the following equation to calculate the $NO_X$ emission rate:

$$E = \frac{1.194 \times 10^{-7} * (NO_X)_c * Q_{std}}{P} \qquad \text{(Eq. 5)}$$

Where:

E = $NO_X$ emission rate, in lb/MW-hr

1.194 x $10^{-7}$ = conversion constant, in lb/dscf-ppm

$(NO_X)_c$ = average $NO_X$ concentration for the run,

in ppm$Q_{std}$ = stack gas volumetric flow rate, in dscf/hr

P = gross energy output of the turbine, in MW (for simple-cycle operation), or, for combined-cycle operation, the sum of all electrical and thermal output from the unit, in MW, calculated according to § 60.4350(f)(2); or

(ii) Measure the $NO_X$ and diluent gas concentrations, using either Methods 7E and 3A, or Method 20 in appendix A to this part, or ASTM Method D6522–00. Concurrently measure the heat input to the unit, using a fuel flowmeter (or flowmeters), and measure the electrical and thermal output of the unit. Use Method 19 in appendix A to this part to calculate the $NO_X$ emission rate in lb/MMBtu. Then, use Equations 1 and, if necessary, 2 and 3 in § 60.4350(f) to calculate the $NO_X$ emission rate in lb/MW–hr.

(2) Sampling traverse points for $NO_X$ and (if applicable) diluent gas are to be selected following Method 20 or Method 1 (non-particulate procedures), and sampled for equal time intervals. The sampling must be performed with a traversing single-hole probe, or, if feasible, with a stationary multi-hole probe that samples each of the points sequentially. Alternatively, a multi-hole probe designed and documented to sample equal volumes from each hole may be used to sample simultaneously at the required points.

(3) Notwithstanding the requirements in paragraph (a)(2) of this section, you may test at fewer points than are specified in Method 1 or Method 20 if the following conditions are met:

(i) You may perform a stratification test for $NO_X$ and diluent pursuant to

(A) [Reserved], or

(B) The procedures specified in section 6.5.6.1(a) through (e) of appendix A to part 75 of this chapter.

(ii) Once the stratification sampling is completed, you may use the following alternative sample point selection criteria for the performance test:

(A) If each of the individual traverse point $NO_X$ (and, if applicable, diluent) concentrations, is within +/ · 10 percent of the mean concentration for all traverse points, then you may use three points (located either 16.7, 50.0 and 83.3 percent of the way across the stack or duct, or, for circular stacks or ducts greater than 2.4 meters (7.8 feet) in diameter, at 0.4, 1.2, and 2.0 meters from the wall). The three points must be located along the measurement line that exhibited the highest average $NO_X$ concentration during the stratification test; or

(B) If each of the individual traverse point $NO_X$ (and, if applicable, diluent) concentrations, is within +/ · 5 percent of the mean concentration for all traverse points, then you may sample at a single point, located at least 1 meter from the stack wall or at the stack centroid.

(b) The performance test must be done at four load levels, *i.e.*, either within +/ · 5 percent of 30, 50, 75, and 90-to-100 percent of peak load or at four evenly-spaced load points in the normal operating range of the combustion turbine, including the minimum point in the operating range and 90 to 100 percent of peak load. You may perform testing at the highest achievable load point, if 90 to 100 percent of peak load cannot be achieved in practice. Three test runs are required at each load level. The minimum time per run is 20 minutes.

(1) If the stationary combustion turbine combusts both oil and gas as primary or backup fuels, separate performance testing is required for each fuel.

(2) For a combined cycle turbine system with supplemental heat (duct burner), you must measure the total $NO_X$ emissions after the duct burner rather than directly after the turbine.

(3) If water or steam injection is used to control $NO_X$ with no additional post-combustion $NO_X$ control and you choose to monitor the steam or water to fuel ratio in accordance with § 60.4335, then that monitoring system must be operated concurrently with each EPA Method 20, ASTM D6522–00 (incorporated by reference, see § 60.17), or EPA Method 7E run and must be used to determine the fuel consumption and the steam or water to fuel ratio necessary to comply with the applicable § 60.4320 $NO_X$ emission limit.

(4) Compliance with the applicable emission limit in § 60.4320 must be demonstrated at each tested load level. Compliance is achieved if the three-run arithmetic average $NO_X$ emission rate at each tested level meets the applicable emission limit in § 60.4320.

(5) If you elect to install a CEMS, the performance evaluation of the CEMS may either be conducted separately or (as described in § 60.4405) as part of the initial performance test of the affected unit.

### § 60.4405 How do I perform the initial performance test if I have chosen to install a $NO_X$-diluent CEMS?

If you elect to install and certify a $NO_X$-diluent CEMS under § 60.4345, then the initial performance test required under § 60.8 may be performed in the following alternative manner:

(a) Perform a minimum of nine relative accuracy test audit (RATA) reference method runs, with a minimum time per run of 21 minutes, at a single load level, between 90 and 100 percent of peak (or the highest achievable) load.

(b) For each RATA run, concurrently measure the heat input to the unit using a fuel flow meter (or flow meters) and measure the electrical and thermal output from the unit.

(c) Use the test data both to demonstrate compliance with the applicable $NO_X$ emission limit under § 60.4320 and to provide the required reference method data for the RATA of the CEMS described under § 60.4335.

(d) The requirement to test at three additional load levels is waived.

(e) Compliance with the applicable emission limit in § 60.4320 is achieved if the arithmetic average of all of the $NO_X$ emission rates for the RATA runs, expressed in units of lb/MW-hr, does not exceed the emission limit.

### § 60.4410 How do I establish a valid parameter range if I have chosen to continuously monitor parameters?

If you have chosen to monitor combustion parameters or parameters indicative of proper operation of $NO_X$ emission controls in accordance with § 60.4340, the appropriate parameters must be continuously monitored and recorded during each run of the initial performance test, to establish acceptable operating ranges, for purposes of the

parameter monitoring plan for the affected unit, as specified in § 60.4355.

### § 60.4415 How do I conduct the initial and subsequent performance tests for sulfur?

(a) If you choose to periodically determine the sulfur content of the fuel combusted in the turbine, a representative fuel sample would be collected following ASTM D5287–97 (2002) for natural gas or ASTM D4177–95 (2000) for oil. Alternatively, for oil, you may follow the procedures for manual pipeline sampling in section 14 of ASTM D4057–95 (2000). At least one fuel sample must be collected during each load condition. Analyze the samples for the total sulfur content of the fuel using:

(1) For liquid fuels, ASTM D129–00, or alternatively D2622–98, D4294–02, D1266–98, D5453–00 or D1552–01; or

(2) For gaseous fuels, ASTM D 1072–90 (Reapproved 1999), or alternatively D3246–96; D4468–85 (Reapproved 2000); or D6667–01.

(b) The fuel analyses required under paragraph (a) of this section may be performed either by you, a service contractor retained by you, the fuel vendor, or any other qualified agency.

## Definitions

### § 60.4420 What definitions apply to this subpart?

As used in this subpart, all terms not defined herein will have the meaning given them in the Clean Air Act and in subpart A (General Provisions) of this part.

*Base load* means the load level at which a combustion turbine is normally operated.

*Combined cycle combustion turbine* means any stationary combustion turbine which recovers heat from the combustion turbine exhaust gases to heat water or generate steam.

*Combustion turbine model* means a group of combustion turbines having the same nominal air flow, combustor inlet pressure, combustor inlet temperature, firing temperature, turbine inlet temperature and turbine inlet pressure.

*Diffusion flame stationary combustion turbine* means any stationary combustion turbine where fuel and air are injected at the combustor and are mixed only by diffusion prior to ignition. A unit which is capable of operating in both lean premix and diffusion flame modes is considered a lean premix stationary combustion turbine when it is in the lean premix mode, and it is considered a diffusion flame stationary combustion turbine when it is in the diffusion flame mode.

*Duct burner* means a device that combusts fuel and that is placed in the exhaust duct from another source, such as a stationary combustion turbine, internal combustion engine, kiln, etc., to allow the firing of additional fuel to heat the exhaust gases before the exhaust gases enter a heat recovery steam generating unit.

*Efficiency* means the combustion turbine manufacturer's rated heat rate at peak load in terms of heat input per unit of power output-based on the lower heating value of the fuel.

*Emergency combustion turbine* means any stationary combustion turbine which operates in an emergency situation. Examples include stationary combustion turbines used to produce power for critical networks or equipment, including power supplied to portions of a facility, when electric power from the local utility is interrupted, or stationary combustion turbines used to pump water in the case of fire or flood, etc. Emergency stationary combustion turbines do not include stationary combustion turbines used as peaking units at electric utilities or stationary combustion turbines at industrial facilities that typically operate at low capacity factors. Emergency combustion turbines may be operated for the purpose of maintenance checks and readiness testing, provided that the tests are required by the manufacturer, the vendor, or the insurance company associated with the turbine. Required testing of such units should be minimized, but there is no time limit on the use of emergency combustion turbines.

*Excess emissions* means a specified averaging period over which either the $NO_X$ emissions are higher than the applicable emission limit in § 60.4320; the total sulfur content of the fuel being combusted in the affected facility exceeds the limit specified in § 60.4330; or the recorded value of a particular monitored parameter is outside the acceptable range specified in the parameter monitoring plan for the affected unit.

*Gross useful output* means the gross useful work performed by the combustion turbine. For units using the mechanical energy directly or generating only electricity, the gross useful work performed is the gross electrical or mechanical output from the turbine/generator set. For combined heat and power units, the gross useful work performed is the gross electrical or mechanical output plus the useful thermal output (*i.e.*, thermal energy delivered to a process).

*Heat recovery steam generating unit* means a unit where the hot exhaust gases from the combustion turbine are routed in order to extract heat from the gases and generate steam, for use in a steam turbine or other device that utilizes steam. Heat recovery steam generating units can be used with or without duct burners.

*ISO standard conditions* means 288 degrees Kelvin, 60 percent relative humidity and 101.3 kilopascals pressure.

*Lean premix stationary combustion turbine* means any stationary combustion turbine where the air and fuel are thoroughly mixed to form a lean mixture before delivery to the combustor. Mixing may occur before or in the combustion chamber. A unit which is capable of operating in both lean premix and diffusion flame modes is considered a lean premix stationary combustion turbine when it is in the lean premix mode, and it is considered a diffusion flame stationary combustion turbine when it is in the diffusion flame mode.

*Natural gas* means a naturally occurring fluid mixture of hydrocarbons (*e.g.*, methane, ethane, or propane) produced in geological formations beneath the Earth's surface that maintains a gaseous state at standard atmospheric temperature and pressure under ordinary conditions. Natural gas contains 20.0 grains or less of total sulfur per 100 standard cubic feet. Equivalents of this in other units are as follows: 0.068 weight percent total sulfur, 680 ppmw total sulfur, and 338 ppmv at 20 degrees Celsius total sulfur. Additionally, natural gas must either be composed of at least 70 percent methane by volume or have a gross calorific value between 950 and 1100 British thermal units (Btu) per standard cubic foot. Natural gas does not include the following gaseous fuels: landfill gas, digester gas, refinery gas, sour gas, blast furnace gas, coal-derived gas, producer gas, coke oven gas, or any gaseous fuel produced in a process which might result in highly variable sulfur content or heating value. Pipeline natural gas contains 0.5 grains or less of total sulfur per 100 standard cubic feet. Additionally, pipeline natural gas must either be composed of at least 70 percent methane by volume or have a gross calorific value between 950 Btu and 1100 Btu per standard cubic foot.

*Peak load* means 100 percent of the manufacturer's design capacity of the combustion turbine at ISO standard conditions.

*Regenerative cycle combustion turbine* means any stationary combustion turbine which recovers heat from the combustion turbine exhaust gases to preheat the inlet combustion air to the combustion turbine.

*Simple cycle combustion turbine* means any stationary combustion turbine which does not recover heat from the combustion turbine exhaust gases to preheat the inlet combustion air to the combustion turbine, or which does not recover heat from the combustion turbine exhaust gases to heat water or generate steam.

*Stationary combustion turbine* means any simple cycle combustion turbine, regenerative cycle combustion turbine or a combined cycle steam/electric generating system that is not self-propelled. It may, however, be mounted on a vehicle for portability.

*Unit operating day* means a 24-hour period between 12:00 midnight and the following midnight during which any fuel is combusted at any time in the unit. It is not necessary for fuel to be combusted continuously for the entire 24-hour period.

*Unit operating hour* means a clock hour during which any fuel is combusted in the affected unit. If the unit combusts fuel for the entire clock hour, it is considered to be a full unit operating hour. If the unit combusts fuel for only part of the clock hour, it is considered to be a partial unit operating hour.

*Useful thermal output* means the thermal energy made available for use in any industrial or commercial process, or used in any heating or cooling application, *i.e.*, total thermal energy made available for processes and applications other than electrical generation. Thermal output for this subpart means the energy in recovered thermal output measured against the energy in the thermal output at 15 degrees Celsius and 101.325 kiloPascals (kPa) of pressure.

**Table to Subpart KKKK of Part 60**

TABLE 1 TO SUBPART KKKK OF PART 60.—NITROGEN OXIDE EMISSION LIMITS FOR NEW STATIONARY COMBUSTION TURBINES

| For the following stationary combustion turbines: | With a peak load capacity of: | You must meet the following nitrogen oxides limit, given in ng/J of useful output: |
|---|---|---|
| Natural gas-fired turbine | < 30 MW | 132 (1.0 lb/MW-hr) |
| Natural gas-fired turbine | ≥ 30 MW | 50 (0.39 lb/MW-hr) |
| Distillate oil and fuels other than natural gas-fired turbine | < 30 MW | 234 (1.9 lb/MW-hr) |
| Distillate oil and fuels other than natural gas-fired turbine | ≥ 30 MW | 146 (1.2 lb/MW-hr) |

[FR Doc. 05–3000 Filed 2–17–05; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 05–289; MB Docket No. 05–35; RM–11134]**

### Radio Broadcasting Services; Charlotte and Jackson, MI

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed by Rubber City Radio Group (''Petitioner''), licensee of Station WJXQ(FM), Channel 291B, Jackson, Michigan. Petitioner requests that the Commission reallot Channel 291B from Jackson to Charlotte, Michigan. This request is filed to maintain a first local service at Charlotte, Michigan. If this petition is granted it will eliminate a potential conflict between two licensees in another rulemaking proceeding (MB Docket No. 03–222) who propose to move from Charlotte to two other cities in Michigan. The two proposals in that proceeding are not in technical conflict, but would conflict with the Commission's policy of maintaining local service in a community that might otherwise lose local transmission service. Petitioner will retain the same transmitter site when its station is reallotted to Charlotte. The coordinates for Channel 291B at Charlotte, Michigan are 42–23–28 NL and 84–37–22 WL, with a site restriction of 30 kilometers (16.1 miles) southeast of Charlotte.

**DATES:** Comments must be filed on or before March 28, 2005, and reply comments on or before April 12, 2005.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve Petitioner's counsel, as follows: Mark N. Lipp, Esq. and Scott Woodworth, Esq., Vinson & Elkins LLP; 1455 Pennsylvania Ave., NW., Suite 600; Washington, DC 20004–1008.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 05–35, adopted February 2, 2005, and released February 4, 2005. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *See* 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

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

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 291B from Jackson and adding Channel 291B to Charlotte.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 05–3214 Filed 2–17–05; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 05–290; MB Docket No. 05–32; RM–10988]**

### Radio Broadcasting Services; Homerville, GA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rulemaking filed by Association for the Studies of American Heritage Corporation, requesting the allotment of Channel 246A at Homerville, Georgia, as the community's second local aural transmission service. Petitioner's proposal also requires the reclassification of Station WKQL(FM), Jacksonville, Florida, Channel 245C to specify operation on Channel 245C0 pursuant to the reclassification procedures adopted by the Commission. *See* Second Report and Order in MM Docket 98–93 (1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules) 65 FR 79773 (2000). An Order to Show Cause was issued to Cox Radio, Inc., licensee of Station WKQL(FM) (RM–10988) Channel 246A can be allotted at Homerville, Georgia, at Petitioner's requested site 11.1 kilometers (6.9 miles) northwest of the community at coordinates 31–07–16 NL and 82–48–51 WL .

**DATES:** Comments must be filed on or before March 28, 2005, and reply comments on or before April 12, 2005. Any counterproposal filed in this proceeding need only protect Station WKQL(FM), Jacksonville, Florida, as a Class C0 allotment.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, and Station WKQL as follows: Clyde Scott, Jr., President, Association for the Studies of American Heritage, 293 JC Saunders Road, Moultrie, Georgia 31768; WKQL Radio, Cox Radio, Inc., 8000 Belfort Parkway, Jacksonville, Florida 32256; and Kevin F. Reed, Esq., Dow Lohnes & Albertson, PLLC, Suite 800, 1200 New Hampshire Ave., NW., Washington, DC 20036, (Counsel to Cox Radio, Inc.).

**FOR FURTHER INFORMATION CONTACT:** Victoria McCauley, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 05–32, adopted February 2, 2005, and released February 4, 2005. 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 Twelfth 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, or via e-mail *qualexint@aol.com*. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

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

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Georgia is amended by adding Channel 246A at Homerville.

3. Section 73.202(b), the Table of FM Allotments under Florida is amended by removing Channel 245C and adding Channel 245C0 at Jacksonville.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 05–3213 Filed 2–17–05; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 05–308; MM Docket No. 01–86; RM–10079]**

### Radio Broadcasting Services; Arapahoe and Lost Cabin, WY

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; dismissal.

**SUMMARY:** At the request of Idaho Broadcasting Consortium, Inc., the Audio Division dismisses the petition for rule making proposing the reallotment of Channel 256C from Lost Cabin to Arapahoe, Wyoming, and the modification of Station KWYW(FM)'s license accordingly. *See* 66 FR 20224, April 20, 2001. A showing of continuing interest is required before a channel will be allotted. It is the Commission's policy to refrain from making an allotment to a community absent an expression of interest. Therefore, we will grant the request to dismiss the instant proposal.

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 01–86, adopted February 2, 2005 , and released February 4, 2005. The full text of this

Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the proposed rule was dismissed.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 05–3212 Filed 2–17–05; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 05–297; MB Docket No. 05–33; RM–10756]**

### Radio Broadcasting Services; Cuney, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rulemaking filed by Charles Crawford requesting the allotment of Channel 259A at Cuney, Texas. The coordinates for Channel 259A at Cuney, Texas, are 31–58–52 and 95–22–24. There is a site restriction 6.8 kilometers (4.3 miles) southeast of the community.

**DATES:** Comments must be filed on or before March 28, 2005, and reply comments on or before April 12, 2005.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Charles Crawford, 4553 Bordeaux Avenue, Dallas, Texas 75205 and Gene A. Bechtel, Law Office of Gene Bechtel, 1050 17th Street, NW., Suite 600, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 05–33, adopted February 2, 2005, and released February 4, 2005. 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 Twelfth 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, or via e-mail *qualexint@aol.com*. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

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

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Cuney, Channel 259A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 05–3211 Filed 2–17–05; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 05–293; MB Docket No. 04–25; RM–10849]**

### Radio Broadcasting Services; Laughlin, Nevada and Meadview, AZ

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule, denial.

**SUMMARY:** This document denies a petition for rule making filed by Desert Sky Media, LLC, licensee of Station KVGS(FM), Laughlin, Nevada. The petition's proposal to reallot Channel 300C from Laughlin to Meadview, Arizona, as the community's first local transmission service, would remove the sole local aural transmission service from Laughlin and is thus denied. Hodson Broadcasting's comments in opposition are dismissed as moot.

**DATES:** Effective upon publication in the **Federal Register**.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Lee J. Peltzman, Esq., Shainis & Peltzman, Chartered, 1850 M Street, NW., Suite 240, Washington, DC 20036; Mark N. Lipp, Esq., J. Thomas Nolan, Esq., Vinson & Elkins, LLP, 1455 Pennsylvania Avenue, NW., Suite 600, Washington, DC 20004–1008

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 04–25, adopted February 2, 2005, and released February 4, 2005. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402,

Washington, DC, 20054, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this *Report and Order* to GAO, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because this proposed rule was denied.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 05–3210 Filed 2–17–05; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 05–291; MB Docket No. 05–36; RM–11030; MB Docket No. 05–37; RM–10790]**

### Radio Broadcasting Services; Lovelady, TX, Lufkin, TX and Oil City, LA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments two petitions for rulemaking filed by Charles Crawford requesting the allotment of Channel 288A at Lovelady, Texas, as its second local aural transmission service and Channel 285A at Oil City, Louisiana, as its second local aural transmission service. The proposals also requires the reclassification of Station KYKS(FM), Lufkin, Texas, Channel 286C to specify operation on Channel 286C0 pursuant to the reclassification procedures adopted by the Commission. *See Second Report and Order* in MM Docket 98–93, *1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules*, 65 FR 79773 (2000). An Order to Show Cause was issued to Capstar TX Limited Partnership, licensee of Station KYKS. Channel 288A can be allotted at Lovelady in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.5 kilometers (7.8 miles) southwest to avoid short-spacing to the license site of Station KTCJ, Channel 290C3, Centerville, Texas at reference coordinates 31–03–14 NL and 95–32–34 WL. Channel 285A can be allotted at Oil City in compliance with the Commission's minimum distance separation requirements with a site restriction of 15.6 kilometers (9.7 miles) west to avoid short-spacing to the license site of Station KORI, Channel 284C3, Mansfield, Louisiana.

**DATES:** Comments must be filed on or before March 28, 2005, and reply comments on or before April 12, 2005. Any counterproposal filed in this proceeding need only protect Station KYKS, Lufkin, as a Class C0 allotment.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Charles Crawford, 4553 Bordeaux Avenue, Dallas, Texas 75205.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 05–36, 05–37, adopted February 2, 2005, and released February 4, 2005. 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 Twelfth 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, or via e-mail *qualexint@aol.com*. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Louisiana is amended by adding Channel 285A at Oil City.

3. Section 73.202(b), the Table of FM Allotments under Texas is amended by adding Channel 288A at Lovelady, and by removing Channel 286C and by adding Channel 286C0 at Lufkin.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 05–3209 Filed 2–17–05; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 05–309; MB Docket No. 05–45, RM–11147]**

### Radio Broadcasting Services; Atwood, KS, Burlington and Flagler, CO, and McCook, NE

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Audio Division requests comments on a petition filed by Border Alliance of Broadcasters proposing the allotment of Channel 280C0 at Atwood, Kansas, as the community's first local aural transmission service. To accommodate the allotment, petitioner also proposes (1) The substitution of Channel 292C2 for vacant Channel 280C2 at McCook, Nebraska, and the modification of the reference coordinates; (2) the substitution of Channel 282C1 for Channel 281C1 at Burlington, Colorado, and the modification of Station KNAB–FM's license accordingly; and (3) the substitution of Channel 261C3 for vacant Channel 283C3 at Flagler, Colorado. Channel 280C0 can be allotted to Atwood in compliance with the Commission's minimum distance separation requirements with a site restriction of 33.9 kilometers (21.1 miles) east of the community. The coordinates for Channel 280C0 at

Atwood are 39–49–38 North Latitude and 100–38–48 West Longitude. *See* **SUPPLEMENTARY INFORMATION**, *infra*.

**DATES:** Comments must be filed on or before March 31, 2005, reply comments on or before April 15, 2005.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dan J. Alpert, Esq., 2120 N. 21st Road, Arlington, Virginia 22201 (Counsel for Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 05–45, adopted February 2, 2005, and released February 7, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054, telephone 1–800–378–3160 or *www.BCPIWEB.com*. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

To accommodate the allotment, Channel 282C1 can be substituted at Burlington at Station KNAB–FM presently licensed site. The coordinates for Channel 282C1 at Burlington are 39–17–41 North Latitude and 102–15–37 West Longitude. Channel 292C2 can be substituted at McCook with a site restriction of 20.5 kilometers (12.7 miles) southeast at the requested modified site. The coordinates for Channel 292C2 at McCook are 40–03–34 North Latitude and 100–28–21 West Longitude. Channel 261C3 can be substituted at Flagler with a site restriction of 9.7 kilometers (6.0 miles) east of the community. The coordinates for Channel 261C3 at Flagler are 39–18–00 North Latitude and 102–57–16 West Longitude.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by removing Channel 281C1 and adding Channel 282C1 at Burlington; and by removing Channel 283C3 and adding Channel 261C3 at Flagler.

3. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Atwood, Channel 280C0.

4. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 280C2 and adding Channel 292C2 at McCook.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 05–3208 Filed 2–17–05; 8:45 am]

BILLING CODE 6712–01–P

# Notices

Federal Register
Vol. 70, No. 33
Friday, February 18, 2005

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Information Collection; Request for Comments; Social Dimensions of Fuel Reduction Treatments in Southern Appalachian Forests

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on a new information collection, Social Dimensions of Fuel Reduction Treatments in Southern Appalachian Forests.

**DATES:** Comments must be received in writing on or before April 19, 2005 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Comments concerning this notice should be addressed to Robert D. Bixler, Associate Professor, Department of Parks, Recreation and Tourism Management, Clemson University, Clemson, SC 29634–0735.

Comments also may be submitted via facsimile to (864) 656–2226 or by e-mail to: *twaldrop@fs.fed.us*.

The public may inspect comments received at 263 Lehotsky Hall, Clemson University, Clemson, South Carolina, during normal business hours. Visitors are encouraged to call ahead to (864) 656–3400 to facilitate entry to the building.

**FOR FURTHER INFORMATION CONTACT:** Robert D. Bixler, Associate Professor, Department of Parks, Recreation and Tourism Management, (864) 656–4849. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* Social Dimensions of Fuel Reduction Treatments in Southern Appalachian Forests.

*OMB Number:* 0596–New.

*Expiration Date of Approval:* New.

*Type of Request:* New.

*Abstract:* The Forest and Rangeland Renewable Resources Research Act of 1978, as amended, authorizes the Forest Service to collect information to help identify the range of knowledge, attitudes and values interested publics hold toward fuel-load reduction and resulting aesthetic and ecological changes. Fuel loads in the forests of the southern Appalachian Mountains pose significant risk of wildfire. Additionally in the last 20 years, numerous questions have been raised about the ecologically- and historically-appropriate vegetation patterns that should be present in these forests. Along with ecological research on the effects of silvicultural treatments to reduce fuel loads and restore historic vegetation patterns, there is a need to understand and describe how interested publics will evaluate these changes in forest ecology, should they occur. Forest resource managers need to consider human interests along with ecological concerns.

Data for this study will be collected through mail-back questionnaires. Faculty within the Department of Parks, Recreation and Tourism at Clemson University will supervise all steps of the study. The mail-back questionnaire will contain measures of perceptions of photographic images of areas burned as part of prescribed fires and mechanical thinning. Additional written questions will measure participation rates in different wildland recreation activities, perceptions of land management agencies, and desirability of a variety of ecological changes expected from fuel load reduction, knowledge of fuel reduction techniques, and knowledge of historic vegetation patterns of the southern Appalachian Mountains. Routine demographic data will also be collected.

The sample will be a purposive sample, designed to maximize the variety of interested publics who respond. A mailing will be made to residents of counties in North Carolina and Virginia where at least 35 percent of the area in the counties is USDA Forest Service land. Additional samples will be collected in forest recreation areas to include a variety of recreationists.

The results will consist of groupings of respondents based on differing perceptions, attitudes, and knowledge about prescribed fire. Cluster analysis will be conducted by the faculty at Clemson University who designed the study. The results will provide forest scientists and land managers information about what values and concerns are present among interested publics. These findings will help managers identify issues that require education and communication and topics related to the social values of forests affected by prescribed fire that will require additional in-depth research. Without this initial study in the southern Appalachian Mountains, managers will be less likely to accommodate social needs related to these forests and more likely to mis-communicate with interested publics.

*Estimate of Annual Burden:* 30 minutes.

*Type of Respondents:* Landowners near USDA Forest Service land within the Southern Appalachian Mountains and wildland recreationists using these same areas.

*Estimated Annual Number of Respondents:* 400.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 200 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the

submission request toward Office of Management and Budget approval.

Dated: February 8, 2005.

**Bov B. Eav,**

*Associate Deputy Chief for Research & Development.*

[FR Doc. 05–3121 Filed 2–17–05; 8:45 am]

BILLING CODE 3410–11–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Information Collection; Request for Comments; Public Support for Fuel Reduction Policies: Multimedia Versus Printed Materials

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the proposed new information collection, Public Support for Fuel Reduction Policies: Multimedia vs. Printed Materials.

**DATES:** Comments must be received in writing on or before April 19, 2005 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Comments concerning this noticé should be addressed to Armando Gonzalez-Caban, Pacific Southwest Research Station, Forest Service, USDA, 4955 Canyon Crest Drive, Riverside, CA 92507.

Comments also may be submitted via facsimile to (951) 680–1501, or by e-mail to *agonzalezcaban@fs.fed.us*.

The public may inspect comments received at Pacific Southwest Research Station, Building One reception area, Forest Service, USDA, 4955 Canyon Crest Drive, Riverside, California, during normal business hours. Visitors are encouraged to call ahead to (951) 680–1500 to facilitate entry to the building.

**FOR FURTHER INORMATION CONTACT:** Armando Gonzalez-Caban, Pacific Southwest Research Station, USDA Forest Service, (951) 680–1525. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* Public Support for Fuel Reduction Policies: Multimedia versus Printed Materials.

*OMB Number:* 0596–New.

*Expiration date of approval:* N/A.

*Type of request:* New.

*Abstract:* This information collection is being undertaken to solicit information on public support of two fuel reduction programs: prescribed burning and mechanical treatment. Researchers will evaluate the responses of California and Montana residents to different scenarios related to fire hazard reduction programs, determine how effective residents think the programs are, and calculate how much residents would be willing to pay to implement the alternatives presented to them.

The results of the survey will allow researchers to provide better information to natural resource, forest, and fire managers when they are contemplating the kind and type of fire hazard reduction program to implement to achieve forestland management planning objectives. In addition, the survey will assist forest and fire managers in developing educational and outreach material for forest homeowners, schools, public meetings, and State and Private Forestry extension programs.

To gather the information, a stratified random sample of California and Montana residents will be contacted by telephone through a random-digit dialing process. Those contacts who agree to participate in the study will be asked an introductory set of questions to determine their pre-existing knowledge of fuels reduction treatments. The respondents will be informed that a more in-depth, self-administered video questionnaire will be mailed to them. Upon receipt of the video, participants will also be asked to watch the videotape; answer questions on the attached answer sheet; and return the answer sheet to the Forest Service researchers in a postage-paid, pre-addressed envelope included with the initial mailing. After two weeks, a reminder post card will be sent to all participants who have not responded. A week later, a second, duplicate videotape will be sent to all participants who have not responded. After resending the duplicate video, no additional contact will take place with participants.

The information will be collected by a university research survey center and will be analyzed by a Forest Service researcher and a researcher at a cooperating university who are experienced in applied economic nonmarket valuation research and survey research.

At present the Forest Service, Bureau of Land Management, Bureau of Indian Affairs, National Park Service, Fish and Wildlife Service, and many State agencies with fire protection responsibilities are planning to embark on an ambitious and costly fuels reduction program for fire risk reduction without a clear understanding of the public's opinion on which treatments are most effective or even desirable. Information collected in this research will help natural resource and fire managers to better understand the public's opinions on fuels reduction activities and what type of media could be more effective in conveying information to the public.

*Estimate of Annual Burden:* 30 minutes.

*Type of Respondents:* Stratified random sample of heads of households.

*Estimated Annual Number of Respondents:* 1000.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 500 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the function of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: February 8, 2005.

**Bov B. Eav,**

*Associate Deputy Chief for Research & Development.*

[FR Doc. 05–3122 Filed 2–17–05; 8:45 am]

BILLING CODE 3410–11–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Information Collection; Request for Comments; Hispanic Perceptions and Uses of the Urban Forest

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations regarding the new information collection entitled, ''Hispanic Perceptions and Uses of the Urban Forest.''

**DATES:** Comments must be received in writing on or before April 19, 2005, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Comments concerning this notice should be addressed to Cassandra Johnson, Forestry Sciences Laboratory, Forest Service, USDA, 320 Green St., Athens, GA 30602–2044.

Comments also may be submitted to Cassandra Johnson via facsimile to (706) 559–4266 or by e-mail to *cjohnson09@fs.fed.us.*

The public may inspect comments received at the Forestry Sciences Laboratory, Forest Service, USDA, 320 Green St., Athens, Georgia, during normal business hours. Visitors are encouraged to call ahead to (706) 559–4222 to facilitate entry to the building.

**FOR FURTHER INFORMATION CONTACT:** Cassandra Johnson, Forestry Sciences Laboratory, at (706) 559–4270. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* Hispanic Perceptions and Uses of the Urban Forest.

*OMB Number:* 0596–New.

*Expiration Date of Approval:* N/A.

*Type of Request:* New.

*Abstract:* Within the past 20 years, Hispanics have either immigrated or migrated to the southeastern United States, excluding Florida, in unprecedented numbers. In the 10-year period from 1990 to 2000, the Hispanic population of Hall County in northeast Georgia increased by almost 5 times, from 4 percent in 1990 to 19.6 percent in 2000. Recent studies have examined Hispanic employment, housing, and education in parts of the South where Hispanics are relatively new arrivals; however, there are virtually no investigations of Hispanic interactions with urban green spaces in this area.

Hispanic use of outdoor environments in the South is an important consideration for the Forest Service because of the impact of a growing population on the region's finite natural resources. Urbanization, propelled by an increase in the population, is one of the most significant contributors to forest fragmentation in the South. Relatively little is known about how Hispanics, one of the largest growing groups, perceive and use urban and community forests.

Federal statutes which authorize this information collection include the Food, Agriculture, Conservation, and Trade Act of 1990; Executive Order 12898 (1994) relating to environmental justice; and the National Environmental Policy Act of 1969.

The study area for this information collection is located within the city of Gainesville, Georgia. Gainesville has a population of approximately 25,000 and is located in Hall County with a population of 156,000 in northeast Georgia. In 2000, Hispanics accounted for about 20 percent of the Hall County population and 33 percent of Gainesville's population. The population of interest for this information collection is Hispanic residents who live within Census Tract 11, located within the city of Gainesville. This area encompasses 3.70 square miles. Residential areas in Census Tract 11 include apartment complexes and single family homes.

The total population for Census Tract 11 is 9,170, of which 6,307 are Hispanic. This census tract was chosen because of the high proportion (68.8 percent) of Hispanic residents. The proportion of Hispanics over 18 in the census tract is 64 percent. Fifty-eight percent of the residents are foreign-born. The majority of the foreign-born population within this census tract came to the United States between 1990 and 2000. Census Tract 11 contains 5 census Block Groups. The proportion of Hispanics in each of these block groups ranges from 35 to 84 percent.

This study will provide both basic and applied research for the Forest Service's Urban and Community Forestry program. Results will enable the Forest Service to better understand the types of tree coverage and green spaces preferred by recent Hispanic immigrants and migrants to Gainesville, Georgia. Little information exists on the environmental preferences of racial and ethnic minorities in urban areas regarding preferences for tree coverage, layout, and design. Urban foresters have made specific requests for information about urban, ethnic populations in Georgia and how urban forests are perceived.

The proposed study relates to the Forest Service's national Urban and Community Forestry program (U&CF) which focuses on community involvement with the urban forest. The U&CF program provides funding for community cost-share grants, state technical assistance, the National Urban and Community Forest grants (NUCFAC), and Tree City USA (Pub. L. 101–624, Title XII, Section 1219; Walker, 2003). The Forest Service recognizes that research is an important component of urban and community forestry. Research focusing on public perception and use of urban forests provides a vital link between urban constituents and communities and the Forest Service. Research questions focus on:

1. The perceptions Hispanics have of trees and other green space outside their homes;
2. The kinds of trees Hispanics prefer, such as oak, pine, sycamore;
3. The ways Hispanics use yard space; and
4. The perceptions Hispanics have of trees and other green space in their neighborhoods.

Urban and community forest advocates nationwide have established the following goals with respect to increasing involvement of ethnic and racial minorities and underserved populations in Urban and Community Forestry programs:

- Educate minority sectors in the care and stewardship of urban forests where they live, work, and play.
- Create a strong network of minority communities, non-profit organizations, Federal agencies, and private industries to better target the needs of these communities.
- Provide educational and career opportunity information to low income and chronically disadvantaged groups in the area of urban and community forestry.
- Discuss and document strategies by which urban and community forestry programs can increase the quality of life in minority communities.

The first phase of the data collection will involve interviews with a key community contact from the Hispanic community in Gainesville. A graduate student from the University of Georgia Department of Geography will work with Forest Service research personnel to interview this individual. The key contact will be familiar with the lifestyle, socioeconomic, employment, and educational status of Hispanics in Gainesville.

The second phase of the data collection will involve a random sample of Hispanic residents from Census Tract 11. This data collection consists of one-on-one, face-to-face interviews with randomly selected Hispanic residents from Census Tract 11. Residents 18 and over will be asked to respond to the survey. The interviews will take place at the respondent's home or at a location

agreed upon by the interviewer and the respondent.

A list of potential respondent addresses and telephone numbers will be purchased from Survey Sampling, Inc. located in Fairfield, Connecticut. The key community contact will publicize the information collection through his or her contacts in the community and via word of mouth.

Interviewers will send letters to potential respondents explaining the survey and the dates on which the interviewer will conduct field interviews. Follow-up phone calls will be made to help ensure potential respondents are aware of the information collection and the dates on which the interviewer will conduct the survey. The survey instrument will be translated into Spanish. Respondents will have a choice of responding in Spanish or English. The graduate student interviewer is fluent in both English and Spanish.

The number of respondents comprising the sample size is based on an estimate of the Hispanic population in Gainesville. Based on census figures, we know that approximately 64 percent of the population is comprised of Hispanics 18 years of age or older. The sample size calculation assumes a 5 percent margin of error and the 95 percent confidence level. Sample size is based on the following equation:

$$n = 4P*Q/.0025$$

Where n = sample size, P = proportion of population with the characteristic, *i.e.*, percent Hispanic; Q = proportion of population without the characteristic, *i.e.*, not Hispanic. The sample size is calculated at 368 (n = 4*.64*.36/.0025). The resulting calculation is rounded down to 300 because of logistical limitations associated with collecting door-to-door interviews.

Forest Service managers would use this information to develop outreach strategies designed to encourage greater Hispanic participation in urban forest stewardship. Specifically, this involves developing programs to promote volunteerism and community participation. In cooperation with state forestry agencies and municipal parks agencies, the Forest Service will provide technical advice to communities to ensure that urban green projects are environmentally feasible.

Tabulation and analysis of the quantitative data will be performed by researchers with the Forest Service in Athens, Georgia, and the University of Georgia geography department. Statistical analyses include means difference tests, Chi-square tests, and multivariate regression. Journal articles will be drafted to report the more significant methodological or theoretical findings.

If the information proposed herein is not collected, data concerning Hispanic perception and use of the urban forest will not be available to the Forest Service. The resources specified in this proposal are not federally managed. However, federal resources and programs provide partial support for their continuance.

The agency is committed to encouraging more participation in tree stewardship by urban communities, including minority and ethnically diverse populations. In order to achieve this goal, the agency must have better information on how specific groups interact with the urban forest.

*Estimate of Annual Burden:* 15 minutes.

*Type of Respondents:* Hispanic residents in Gainesville, Georgia.

*Estimated Annual Number of Respondents:* 300.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 75 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Use of Comments**

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission requesting Office of Management and Budget approval.

Dated: January 25, 2005.

**Ann M. Bartuska,**

*Deputy Chief for Research & Development.*

[FR Doc. 05–3123 Filed 2–17–05; 8:45 am]

BILLING CODE 3410–11–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Eastern Idaho Resource Advisory Committee Caribou-Targhee National Forest, Idaho Falls, ID

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Caribou-Targhee National Forests' Eastern Idaho Resource Advisory Committee will meet Thursday, March 29, 2005 in Idaho Falls for a business meeting. The meeting is open to the public.

**DATES:** The business meeting will be held on March 29, 2005 from 10 a.m. to 2 p.m.

**ADDRESSES:** The meeting location is the Caribou-Targhee National Forest Headquarters Office, 1405 Hollipark Drive, Idaho Falls, Idaho 83402.

**FOR FURTHER INFORMATION CONTACT:** Jerry Reese, Caribou-Targhee National Forest Supervisor and Designated Federal Officer, at (208) 524–7500.

**SUPPLEMENTARY INFORMATION:** The business meeting on March 29, 2005, begins at 10 a.m., at the Caribou-Targhee National Forest Headquarters Office, 1405 Hollipark Drive, Idaho Falls, Idaho. Agenda topics will include listening to presentations from those projects who have been invited back for the second round of project proposals for the 2005 fiscal year and making a decision on projects to fund.

Dated: February 11, 2005.

**Jerry B. Reese,**

*Caribou-Targhee Forest Supervisor.*

[FR Doc. 05–3135 Filed 2–17–05; 8:45 am]

BILLING CODE 3410–11–M

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions

**AGENCY:** Committee for Purchase from People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to procurement list.

**SUMMARY:** The Committee is proposing to add to the Procurement List products to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** March 20, 2005.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

**FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT:** Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov*.

**SUPPLEMENTARY INFORMATION:** This requirement was originally added to the Procurement List on April 21, 2000 (65 FR 21396) as Customization and Distribution of Navy Recruiting Promotional Merchandise,'' a service requirement covering the entire promotional material needs of the Commander, Naval Recruiting Command. In 2004, the Navy advised the Committee that its requirement for such items will be purchased as products in the future, and requested that the Committee initiate the appropriate administrative process to maintain the entire requirement on the Procurement List. This requirement, in its current form, consists of the items specifically listed below. As the Navy's entire requirement for recruiting and promotional materials remains on the Procurement List, any changes to the list below will be considered replacement items under the Committee's regulations at 41 CFR 51–6.13.

This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions. If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product or service will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

## Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for addition to the Procurement List. Comments on this certification are invited.

Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

## End of Certification

The following products are proposed for addition to Procurement List for production by the nonprofit agencies listed:

*Products*

*Product*: Navy Promotional Recruiting Materials
*Product/NSN*: Ball Caps 8405–00–WIM–0175
*Product/NSN*: Ball Caps 8405–00–WIM–0176
*Product/NSN*: Ball Caps 8405–00–WIM–0177
*Product/NSN*: Beverage Can Cooler 7830–00–WIM–0010
*Product/NSN*: Beverage Can Cooler 7830–00–WIM–0012
*Product/NSN*: Coins 8145–00–NIB–0013
*Product/NSN*: Coins 8145–00–NIB–0014
*Product/NSN*: Flashlight 7830–00–WIM–0008
*Product/NSN*: Flashlight 7830–00–WIM–0011
*Product/NSN*: Flyer 7830–00–NIB–0001
*Product/NSN*: Golf Balls 7830–00–NIB–0007
*Product/NSN*: Lanyards 5340–00–WIM–0076
*Product/NSN*: Lanyards 5340–00–WIM–0077
*Product/NSN*: Lanyards 5340–00–WIM–0078
*Product/NSN*: Lanyards 5340–00–WIM–0079
*Product/NSN*: Lapel Pin 8145–00–WIM–0101
*Product/NSN*: Luggage Tag 9905–00–NIB–0088
*Product/NSN*: Luggage Tag 9905–00–NIB–0089
*Product/NSN*: Mini Pouch w/Ear Plugs 8145–00–WIM–0025
*Product/NSN*: Mini Pouch w/Ear Plugs 8145–00–WIM–0026
*Product/NSN*: Mouse Pad, Computer 7045–00–NIB–0170
*Product/NSN*: Pack, Personal Gear 8465–00–NIB–0057
*Product/NSN*: Pen, Cushion Grip, Transparent 7520–00–WIM–1545
*Product/NSN:* Pen, Cushion Grip, Transparent 7520–00–WIM–1550
*Product/NSN:* Pen, Executive, Twist Retractable 7520–00–WIM–1471
*Product/NSN:* Pen, Executive, Twist Retractable 7520–00–WIM–1472
*Product/NSN:* Pencil, Metallic Foil, Imprint, Navy 7510–00–NIB–0525
*Product/NSN:* Planner 7510–00–WIM–0552
*Product/NSN:* Polo Shirts 8415–00–NIB–0159
*Product/NSN:* Polo Shirts 8415–00–NIB–0160
*Product/NSN:* Polo Shirts 8415–00–NIB–0161
*Product/NSN:* Polo Shirts 8415–00–NIB–0162
*Product/NSN:* Polo Shirts 8415–00–WIM–0170
*Product/NSN:* Polo Shirts 8415–00–WIM–0171
*Product/NSN:* Retractable Badge Holder 8145–00–WIM–0020
*Product/NSN:* Rulers 9905–00–WIM–0090
*Product/NSN:* Rulers 9905–00–WIM–0095
*Product/NSN:* Slingbag 8465–00–WIM–0070
*Product/NSN:* Stress Baseball 7830–00–NIB–0006
*Product/NSN:* Stress Basketball 7830–00–NIB–0005
*Product/NSN:* Stress Football 7830–00–NIB–0002
*Product/NSN:* Sunglasses 8465–00–NIB–0067
*Product/NSN:* T-Shirts 8415–00–NIB–0139
*Product/NSN:* T-Shirts 8415–00–NIB–0140
*Product/NSN:* T-Shirts 8415–00–NIB–0157
*Product/NSN:* T-Shirts 8415–00–NIB–0158
*Product/NSN:* T–Shirts 8415–00–WIM–0165
*Product/NSN:* T–Shirts 8415–00–WIM–0166
*Product/NSN:* T–Shirts 8415–00–WIM–0167
*Product/NSN:* T–Shirts 8415–00–WIM–0168
*Product/NSN:* Table Cloth 8460–00–WIM–0004
*Product/NSN:* Temporary Tattoos 9905–00–WIM–0091
*Product/NSN:* Temporary Tattoos 9905–00–WIM–0092
*Product/NSN:* Travel mug 7350–00–NIB–0147
*Product/NSN:* Travel mug 7350–00–WIM–0149
*Product/NSN:* Travel mug 7350–00–WIM–0150
*Product/NSN:* Travel mug 7350–00–WIM–0151
*Product/NSN:* Tumbler 8125–00–NIB–0007
*Product/NSN:* Water Bottle 8125–00–NIB–0006
*Product/NSN:* Zipper Jacket and Jogging Pants 8415–00–NIB–0141
*Product/NSN:* Zipper Jacket and Jogging Pants 8415–00–NIB–0142
*Product/NSN:* Zipper Jacket and Jogging Pants 8415–00–NIB–0143
*Product/NSN:* Zipper Jacket and Jogging Pants 8415–00–NIB–0144
*NPA:* Industries for the Blind, Inc., Milwaukee, Wisconsin.
*Contracting Activity:* Fleet and Industrial Supply Center, Philadelphia,

Pennsylvania.

**Sheryl D. Kennerly,**

*Director, Information Management.*

[FR Doc. 05–3173 Filed 2–17–05; 8:45 am]

BILLING CODE 6353–01–P

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Additions and Deletion

**AGENCY:** Committee for Purchase from People Who Are Blind or Severely Disabled.

**ACTION:** Additions to and deletions from Procurement List.

**SUMMARY:** This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a service previously furnished by such agencies.

**EFFECTIVE DATE:** March 20, 2005.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

**FOR FURTHER INFORMATION CONTACT:** Sheryl D. Kennerly, telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov*.

**SUPPLEMENTARY INFORMATION:**

### Additions

On December 17, 2004, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (69 FR 75507) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

*Regulatory Flexibility Act Certification*

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

*End of Certification*

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Custodial Services, Charles E. Bennett Federal Building, 400 W. Bay Street, Jacksonville, Florida.
NPA: CCAR Services, Inc., Green Cove Springs, Florida.
Contracting Activity: GSA, Property Management Center (4PMB), Atlanta, Georgia.

Service Type/Location: Facilities Maintenance, Buckley Annex and Building 667, Buckley AFB, Colorado.
NPA: Professional Contract Services, Inc., Austin, Texas.
Contracting Activity: 460th Air Base Wing, Buckley AFB, Colorado.

Service Type/Location: Water Blasting, Various U.S Military Locations—Guam, Marianas, Guam.
NPA: Able Industries of the Pacific, Tamuning, Guam.
Contracting Activity: Officer in Charge of Construction—FSSC, Guam.

### Deletion

On November 26, 2004, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (69 FR 68875) of proposed deletions to the Procurement List. After consideration of the relevant matter presented, the Committee has determined that the service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

*Regulatory Flexibility Act Certification*

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service deleted from the Procurement List.

*End of Certification*

Accordingly, the following service is deleted from the Procurement List:

Service

Service Type/Location: Janitorial/Custodial, Department of Agriculture, Animal & Plant Health Inspection Services, (APHIS), Orlando, Florida.
NPA: Lakeview Center, Inc., Pensacola, Florida.
Contracting Activity: Animal & Plant Health Inspection Service, Minneapolis, Minnesota.

**Sheryl D. Kennerly,**

*Director, Information Management.*

[FR Doc. 05–3174 Filed 2–17–05; 8:45 am]

BILLING CODE 6353–01–P

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet March 8, 2005, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

### Agenda

*Public Session*

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Update on Export Administration Regulations.
4. Review of interim rule on expansion of missile-related end-use/user controls.
5. Update on proposed rule on ''knowledge'', ''red flags'', and ''safe harbor''.
6. Update on computer and microprocessor technology controls.
7. Update on encryption controls.
8. Update on country group revision project.
9. Update on Excluded Parties Listing System (EPLS) project.
10. Update on Automated Export System (AES).
11. Update on Office of Export Enforcement initiatives.
12. Presentation on Export Management and Compliance Program CD.

13. Reports from working groups.

*Closed Session*

14. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. appl. 2, 10(a)(1) and 10(a)(3).

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Lee Ann Carpenter at *Lcarpent@bis.doc.gov*.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 14, 2005, pursuant to section 10(d) of the Federal Advisory Committee act, as amended (5 U.S.C. app. 2, (10)(d)), that the portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2, 10(a)1 and 10(a)(3).

The remaining portions of the meeting will be open to the public. For more information, call Lee Ann Carpenter at (202) 482–2583.

Dated: February 15, 2005.

**Lee Ann Carpenter,**

*Committee Liaison Officer.*

[FR Doc. 05–3193 Filed 2–17–05; 8:45 am]

BILLING CODE 3510–JT–M

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–122–848]**

### Hard Red Spring Wheat From Canada: Notice of Rescission of Countervailing Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** In response to a request made on October 29, 2004, by the Canadian Wheat Board, the Department of Commerce initiated an administrative review of the countervailing duty order on hard red spring wheat from Canada, covering the period March 10, 2003, through December 31, 2003. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 69 FR 67701 (November 19, 2004). As a result of a timely withdrawal of the request for review by the Canadian Wheat Board, we are rescinding this review.

**EFFECTIVE DATE:** February 18, 2005.

**FOR FURTHER INFORMATION CONTACT:** Audrey Twyman or Stephen Cho, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3534 and 202–482–3798, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On October 23, 2003, the Department of Commerce (''the Department'') published a countervailing duty order on hard red spring wheat (''HRSW'') from Canada. *See Notice of Countervailing Duty Order: Hard Red Spring Wheat from Canada*, 68 FR 60642 (October 23, 2003). On October 29, 2004, the Canadian Wheat Board (''CWB'') requested an administrative review of the countervailing duty order on HRSW from Canada covering the period March 10, 2003, through December 31, 2003. In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of the review on November 19, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 69 FR 67701 (November 19, 2004). On February 8, 2005, the CWB withdrew its request for review.

#### Scope of the Countervailing Duty Order

Imports covered by this order are all varieties of HRSW from Canada. This includes, but is not limited to, varieties commonly referred to as Canada Western Red Spring, Canada Western Extra Strong, and Canada Prairie Spring Red. The merchandise subject to this order is currently classifiable under the following *Harmonized Tariff Schedule of the United States* (''HTSUS'') subheadings: 1001.90.10.00, 1001.90.20.05, 1001.90.20.11, 1001.90.20.12, 1001.90.20.13, 1001.90.20.14, 1001.90.20.16, 1001.90.20.19, 1001.90.20.21, 1001.90.20.22, 1001.90.20.23, 1001.90.20.24, 1001.90.20.26, 1001.90.20.29, 1001.90.20.35, and 1001.90.20.96. This order does not cover imports of wheat that enter under the subheadings 1001.90.10.00 and 1001.90.20.96 that are not classifiable as HRSW. Although the *HTSUS* subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

#### Rescission of Review

The Department's regulations at 19 CFR 351.213(d)(1) provide that the Department will rescind an administrative review if a party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. The CWB withdrew its request for an administrative review on February 8, 2005, which is within the 90–day deadline. No other party requested a review of this order. Therefore, the Department is rescinding this administrative review.

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with 19 CFR 351.213(d)(4).

Dated: February 14, 2005.

**Barbara E. Tillman,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. E5–668 Filed 2–17–05; 8:45 am]

BILLING CODE: 3510–DS–S

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## DEPARTMENT OF COMMERCE

### International Trade Administration

### International Industry Symposium at 3Rs Initiative Ministerial Conference (Reduce Waste, Reuse and Recycle); Notice of Opportunity for Participation

**SUMMARY:** The Deputy Assistant Secretary for Manufacturing at the Department of Commerce will host an informational meeting on March 2, 2005 regarding the 3Rs International Industry Symposium to be hosted by the Government of Japan in Tokyo on April 28, 2005. The 3Rs Initiative (Reduce waste, Reuse and Recycle) was introduced by the Government of Japan and supported by the U.S. at the 2004 G8 summit in Sea Island, Georgia.

**DATES:** March 2, 2005—2 p.m.–3:30 p.m.: Department of Commerce 3Rs International Industry Symposium Meeting, Department of Commerce Building, 1401 Constitution Ave., NW., Room 1412, Washington, DC 20230.

April 28, 2005—International Industry Symposium, Tokyo, Japan.

**ADDRESSES:** Please send indications of interest to attend the 3Rs International Industry Symposium, and the DOC 3Rs Meeting by facsimile or e-mail by March 1, 2005 to Sarah E. Aker, *3RsInitiative@mail.doc.gov*, Office of the Deputy Assistant Secretary for Manufacturing, Department of Commerce, Room 2132, 1401 Constitution Ave, Washington, DC 20230, Phone: (202) 482–4073, Fax: (202) 482–0856. Please include your name, phone number, and organization affiliation.

**SUPPLEMENTARY INFORMATION:** The U.S. Department of Commerce Office of Manufacturing, and the 3Rs Interagency group is announcing the opportunity to attend the International Industry Symposium on the 3Rs Initiative on April 28, 2005 in Tokyo, Japan. The 3Rs Initiative (Reduce waste, Reuse and Recycle) was introduced by the Government of Japan and supported by the U.S. at the 2004 G8 summit in Sea Island, Georgia.

It was further agreed at Sea Island that Japan would host a Ministerial level conference that will take place April 29–30, 2005 in Tokyo, Japan to formally launch the initiative. On April 28, 2005 as a side event to the ministerial meeting, the Organization for the Promotion of Sustainable Society (OPSS) and the United Nations University will hold an International Industry Symposium on the 3Rs Initiative for industry representatives under the auspices of the Ministry of Economy, Trade and Industry (METI) and other relevant ministries. The industry meeting will provide a discussion opportunity for those who are interested in developing the 3Rs, and the outcome of the symposium will be reported to the Ministerial meeting. The Department of Commerce seeks the views and input of individual attendees, and not group or consensus advice.

The tentative program for the International Symposium on the 3Rs Initiative as provided by the Government of Japan (*http://www.env.go.jp/earth/3r/en/index.html*) is as follows:

*Track A:* Challenges to talking on business activities in the 3Rs system. Topics to be addressed:

How has the business sector contributed to building the 3Rs system?

What kinds of technological developments should be conducted in enhancing the 3Rs system?

Are there any institutional factors obstructing technological development in enhancing the 3Rs system?

How should we inspire the interest of consumers in the 3Rs activities of the business sector?

*Track B:* EcoDesign. Topics to be addressed:

The industrial best practices of EcoDesign.

EcoDesign for sustainable development.

Prospective tools for enhancing EcoDesign policy (simulator for sustainable development).

*Track C:* Building an international logistics network for recycling. Topics to be addressed:

Horizontal share of economic activities and international recycling.

Balance between maximizing international resource utilization and protecting the environment.

Challenges to logistics network for international recycling in respect of logistics costs.

Challenges to logistics network for international recycling in respect of regulation of logistics.

Proper control of recyclable materials.

The White House Council on Environmental Quality (CEQ), which is leading the interagency effort, and Joseph H. Bogosian, the Deputy Assistant Secretary for Manufacturing at the U.S. Department of Commerce, would like to solicit interest by March 15, 2005 from stakeholders who would like to attend the International Industry Symposium on April 28 in Tokyo, Japan in order to pass on the preliminary list of interested attendees to the Government of Japan.

Private Sector members are fully responsible for travel, lodging, and personal expenses associated with their participation in this event. They will receive no compensation. The private sector members will present the views and interests of the particular business sector in which they operate; private sector members are not special government employees.

**FOR FURTHER INFORMATION:** Please contact Sarah E. Aker, Office of the Deputy Assistant Secretary for Manufacturing, Department of Commerce, Room 2132, 1401 Constitution Ave, Washington, DC 20230 *3RsInitiative@mail.doc.gov*, Phone: (202) 482–4073.

Dated: February 14, 2005.

**Sarah E. Aker,**

*Special Assistant, Office of the Deputy Assistant Secretary for Manufacturing.*

[FR Doc. 05–3304 Filed 2–17–05; 8:45 am]

BILLING CODE 3510–DR–P

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

### Visiting Committee on Advanced Technology

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice of partially closed meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Visiting Committee on Advanced Technology (VCAT), National Institute of Standards and Technology (NIST), will meet Tuesday, March 15, 2005, from 8:20 a.m. to 5 p.m. The Visiting Committee on Advanced Technology is composed of fifteen members appointed by the Director of NIST; who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include updates on NIST's activities and facilities, a review of findings from NIST's investigation of the World Trade Center disaster, and two laboratory tours. Discussions scheduled to begin at 8:20 a.m. and to end at 9:20 a.m. and to begin at 2:30 p.m. and to end at 5 p.m. on March 15, on the NIST budget, planning information and feedback sessions will be closed. Agenda may change to accommodate Committee business. The final agenda will be posted on the NIST Web site. All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Please submit your name, time of arrival, email address and phone number to Carolyn Peters no later than Thursday, March 10, and she will provide you with instructions for admittance. Mrs. Peter's email address is *carolyn.peters@nist.gov* and her phone number is (301) 975–5607.

**DATES:** The meeting will convene on March 15 at 8:20 a.m. and will adjourn at 5 p.m.

**ADDRESSES:** The meeting will be held in the Employees Lounge, Administration Building, at NIST, Gaithersburg, Maryland. Please note admittance instructions under **SUMMARY** paragraph.

**FOR FURTHER INFORMATION CONTACT:** Carolyn J. Peters, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, Gaithersburg, Maryland 20899–1000, telephone number (301) 975–5607.

**SUPPLEMENTARY INFORMATION:** The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 27, 2004, that portions of the meeting of the Visiting Committee on Advanced Technology which deal with discussion of sensitive budget and planning information that would cause harm to third parties if publicly shared be closed in accordance with Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2.

Dated: February 15, 2005.

**Hratch G. Semerjian,**

*Acting Director.*

[FR Doc. 05–3172 Filed 2–17–05; 8:45 am]

BILLING CODE 3510–13–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 021405D]**

### Gulf of Mexico Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council will convene public meetings.

**DATES:** The meetings will be held March 7–10, 2005.

**ADDRESSES:** These meetings will be held at The Wynfrey Hotel, 1000 Riverchase Galleria, Birmingham, Alabama.

*Council address*: Gulf of Mexico Fishery Management Council, 3018 North U.S. Highway 301, Suite 1000, Tampa, FL 33619.

**FOR FURTHER INFORMATION CONTACT:** Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: 813.228.2815.

**Council**

*Wednesday, March 9, 2005*

8:30 a.m. Convene.

8:45 a.m.–10 a.m.–Receive public testimony on (a) Final Shrimp Amendment 13/EA and (b) Exempted fishing permits (if any).

10 a.m.–10:30 a.m.–Receive report on Atlantic Sea Turtle Strategy by NMFS.

10:30 a.m.–12 p.m.–Receive the Reef Fish Management Committee report.

1:30 p.m.–2 p.m.–Receive the Shrimp Management Committee report.

2 p.m.–2:30 p.m.–Receive the Joint Reef Fish/Mackerel/Red Drum Management Committee Report.

2:30 p.m.–3 p.m.–Receive the Administrative Policy Committee Report.

3 p.m.–3:30 p.m.–Receive the Sustainable Fisheries/Ecosystem Committee Report.

3:30 p.m.– 4 p.m.–Receive the Migratory Species Committee Report.

4 p.m.–5 p.m.–Receive the AP Selection Committee Report (CLOSED SESSION).

5 p.m.–5:30 p.m.–Receive the SSC Selection Committee Report (CLOSED SESSION).

*Thursday, March 10, 2005*

8:30 a.m.–8:45 a.m.–Receive the AP Selection Committee Report.

8:45 a.m.–9 a.m.–Receive the SSC Selection Committee Report.

9 a.m.–9:15 a.m.–Receive the Honolulu Meeting Report.

9:15 a.m.–9:30 a.m.–Receive Enforcement Reports.

9:30 a.m.–9:45 a.m.–Receive the NMFS Regional Administrator's report.

9:45 a.m.–10:15 a.m.–Receive Director's Reports.

10:15 a.m.–10:30 a.m.–Other Business.

**Committee**

*Monday, March 7, 2005*

8 a.m.–10 a.m.–The Advisory Panel (AP) Selection Committee will meet in closed session to appoint AP members.

10 a.m.–11:30 a.m–The Scientific and Statistical (SSC) Selection Committee will meet in closed session to appoint SSC members.

1 p.m.–5:30 p.m.–The Reef Fish Management Committee will meet to review Draft Reef Fish Amendment 18A, which addresses the grouper fishery. The Committee will review a revised draft of a red grouper regulatory amendment providing for commercial vessel trip limits and a revised total allowable catch (TAC). The Committee will then discuss an Options Paper for Reef Fish Amendment 26 (Red Snapper IFQ). The Committee will also review a biological opinion on the effect of the Gulf reef fish fishery, proposed by NMFS, under the Endangered Species Act. The Committee will discuss updated greater amberjack analyses and alternatives for reducing greater amberjack landings. The Committee will hear an assessment update for goliath grouper.

*Tuesday, March 8, 2005*

8:30 a.m.–9:30 a.m.–The Joint Reef Fish/Mackerel/Red Drum Management Committees will review an Options Paper for a Generic Offshore Aquaculture Amendment. The Committees will then hear a status report on a Draft Generic Amendment for Extension of the Charter Vessel Permit Moratorium. The Committees will also discuss SEDAR Assessments for 2009 & 2010 and hear SEDAR Assessment Updates.

9:30 a.m.–11 a.m.–The Administrative Policy Committee will meet to hear cost and budget analyses for video/teleconferencing of future meetings. The Committee will also hear a proposal on Intranet use at meetings and discuss incorporation of the Family Medical Leave Act (FMLA) standards.

12:30 p.m.–2 p.m.–The Migratory Species Committee will meet to review scoping comments on Highly Migratory Species (HMS) Amendment 2 after hearing a presentation by Russ Dunn.

2 p.m.–3:30 p.m.–The Sustainable Fisheries/Ecosystem Committee will hear a report on the Ecosystem Scientific Meeting. The Committee will also review plans for tasks to be completed under the Ecosystem Cooperative Agreement.

3:30 p.m.–5:30 p.m.–The Shrimp Management Committee will meet jointly with the Standing and Special Shrimp SSCs to review the Socioeconomic Panel (SEP) report and public comments on Final Shrimp Amendment 13 which addresses limited access in the shrimp fishery in order to make recommendations to Council. The Shrimp Management Committee will then discuss Shrimp Amendment 14.

Although other non-emergency issues not on the agendas may come before the Council and Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the Council and Committees will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency. The established times for addressing items on the agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. In order to further allow for such adjustments and completion of all items on the agenda, the meeting may be

extended from, or completed prior to the date established in this notice.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dawn Aring at the Council (see **ADDRESSES**) by February 23, 2005.

Dated: February 15, 2005.

**Emily Menashes,**

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

[FR Doc. E5–664 Filed 2–17–05; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Office of Ocean.US Integrated Ocean Observing System (IOOS) Industry Day

**AGENCY:** National Ocean Service, NOAA, Department of Commerce.

**ACTION:** Notice of opportunity to attend.

**SUMMARY:** The Office of Ocean.US announces the opportunity to attend a briefing for interested organizations concerning plans to design, develop, fabricate, install and operate the Integrated Ocean Observing System (IOOS). The IOOS is in the exploratory planning phase and all interested parties are invited to provide input, ideas, concepts and suggestions toward ensuring its effective development.

**DATES:** March 18, 2005.

**ADDRESSES:** Hall of Flags, at the US Chamber of Commerce Bldg. located near the White House at 1615 H Street NW., Washington, DC 20062–2000. Admission is controlled and the material to be presented will be unclassified.

**FOR FURTHER INFORMATION CONTACT:** For further information regarding this Industry Day, contact Andy Clark at *a.clark@ocean.us* or (703) 588–0846. To attend this event, phone or fax requests for registration material to: Mr. Gil Donohue, PH: (703) 442–7727; FX: (703) 442–8199. Include names of all attendees (3 maximum). Attendance is limited to three per company/organization. Suggested attendees: Senior Technologist, Business Development, Government Relations. Upon receipt of the completed IOOS Registration Package, potential attendees will receive a confirmation notice and other relevant information. Interested parties are reminded that no one will be admitted to the industry brief without this confirmation. Requests to attend this briefing must be received no later than 1600 EDT Friday 11 March 2005. Only individuals who have submitted their registration and clearance information by 1600 EDT on 11 March 2005 and have received approval will be allowed to attend the IOOS Industry Day on 18 March 2005.

**SUPPLEMENTARY INFORMATION:** The IOOS is intended to be a ''user-driven'' integrated network that includes ocean observatories, data telemetry, data management and communications, systems and data analysis and modeling tools that reliably and continuously provide the data and information that is required to achieve the seven IOOS societal goals:

(1) Improve predictions of climate change and weather and their effects on coastal communities and the nation;

(2) Improve the safety and efficiency of marine operations;

(3) More effectively mitigate the effects of natural hazard;

(4) Improve national and homeland security;

(5) Reduce public health risks;

(6) More effectively protect and restore healthy coastal marine ecosystems; and

(7) Enable the sustained use of marine resources.

The IOOS is intended to become a national asset. IOOS may be characterized as a ''network centric, system-of-systems''. This large scale network will incorporate oceanographic, meteorological and atmospheric sensors offshore and onshore, sub sea and at sea surface, the equipment and telemetry methods to transmit this data first to information system (IS) that includes the hardware, software, middleware and storage capacity to collect, analyze, archive, distribute and disseminate the IOOS data. It is intended that portals will be developed to allow contributors around the nation to input their data and that the data will be made available through graphical user interfaces (GUIs) in order that users in the private sector, academia and the government may access it. It is the goal of Ocean.US to completely characterize all components required to address these goals and solicit from industry input and best commercial practices that will help to achieve them.

Dated: February 14, 2005.

**Mitchell Luxenberg,**

*Acting Associate Assistant Administrator for Management, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.*

[FR Doc. 05–3139 Filed 2–17–05; 8:45 am]

**BILLING CODE 3510–JE–M**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 021405C]**

### New England Fishery Management Council; Public Meetings

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

**ACTION:** Public meetings.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Joint Groundfish and Advisory Panels and Bycatch Oversight Committee in March, 2005 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** The meetings will be held on March 9 and March 10, 2005. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** The meetings will be held in Peabody, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:**

#### Meeting Dates and Agendas

Wednesday, March 9, 2005, at 9:30 a.m.–Joint Groundfish and Whiting Advisory Panel Meeting.

Location: Holiday Inn, One Newbury Street, Route 1, Peabody, MA 01960; telephone: (978) 535–4600.

The advisory panels will discuss potential bycatch issues facing the groundfish and whiting fisheries due to the very large 2003-year class of haddock. They will review existing oversight committee recommendations and recommend to these committees additional strategies and measures designed to reduce haddock bycatch.

Thursday, March 10, 2005, at 9 a.m.–Ad Hoc Bycatch Oversight Committee Meeting.

Location: Holiday Inn, One Newbury Street, Route 1, Peabody, MA 01960; telephone: (978) 535–4600.

The Bycatch Committee will review recommendations from the Advisors as

well as develop final recommendations to the Council regarding potential haddock bycatch reduction measures for herring, whiting and groundfish fisheries, as well as recommendations on implementation procedures so that the recommendations can be in place prior to any significant haddock bycatch situations in those fisheries.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least five days prior to the meeting dates.

Dated: February 15, 2005.

**Emily Menashes,**

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

[FR Doc. E5–665 Filed 2–17–05; 8:45 am]

BILLING CODE 3510–22–S

## COMMISSION ON REVIEW OF OVERSEAS MILITARY FACILITY STRUCTURE OF THE UNITED STATES

### Public Meeting

**AGENCY:** Commission on Review of Overseas Military Facility Structure of the United States (Overseas Basing Commission (OSBC)).

**ACTION:** Notice of public meeting.

**SUMMARY:** This serves as public notice of a meeting of the Commission on the Review of Overseas Military Facility Structure of the United States. The Commission will meet to receive testimony from current military Service Chiefs and Defense Department strategy leaders concerning matters relating to the overseas military facility structure of the United States. The OSBC will receive testimony from two panels. The first panel invitees include the Service Chiefs or their representatives from each of the Military Departments. The second panel invitees include the Under Secretary of Defense for Policy and representatives from the Department of State, Under Secretary for Political Affairs, and Under Secretary for Arms Control and International Security.

**DATES:** March 1, 2005, at 9:00 a.m., local time.

**ADDRESSES:** The meeting will be held at the United States Senate, Dirksen Senate Office Building, Room SD138, 1st and C Streets, NE, Washington, DC. Security procedures at the Dirksen Senate Office Building may require inspection of purses, packages, screening of individuals, and presentation of a valid individual identification document. The building is physically accessible to people with disabilities.

**FOR FURTHER INFORMATION CONTACT:** Mr. Wade Nelson, Public Affairs, at (708) 204–0711.

*Public Participation:* Members of the general public wishing to inform the Commission may submit their comments in writing to the Commission at the time of the meeting or address inquiries/statements to Overseas Basing Commission 1655 N. Ft Myer Dr., Suite 700 Arlington, VA 22209.

**SUPPLEMENTARY INFORMATION:** Public Law 108–132, and as amended by Public Law 108–324, established the Commission and charged it to conduct a thorough study and review of matters relating to the military facility structure overseas. The law requires the Commission to submit its report to the President and Congress not later than August 15, 2005, and to include a proposal for an overseas basing strategy to meet current and future DoD missions.

Dated: February 9, 2005.

**Patricia J. Walker,**

*Executive Director, Commission on Review of Overseas Military Facility Structure of the United States.*

[FR Doc. 05–3197 Filed 2–17–05; 8:45 am]

BILLING CODE 6820–YK–S

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 11 a.m., Friday, March 25, 2005.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 05–3282 Filed 2–16–05; 11:00 am]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 11 a.m., Friday, March 18, 2005.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance matters.

**FOR FURTHER INFORMATION CONTACT:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 05–3283 Filed 2–16–05; 11:00 am]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 11 a.m., Friday, March 11, 2005.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance matters.

**FOR FURTHER INFORMATION CONTACT:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 05–3284 Filed 2–16–05; 11:00 am]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 11 a.m., Friday, March 4, 2005.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance matters.

**CONTACT PERSON FOR FURTHER INFORMATION:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 05–3285 Filed 2–16–05; 11:00 am]

BILLING CODE 6351–01–M

## 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 pre-clearance 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. Sec. 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 Martin Luther King, Jr. Day of Service Application Instructions using the Corporation's Electronic Application System, eGrants. Completion of the Martin Luther King, Jr. Day of Service Application Instructions is required for funding considerations.

Copies of the information collection requests can be obtained by contacting the office listed in the address section of this notice.

**DATES:** Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by April 19, 2005.

**ADDRESSES:** You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, Office of Grants Policy and Operations; Attention Mr. James Willie, Grants Policy Specialist, Room 9817; 1201 New York Avenue, NW., Washington, DC 20525.

(2) By hand delivery or by courier to the Corporation's mailroom at Room 6010 at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) By fax to: (202) 565–2786, Attention Mr. James Willie, Grants Policy Specialist.

(4) Electronically through the Corporation's e-mail address system: *mlkday@cns.gov*.

**FOR FURTHER INFORMATION CONTACT:** James Willie, (202) 606–5000, ext. 391 or by e-mail at *mlkday@cns.gov*.

**SUPPLEMENTARY INFORMATION:**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the 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.

### Description

The purpose of these Martin Luther King, Jr. Day of Service Grants is to mobilize more Americans to observe the Martin Luther King, Jr. Federal holiday as a day of service in communities and to bring people together around the common focus of service to others. The Corporation will award these funds to eligible applicants who will in turn subgrant to eligible local organizations or fund separate events to plan and carry out service activities.

### Background

The Martin Luther King, Jr. Day of Service Grant is completed by applicant organizations interested in supporting an MLK Day of Service Program. The application is completed electronically by using the Corporation's Web-based system, eGrants.

### Current Action

The Corporation seeks to create new application instructions specifically for the Martin Luther King, Jr. Day of Service grants. When finalized, the application will include additional instructions to clarify narrative and work plan sections; will contain an updated list of ''Service Categories'' used by applicants to identify the types of needs the national service participants will meet; and will contain current references used in the grants management system.

*Type of Review:* New.

*Agency:* Corporation for National and Community Service.

*Title:* Martin Luther King, Jr. Day of Service Application Instructions.

*OMB Number:* None.

*Affected Public:* Eligible applicants to the Corporation for National and Community Service for funding of Martin Luther King, Jr. Day of Service Grants.

*Total Respondents:* 80.

*Frequency:* Annual.

*Average Time Per Response:* Ten (10) hours.

*Estimated Total Burden Hours:* 800 hours.

*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: February 10, 2005.

**Amy Mack,**

*Chief of Staff, Office of Chief Executive Officer.*

[FR Doc. 05–3125 Filed 2–17–05; 8:45 am]

BILLING CODE 6050–$$–P

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0088]**

### Federal Acquisition Regulation;Submission for OMB Review; Travel Costs

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding a reinstatement of OMB clearance (9000–0088).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44

U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning travel costs. A request for public comments was published at 69 FR 39911 on July 1, 2004. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, 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; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Submit comments on or before March 21, 2005.

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (VIR),1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0088, Travel Costs, in all correspondence.

**FOR FURTHER INFORMATION CONTACT:** Jerry Olson, Contract Policy Division, GSA (202) 501–3221.

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

FAR 31.205–46, Travel Costs, requires that, except inextraordinary and temporary situations, costs incurred by a contractor for lodging, meals, and incidental expenses shall be considered to be reasonable and allowable only to the extent that they do not exceed on a daily basis the per diem rates in effect as of the time of travel as set forth in the Federal Travel Regulations for travel in the conterminous 48 United States, the Joint Travel Regulations, Volume 2, Appendix A, for travel is Alaska, Hawaii, the Commonwealth of Puerto Rico, and territories and possessions of the United States, and the Department of State Standardized Regulations, section 925, ''Maximum Travel Per Diem Allowances for Foreign Areas.'' The burden generated by this coverage is in the form of the contractor preparing a justification whenever a higher actual expense reimbursement method is used.

### B. Annual Reporting Burden

*Respondents:* 5,800.
*Responses Per Respondent:* 10.
*Total Responses:* 58,000.
*Hours Per response:* .25.
*Total Burden Hours:* 14,500.
*Obtaining Copies of Proposals:* Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0088, Travel Costs, in all correspondence.

Dated: February 14, 2005.

**Rodney P. Lantier**

*Director, Contract Policy Division.*

[FR Doc. 05–3126 Filed 2–17–05; 8:45 am]

BILLING CODE 6820–EP–S

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before March 21, 2005.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: February 14, 2005.

**Angela C. Arrington,**

*Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.*

### Federal Student Aid

*Type of Review:* Revision.
*Title:* William D. Ford Federal Direct Loan (Direct Loan) Program Electronic Debit Account Application and Brochure.
*Frequency:* One time.
*Affected Public:* Individuals or household.
*Reporting and Recordkeeping Hour Burden:*
*Responses*—234,700.
*Burden Hours*—7,816.
*Abstract:* A Direct Loan borrower uses this application to request and authorize the automatic deduction of monthly student loan payments from his or her checking or savings account.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2648. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to (202) 245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E5–663 Filed 2–17–05; 8:45 am]

BILLING CODE 4000–01–P

## ELECTION ASSISTANCE COMMISSION

### Sunshine Act Notice; Meeting

**AGENCY:** United States Election Assistance Commission.

**ACTION:** Notice of public meeting for the Technical Guidelines Development Committee.

**DATE & TIME:** Wednesday, March 9, 2005, 8:30 am to 5:30 pm.

**PLACE:** National Institute of Standards and Technology, 100 Bureau Drive, Building 101, Gaithersburg, Maryland 20899–8900.

**STATUS:** This meeting will be open to the public. There is no fee to attend, but, due to security requirements, advance registration is required. Registration information is available at: *https://rproxy.nist.gov/CRS/conf_ext.cfm?conf_id=1392*. Please make sure you provide special needs in the space allotted on the registration form. Also, on the form, leave the amount due at 0$.

**Note:** Advance registration closes March 2, 2005.

**SUMMARY:** The Technical Guidelines Development Committee (the ''Development Committee'') has scheduled a plenary meeting for March 9, 2005. The Committee was established pursuant to 42 U.S.C. 15361, to act in the public interest to assist the Executive Director of the Election Assistance Commission in the development of the voluntary voting system guidelines. The Development Committee held its first meeting on July 9th, 2004 and its second meeting on January 18 and 19, 2005. The purpose of the third meeting of the Committee will be to review and approve progress on technical work tasks defined in resolutions adopted at the January plenary meeting and to consider further resolutions if proposed. The Committee's adopted resolutions are available for public review at: *http://www.vote.nist.gov/Official%20w-o%20signature.doc*.

**SUPPLEMENTARY INFORMATION:** The Technical Guidelines Development Committee held their first plenary meeting for July 9, 2004. At this meeting, the Development Committee agreed to a resolution forming three working groups: (1) Human Factors & Privacy; (2) Security & Transparency; and (3) Core Requirements & Testing to gather information and public input on relevant issues. The information gathered by the working groups was analyzed at the second meeting of the Development Committee January 18 & 19, 2005. Thirty-one resolutions were adopted by the TGDC at the January plenary session. The resolutions defined technical work tasks for NIST that will assist the TGDC in developing recommendations for voluntary voting system guidelines. The guidelines are due to the Election Assistance Commission in April 2005.

**FOR FURTHER INFORMATION CONTACT:** Allan Eustis 301–975–5099. If a member of the public would like to submit written comments concerning the Committee's affairs at any time before or after the meeting, written comments should be addressed to the contact person indicated above, or to *voting@nist.gov*.

**Gracia M. Hillman,**

*Chair, U.S. Election Assistance Commission.*

[FR Doc. 05–3306 Filed 2–16–05; 11:59 am]

BILLING CODE 6820–YN–M

## DEPARTMENT OF ENERGY

**[FE Docket No. PP–299]**

### Application for Presidential Permit; Sea Breeze Pacific Regional Transmission System, Inc.

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of application.

**SUMMARY:** Sea Breeze Pacific Regional Transmission System, Inc., (Sea Breeze) has applied for a Presidential permit to construct, operate, maintain, and connect a 150,000-volt (150-kV), direct current transmission line across the U.S. border with Canada.

**DATES:** Comments, protests, or requests to intervene must be submitted on or before March 21, 2005.

**ADDRESSES:** Comments, protests, or requests to intervene should be addressed as follows: Office of Fossil Energy (FE–27), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (FAX 202–297–5736).

**FOR FURTHER INFORMATION CONTACT:** Dr. Jerry Pell (Program Office) at 202–586–3362, or Michael T. Skinker (Program Attorney) at 202–586–2793.

**SUPPLEMENTARY INFORMATION:** The construction, operation, maintenance, and connection of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038.

On December 20, 2004, Sea Breeze filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for a Presidential permit for the construction of a 150-kV electric transmission line that would cross the U.S.-Canadian border. Sea Breeze is a British Columbia corporation with its principal place of business in Vancouver, British Columbia. Although Sea Breeze is the sole applicant for a Presidential permit, Sea Breeze is a joint venture between Sea Breeze Power Corporation, a publicly traded Canadian corporation, and Boundless Energy, LLC, a limited liability company of the State of Maine.

Sea Breeze proposes to develop a direct current transmission interconnection between Canada and the United States utilizing High Voltage Direct Current Light technology. The project would originate on Vancouver Island in the vicinity of Victoria, British Columbia, Canada, cross the Strait of Juan de Fuca via submarine cable, and proceed via terrestrial underground cable to a converter station to be constructed at a substation located in Port Angeles, Washington, and owned by Bonneville Power Administration. The converter station would convert the direct current back to alternating current.

The entire length of the proposed transmission facilities would be 22 miles, consisting of 1½ miles of land-based underground cable in Canada, 19 miles of submarine cable crossing the Strait of Juan de Fuca, and 1½ miles of land-based underground cable inside the United States. The project is intended to transmit up to 550 megawatts of power in either direction between the two countries.

Since the restructuring of the electric power industry began, resulting in the introduction of different types of competitive entities into the marketplace, DOE has consistently expressed its policy that cross-border trade in electric energy should be subject to the same principles of comparable open access and non-discrimination that apply to transmission in interstate commerce. DOE has stated that policy in export authorization granted to entities requesting authority to export over international transmission facilities. Specifically, DOE expects transmitting utilities owning border facilities constructed pursuant to Presidential permits to provide access across the border in accordance with the

principles of comparable open access and non-discrimination contained in the FPA and articulated in Federal Energy Regulation Commission Order No. 888, as amended (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities). In furtherance of this policy, DOE intends to condition any Presidential permit issued in this proceeding on compliance with these open access principles.

*Procedural Matters:* Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with § 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Additional copies of such petitions to intervene or protest also should be filed directly with Tony Duggleby, Chief Executive Officer, Sea Breeze Pacific Regional Transmission System, Inc., Lobby Box 91, Suite 1400, 333 Seymour Street, Vancouver, BC, Canada V6B 5A6 and with either John G. Osborn or Gordon F. Grimes at Bernstein, Shur, Sawyer & Nelson, 100 Middle Street, P.O. Box 9729, Portland, ME 04104–5029.

Before a Presidential permit may be issued or amended, the DOE must determine that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system. In addition, DOE must consider the environmental impacts of the proposed action (*i.e.*, granting the Presidential permit, with any conditions and limitations, or denying it) pursuant to the National Environmental Policy Act of 1969 (NEPA). DOE also must obtain the concurrences of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

The NEPA compliance process is a cooperative non-adversarial process involving members of the public, state governments, Tribal governments, and the Federal government. The process affords all persons interested in or potentially affected by the environmental consequences of a proposed action an opportunity to present their views, which will be considered in the preparation of the environmental documentation for the proposed action. Intervening and becoming a party to this proceeding will not create any special status for the petitioner with regard to the NEPA process. Notices of forthcoming NEPA activities and information on how to participate in those activities will appear in the **Federal Register**.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above. In addition, the application may be viewed on, or downloaded from, the Office of Fossil Energy Web site at *http://www.fe.doe.gov/programs/ElectricityRegulation*. Select ''Pending Proceedings'' from the options menu.

Issued in Washington, DC, on February 14, 2005.

**Anthony J. Como,**

*Deputy Director, Electric Power Regulation, Office of Fossil Energy.*

[FR Doc. 05–3148 Filed 2–17–05; 8:45 am]

BILLING CODE 6450–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER05–365–000]**

### Elk River Windfarm LLC; Notice of Issuance of Order

February 11, 2005.

Elk River Windfarm LLC (Elk River) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for wholesale sales of energy, capacity and ancillary services at market-based rates. Elk River also requested waiver of various Commission regulations. In particular, Elk River requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Elk River.

On February 10, 2005, the Commission granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Elk River should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest, is March 14, 2005.

Absent a request to be heard in opposition by the deadline above, Elk River is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Elk River, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Elk River's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–674 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER05–332–000]**

### Klondike Wind Power II, LLC; Notice of Issuance of Order

February 11, 2005.

Klondike Wind Power II LLC (Klondike II) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for wholesale sales of energy, capacity and ancillary services at market-based rates. Klondike II also requested waiver of various Commission regulations. In particular, Klondike requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Klondike II.

On February 10, 2005, the Commission granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of

issuances of securities or assumptions of liability by Klondike II should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest, is March 14, 2005.

Absent a request to be heard in opposition by the deadline above, Klondike II is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Klondike II, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Klondike II's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–673 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP05–32–001]**

### Northwest Pipeline Corporation; Notice of Amendment

February 11, 2005.

Take notice that on February 4, 2005, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP05–32–001, an amendment to its pending application filed on November 29, 2004, pursuant to section 7 of the Natural Gas Act (NGA) for its capacity replacement project in Docket No. CP05–32–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filings may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–3676 or TYY (202) 502–8659.

By this amendment, Northwest proposes minor changes to the originally filed scope of work at its Chehalis Compressor Station in Lewis County, Washington, and requests abandonment authority for two taps on its existing 26-inch line at the Camas Meter Station. Northwest states that the proposed changes will not have a significant effect on the project's costs.

Any questions regarding this amendment should be directed to Gary K. Kotter, Manager, Certificates and Tariffs—3F3, Northwest Pipeline Corporation, PO Box 58900, Salt Lake City, Utah 84158–0900. Telephone: (801) 584–7117, Fax: (801) 584–7764.

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:* March 4, 2005.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–670 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER05–331–000]**

### Promet Energy Partners LLC; Notice of Issuance of Order

February 11, 2005.

Promet Energy Partners, LLC (Promet) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed rate schedule provides for wholesale sales of capacity and energy at market-based rates. Promet also requested waiver of various Commission regulations. In particular, Promet requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Promet.

On February 10, 2005, the Commission granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Promet should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214

of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest, is March 14, 2005.

Absent a request to be heard in opposition by the deadline above, Promet is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Promet, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Promet's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–672 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[RT01–99–000 , RT01–99–001, RT01–99–002, RT01–99–003, RT01–86–000, RT01–86–001, RT01–86–002, RT01–95–000, RT01–95–001, RT01–95–002, RT01–2–000, RT01–2–001, RT01–2–002, RT01–2–003, RT01–98–000, and RT02–3–000]**

### Regional Transmission Organizations, Bangor Hydro-Electric Company, et al., New York Independent System Operator, Inc., et al., PJM Interconnection, L.L.C., et al., PJM Interconnection, L.L.C., ISO New England, Inc., New York Independent System Operator, Inc.; Notice of Filing

February 11, 2005.

Take notice that PJM Interconnection, L.L.C., New York Independent System Operator, Inc. and ISO New England, Inc. have posted on their internet Web sites charts and information updating their progress on the resolution of ISO seams.

Any person desiring to comment on this information 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). All such comments should be filed on or before the comment date. Comments may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

*Comment Date:* March 4, 2005.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–669 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. ER05–71–000, ER05–71–001, and ER05–71–002]**

### Sirius Investment Management, Inc.; Notice of Issuance of Order

February 11, 2005.

Sirius Investment Management, Inc. (Sirius) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for wholesale sales of energy and capacity at market-based rates. Sirius also requested waiver of various Commission regulations. In particular, Sirius requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Sirius.

On February 10, 2005, the Commission granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Sirius should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest, is March 14, 2005.

Absent a request to be heard in opposition by the deadline above, Sirius is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Sirius, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Sirius's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–675 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 1390–040]**

### Southern California Edison Company; Notice of Settlement Agreement and Soliciting Comments

February 11, 2005.

Take notice that the following Settlement Agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* 1390–040.

c. *Date Filed:* February 4, 2005.

d. *Applicant:* Southern California Edison Company.

e. *Name of Project:* Lundy Project.

f. *Location:* On Mill Creek in Mono County, California. The project is located partly on lands in the Inyo National Forest and on land administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Mr. Nino J. Mascolo, Southern California Edison Company, P.O. Box 800, 2244 Walnut Grove Avenue, Rosemead, CA 91770, (626) 302–4459.

i. *FERC Contact:* John Smith, telephone (202) 502–8972, e-mail *john.smith@ferc.gov*.

j. *Deadline for filing comments:* 90 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular agency, they must also serve a copy of the document on that resource agency.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''eFiling'' link.

k. Description of filing: Southern California Edison Company filed the Settlement Agreement on behalf of itself and the U.S. Department of Agriculture, Forest Service; the U.S. Department of the Interior, Bureau of Land Management; the California Department of Fish and Game; American Rivers; California Trout; and the Mono Lake Committee. The purposes of the Settlement Agreement are to resolve among the signatories: (1) The issues raised by the signatories in their respective requests for rehearing of the order issuing new license (86 FERC ¶ 61,230); and (2) the issue raised by the People for Mono Basin Preservation and Mono County with regard to the claims that the minimum flow schedule required by article 404 of the license would interfere with the Wilson Creek water rights. The signatories request that the Commission adopt in whole, without material modification, the Offer of Settlement. Specifically, the signatories request that the Commission replace existing license articles 403, 404, 411, 412, and 417 with conditions included in Appendix A of the Settlement Agreement and delete license article 414.

l. A copy of the Settlement Agreement is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866-208–3676, or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–677 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. ER05–111–000 and ER05–111–001]**

### TransCanada Hydro Northeast Inc.; Notice of Issuance of Order

February 11, 2005.

TransCanada Hydro Northeast Inc. (TC Hydro NE) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for wholesale sales of energy, capacity and ancillary services at market-based rates. TC Hydro NE also requested waiver of various Commission regulations. In particular, TC Hydro NE requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by TC Hydro NE.

On February 10, 2005, the Commission granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by TC Hydro NE should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest, is March 14, 2005.

Absent a request to be heard in opposition by the deadline above, TC Hydro NE is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of TC Hydro NE, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of TC Hydro NE's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using

the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–671 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 12178–000]**

### Verdant Power LLC; Notice of Declaration of Intent and Petition for Relief Filing and Soliciting Comments

February 11, 2005.

Take notice that the following declaration of intent and petition for relief from the requirements of hydropower licensing has been filed with the Commission and is available for public inspection.

a. *Type of Filing:* Declaration of intent and petition for relief.

b. *Project No.:* 12178–000.

c. *Date Filed:* February 2, 2005.

d. *Applicant:* Verdant Power LLC.

e. *Name of Project:* Roosevelt Island Tidal Energy Study Project.

f. *Location:* In the East channel of the East River, in New York City, New York. The project would not occupy Federal lands.

g. *Filed Pursuant to:* 18 Code of Federal Regulations part 24, section 24.1.

h. *Applicant Contact:* Mr. Ronald F. Smith, Chairman and Chief Operating Officer, 4640 13th Street, Arlington, VA 22207 (703) 528–6445.

i. *FERC Contact:* Tom Dean at (202) 502–6041, *thomas.dean@ferc.gov*.

j. *Deadline for filing comments:* 30 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Documents may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''eFiling'' link.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* Verdant intends to deploy, for study purposes, a temporary (18-month), underwater kinetic hydropower array that would be located near New York City in the East River. The experimental project would consist of: (1) Six turbines consisting of: (a) A 5-meter-diameter, 3-bladed rotor mounted on; (b) a 30-inch-diameter, 7-foot-long nacelle or enclosed shelter mounted to; (c) a 9-foot-long vertical pylon that contains a yaw bearing mounted on top of; (d) a 24-inch-diameter, 5 or 6-feet-high pile extending above the river bottom; (2) six generating units with a combined capacity of up 200 kW; (3) an underwater power cable leading to a control room and connected via a generator controller and protective relay to two customer-side 480-volt service meters; and (4) appurtenant facilities.

l. *Petition for Declaratory Intent:* Verdant Power asked that it be allowed to install and operate the facilities listed above, and to deliver power from the project into the facilities of Consolidated Edison New York, for a test period of 18 months, without a license under Part I of the Federal Power Act. The 18-month deployment would provide information about project operation and identify potential affects on environment resources in the East River as part of Verdant Power's effort in preparing a license application for a fully-developed project. Such a project would consist of a series of ''free-flowing'' bi-directional submersible turbines totaling between 5 and 10 MW that would convert mechanical power from the tidal currents of the East River into electrical power without constructing a dam, reservoir, penstock, or powerhouse.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/esubsribenow.htm* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support. To view upcoming FERC events, go to *http://www.ferc.gov* and click on ''View Entire Calendar''.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–676 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EC05–43–000, et al.]**

### Exelon Corporation, et al.; Electric Rate and Corporate Filings

February 10, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

**1. Exelon Corporation Public Service Enterprise Group Incorporated**

[Docket No. EC05–43–000]

Take notice that on February 4, 2005, as supplemented on February 9, 2005, Exelon Corporation and its subsidiaries that are electric utilities subject to the Commission's jurisdiction (collectively, Exelon) and Public Service Enterprise Group Incorporated and its subsidiaries that are electric utilities subject to the Commission's jurisdiction (collectively, PSEG) submitted a filing pursuant to section 203 of the Federal Power Act and part 33 of the Commission's Regulations requesting that the Commission approve a transaction that includes: (1) Exelon's acquisition of PSEG and the resulting indirect merger of Exelon's and PSEG's regulated public utilities; and (2) the consolidation of Exelon's and PSEG's unregulated generation companies and corporate restructuring of the subsidiaries of their unregulated generation companies.

*Comment Date:* 5 p.m. eastern time on April 11, 2005.

**2. TPF Chesapeake, LLC, TM Delmarva Power LLC, Commonwealth Chesapeake Company, LLC**

[Docket No. EC05–44–000]

Take notice that on February 7, 2005, TPF Chesapeake, LLC (TPF), TM Delmarva Power LLC (TMDP), and

Commonwealth Chesapeake Company, LLC (CCC) (collectively, Applicants) tendered for filing with the Commission pursuant to section 203 of the Federal Power Act and part 33 of the Commission's regulations, an application authorizing TPF to purchase all of the membership interests in CCC from TMDP and subsequent reorganization of the upstream ownership of CCC to facilitate the upstream addition of new passive, limited partners.

Applicants state that CCC is a 315 MW simple-cycle, oil-fired electric generating facility located in New Church, Virginia. Applicants request confidential treatment of certain parts of Exhibit I.

*Comment Date:* 5 p.m. eastern time on February 28, 2005.

**3. USGen New England, Inc., Bear Swamp Power Company LLC, Great Lakes Hydro America, LLC**

[Docket No. EC05–45–000]

Take notice that on February 8, 2005, USGen New England, Inc. (USGenNE), Bear Swamp Power Company LLC (BSPC) and Great Lakes Hydro America, LLC (GLHA) (collectively referred to herein as the Applicants) submitted an application pursuant to section 203 of the Federal Power Act (FPA) requesting authorization of the transfer of USGenNE's operational interests and the sale of the interests owned by Bear Swamp Generating Trust No. 1 LLC and Bear Swamp Generating Trust No. 2 LLC (Sale) to BSPC of the jurisdictional facilities associated with the 589 MW Bear Swamp Pumped Storage Project located on the Deerfield River in northern Massachusetts (Bear Swamp Facility) and the nearby 10 MW Fife Brook Hydroelectric Project, a run-of-river hydroelectric facility (collectively, the Facilities). Applicants state that in the unlikely event that BSPC does not have the legal authority to sell power for resale at market-based rates pursuant to FPA section 205 (MBR Authorization) by the effective date of a proposed interim operating arrangement, the Applicants also request authorization of the temporary transfer of control of the Facilities for purposes of compliance with Parts II and III of the FPA to GLHA until BSPC obtains MBR Authorization.

Applicants further state that the jurisdictional facilities involved in the Sale include transmission lines and related facilities necessary to interconnect the Facilities to the integrated transmission grid, including substation and switching station equipment, miscellaneous power plant equipment, and related accounts, books, and records.

*Comment Date:* 5 p.m. eastern time on March 1, 2005.

**4. El Paso Electric Company**

[Docket No. EL02–113–008]

Take notice that on February 2, 2005, El Paso Electric Company (EPE) submitted a compliance filing pursuant to the Commission's Letter Order issued October 23, 2003, in Docket No. EL02–113–002, 105 FERC ¶ 61,107.

EPE states that copies of the filing were served on parties on the official service list.

*Comment Date:* 5 p.m. eastern time on February 23, 2005.

**5. TECO EnergySource, Inc., Panda Gila River, L.P., TECO–PANDA Generating Co., L.P., TPS Dell, LLC, TPS McAdams, LLC, Union Power Partners, L.P., Commonwealth Chesapeake Company, L.L.C.**

[Docket Nos. ER96–1563–020, ER01–931–007, ER02–1000–004, ER02–510–003, ER02–507–003, ER01–930–007, and ER99–415–006]

Take notice that on June 25, 2004, TECO EnergySource, Inc., Panda Gila River, L.P., TECO–PANDA Generating Co., L.P., TPS Dell, LLC, TPS McAdams, LLC, Union Power Partners, L.P., and Commonwealth Chesapeake Company, L.L.C. (collectively, the Companies) submitted for filing a non-material change in status with regard to the market-based rate authorizations of the Companies. Companies state that, in conjunction with the May 4, 2004, application under section 203 of the Federal Power Act, the Companies are undergoing an internal reorganization of TECO Energy, an exempt public utility holding company.

*Comment Date:* 5 p.m. eastern time on February 18, 2005.

**6. New York State Electric & Gas Corporation**

[Docket No. ER99–221–008]

Take notice that on February 3, 2005, New York State Electric & Gas Corporation (NYSEG) filed a notification of change in status to reflect a departure from the characteristics that the Commission relied upon in granting NYSEG market-based rate authority in the Commission's order issued December 14, 1998, in Docket Nos. ER99–220–000 and ER99–221–000, FERC ¶ 61,342 (1998).

*Comment Date:* 5 p.m. eastern time on February 24, 2005.

**7. Illinois Power Company**

[Docket No. ER05–173–002]

Take notice that on February 4, 2005, Illinois Power Company d/b/a AmerenIP (AmerenIP) tendered for filing an amendment to its December 30, 2004, filing in Docket No. ER05–173–001 to include in the proposed tariff an express prohibition on AmerenIP making sales under the tariff to any affiliate. AmerenIP requests an effective date of January 1, 2005.

*Comment Date:* 5 p.m. eastern time on February 25, 2005.

**8. Georgia Energy Cooperative**

[Docket No. ER05–349–001]

Take notice that on February 3, 2005, Georgia Energy Cooperative (GEC) submitted for filing additional information to its petition for acceptance of initial rate schedule, waivers and blanket authority filed on December 16, 2004, in Docket No. ER05–349–000.

*Comment Date:* 5 p.m. eastern time on February 18, 2005.

**Standard Paragraph**

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Linda L. Mitry,**

*Deputy Secretary.*

[FR Doc. E5–659 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EC05–46–000, et al.]**

## CEMEX, Inc., et al.; Electric Rate and Corporate Filings

February 11, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

### 1. CEMEX, Inc., CEMEX Central Plains Cement LLC, Votorantim Participacoes S.A.

[Docket No. EC05–46–000]

Take notice that on February 9, 2005, CEMEX, Inc. and CEMEX Central Plains Cement LLC (collectively, CEMEX) and Votorantim Participacoes S.A. (Votorantim) filed with the Commission an application pursuant to section 203 of the Federal Power Act seeking authorization for CEMEX to transfer to Votorantim the rights to lease a cogeneration facility located in Dixon, Illinois consisting of six generators rated at 2,290 KW each and appurtenant interconnection facilities. CEMEX states that the transaction will have no adverse effect on competition, rates or regulation.

*Comment Date:* 5 p.m. eastern time on March 2, 2005.

### 2. Oklahoma Gas and Electric Company, OGE Energy Resources, Inc.

[Docket Nos. ER98–511–003 and ER97–4345–015]

Take notice that on February 7, 2005, Oklahoma Gas and Electric Company and OGE Energy Resources, Inc. submitted an updated market power analysis.

*Comment Date:* 5 p.m. eastern time on February 28, 2005.

### 3. Tucson Electric Power Company

[Docket No. ER98–1150–003]

Take notice that on February 7, 2005, Tucson Electric Power Company tendered for filing an updated market power analysis in compliance with the Commission's order in *Acadia Power Partners, L.L.C.*, 107 FERC ¶ 61,168 (2004).

Tucson Electric states that copies of the filing were served on parties on the official service lists in the above-captioned proceeding.

*Comment Date:* 5 p.m. eastern time on February 28, 2005.

### 4. Portland General Electric Company

[Docket No. ER98–1643–007]

Take notice that on February 7, 2005, Portland General Electric Company (PGE) filed with the Commission an updated generation market power analysis in accordance with *AEP Power Marketing, Inc., et al,* 107 FERC ¶ 61,018, *order on reh'g,* 108 FERC ¶ 61,026 (2004) and *Acadia Power Partners, LLC et al.*, 107 FERC ¶ 61,168 (2004). PGE states that the PGE submission includes an updated market power study showing that PGE continues to satisfy the Commission's requirements for market rate authority.

*Comment Date:* 5 p.m. eastern time on February 28, 2005.

### 5. FirstEnergy Operating Companies, FirstEnergy Solutions Corp., FirstEnergy Generation Corporation, Jersey Central Power & Light Company, Metropolitan Edison Company, et al.

[Docket Nos. ER01–1403–002, ER01–2968–002, ER01–845–002, ER04–366–002, and ER04–372–002]

Take notice that on February 7, 2005, FirstEnergy Service Company tendered for filing an updated generation market power analysis prepared in accordance with the guidelines adopted by the Commission in *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 (2004).

*Comment Date:* 5 p.m. eastern time on February 28, 2005.

### 6. PSEG Lawrenceburg Energy Company LLC, PSEG Waterford Energy LLC

[Docket Nos. ER01–2460–003 and ER01–2482–003]

Take notice that on February 7, 2005, PSEG Lawrenceburg Energy Company LLC (PSEG Lawrenceburg) and PSEG Waterford Energy LLC (PSEG Waterford) (collectively, the Applicants) jointly submitted an updated market power analysis and updated tariff sheets in response to the Commission's November 16, 2004, letter finding that the Applicants' August 27, 2004, updated market power report was deficient due to the October 1, 2004, AEP-East integration into PJM Interconnection LLC Regional Transmission Organization.

Applicants state that copies of the filing were served on parties on the official service list in the above captioned proceeding.

*Comment Date:* 5 p.m. eastern time on February 28, 2005.

### 7. Armstrong Energy Limited Partnership, LLLP, Dominion Nuclear Marketing III, L.L.C., Elwood Energy LLC, Kincaid Generation, L.L.C., State Line Energy, L.L.C., Virginia Electric and Power Company

[Docket Nos. ER02–24–005, ER00–3746–006, ER99–1695–005, ER99–1432–006, ER96–2869–008, ER00–1737–006]

Take notice that on February 4, 2005, Dominion Resources Services, Inc. on behalf of Armstrong Energy Limited Partnership, LLLP, Dominion Nuclear Marketing III, L.L.C., Elwood Energy LLC, Kincaid Generation, L.L.C., State Line Energy, L.L.C., and Virginia Electric and Power Company submitted its amended response to the Commission's order issued May 13, 2004, implementing new generation market power analysis and mitigation procedures.

*Comment Date:* 5 p.m. eastern time on February 25, 2005.

### 8. Allegheny Power

[Docket No. ER03–453–002]

Take notice that on February 4, 2005, Allegheny Power submitted a refund report in compliance with the Commission's letter order accepting uncontested settlement issued July 23, 2003, in Docket No. ER03–453–000, 104 FERC ¶ 61,101 (2003).

Allegheny Power states that a copy of this letter will be sent to FirstEnergy Companies, the Pennsylvania Public Utility Commission and all persons listed on the official service list complied by the Secretary for this docket.

*Comment Date:* 5 p.m. eastern time on February 25, 2005.

### 9. New York Independent System Operator, Inc. and New York Transmission Owners

[Docket No. ER04–449–005]

Take notice that on February 7, 2005, the New York Independent System Operator, Inc. (NYISO), Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York Power Authority, New York State Electric & Gas Corporation, Orange & Rockland Utilities, Inc., and Rochester Gas & Electric Corporation (collectively, Joint Rehearing Parties) submitted a compliance filing pursuant to the Commission's order issued August 6, 2004, in Docket Nos. ER04–449–000, 001 and 002, 108 FERC ¶ 61,159.

The NYISO states that it has served a copy of this filing on all parties on the

official service list compiled by the Secretary in this proceeding.

*Comment Date:* 5 p.m. eastern time on February 28, 2005.

**10. New York Independent System Operator, Inc. and New York Transmission Owners**

[Docket No. ER04–449–006]

Take notice that on February 7, 2005, LIPA and Niagara Mohawk Power Corporation, a National Grid Company submitted a compliance filing pursuant to the Commission's order issued August 6, 2004, in Docket Nos. ER04–449–000, 001 and 002., 108 FERC ¶ 61,159.

*Comment Date:* 5 p.m. eastern time on February 28, 2005.

**11. Midwest Independent Transmission, System Operator, Inc., Midwest Independent Transmission System Operator, Inc., et al., Midwest Independent Transmission System Operator, Inc., et al., Ameren Services Co., et al.**

[Docket Nos. ER056–014, EL04–135–016, EL02–111–034, EL03–212–030]

Take notice that on February 7, 2005, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and Midwest ISO Transmission Owners (collectively Applicants) jointly submitted for filing revisions to proposed Schedule 21 of the Midwest ISO open access transmission tariff submitted on November 24, 2004, in compliance with the Commission's November 18, 2004, Order, *Midwest Independent Transmission System Operator, Inc.*, 109 FERC ¶ 61,168 (2004).

Applicants state that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

*Comment Date:* 5 p.m. eastern time on February 28, 2005.

**12. American Electric Power Service Corporation**

[Docket No. ER05–426–001]

Take notice that on February 8, 2005, American Electric Power Service Corporation (AEP), acting as agent for Southwestern Electric Power Company (SWEPCO) submitted an amendment changing the designation number assigned to the facilities agreement submitted in its January 6, 2005 filing in Docket No. ER05–426–000.

*Comment Date:* 5 p.m. eastern time on February 18, 2005.

**13. Sierra Pacific Power Company**

[Docket No. ER05–559–000]

Take notice that on February 7, 2005, Sierra Pacific Power (Sierra) Company tendered for filing, a general transfer agreement executed by the United States of America Department of Energy acting by and through the Bonneville Power Administration and Sierra Pacific Power Company. Sierra states that this general transfer agreement is filed in compliance with Order 614 pursuant to a directive of the Division of Tariffs and Market Development dated December 3, 2003, requiring the agreement be refiled containing only currently operative terms.

*Comment Date:* 5 p.m. eastern time on February 28, 2005.

**14. Midwest Independent Transmission System Operator, Inc.**

[Docket Nos. ER05–560–000]

Take notice that on February 7, 2005, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing amendments to the coordination agreement by and between Midwest Independent Transmission System Operator Inc. and Manitoba Hydro. The Midwest ISO states that the proposed revisions provide for the development of a congestion management process in response to the planned start-up of the Midwest ISO energy markets while preserving the existing coordination framework between the parties. The Midwest ISO requests an effective date of February 8, 2005.

The Midwest ISO has also requested waiver of the service requirements set forth in 18 CFR 385.2010. The Midwest ISO states that it has electronically served a copy of this filing, with its attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, Midwest ISO 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 and that it will provide hard copies to any interested party upon request.

*Comment Date:* 5 p.m. eastern time on February 28, 2005.

**Standard Paragraph**

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Linda Mitry,**

*Deputy Secretary.*

[FR Doc. E5–662 Filed 2–17–05; 8:45 am]

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RM04–7–000]**

## Market-Based Rates for Public Utilities; Notice Inviting Comments

February 11, 2005.

On January 27 and 28, 2005, the Commission Staff held a technical conference to discuss issues associated with the above-captioned rulemaking proceeding on market-based rates. All interested persons are invited to file written comments no later than March 14, 2005, in relation to the issues that were the subject of the technical conference.

**Filing Requirements for Paper and Electronic Filings**

Comments, papers, or other documents related to this proceeding may be filed in paper format or electronically. The Commission strongly encourages electronic filings. Those

filing electronically do not need to make a paper filing.

Documents filed electronically via the Internet must be prepared in MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov*, click on ''e-Filing'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments. User assistance for electronic filing is available at 202–502–8258 or by e-mail to *efiling@ferc.gov*. Do not submit comments to this e-mail address.

For paper filings, the original and 14 copies of the comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to the above-referenced docket numbers.

All written comments will be placed in the Commission's public files and will be available for inspection at the Commission's Public Reference Room, 888 First Street, NE., Washington, DC, 20426, during regular business hours.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–678 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. AD05–1–000]**

### Principles for Efficient and Reliable Reactive Power Supply and Consumption; Notice Establishing Comment Date

February 11, 2005.

On February 4, 2005, the Commission made available to the public a Staff Report on Reactive Power Supply and Consumption. The Staff Report explores the issue of reactive power supply from both a technical and economic perspective. The Staff Report will be the subject of a March 8, 2005 technical conference.[1] In addition, the Commission invites comment on the Staff Report, including but not limited to comments regarding the technical aspects of reactive power supply and the development of possible cost recovery mechanisms.

The Commission encourages electronic submission of comments in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and copies of the comment to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* April 4, 2005.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E5–679 Filed 2–17–05; 8:45 am]

BILLING CODE 6717–01–P

[1] A Notice of Technical Conference was issued on January 31, 2005.

## DEPARTMENT OF ENERGY

### Western Area Power Administration

### Construction and Operation of the Proposed White Wind Farm Project, Brookings County, SD

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of intent.

**SUMMARY:** The Western Area Power Administration (Western), U.S. Department of Energy (DOE) intends to prepare an Environmental Impact Statement (EIS) on the proposal by Navitas Energy (Navitas) to construct and operate the White Wind Farm Project (Project) in Brookings County, South Dakota. The EIS will address the construction and operation of the proposed Project, which includes wind turbine generators, access roads, collection and feeder lines, communications system, and a new electrical substation. Navitas has applied to Western to interconnect the proposed Project to Western's power transmission system. Western needs to grant or deny Navitas' interconnection request under the provisions of its General Guidelines for Interconnections. Western will hold a 30-day scoping period and a scoping meeting near the project area to ensure that interested members of the public and groups, and Federal, state, local, and tribal agencies have an opportunity to provide input on the scope of the EIS.

**DATES:** The open-house public scoping meeting will be held on Tuesday, March 1, 2005, in Hendricks, Minnesota. Written comments should be received no later than 11:59 p.m. on March 31, 2005, which marks the end of the EIS scoping period.

**ADDRESSES:** The open-house public scoping meeting will be held at the Midwest Center for Wind Energy, 2390 County Highway 1, Hendricks, Minnesota. The Center is located approximately 25 miles northeast of the City of Brookings and approximately 15 miles east of the City of White, just east of the South Dakota/Minnesota state line. Written comments should be addressed to Mr. Dirk Shulund, B0402.BL, Western Area Power Administration, Upper Great Plains Regional Office, P.O. Box 35800, Billings, MT 59107–5800, telephone (406) 247–7402, fax (406) 247–7408, e-mail *shulund@wapa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark J. Wieringa, NEPA Document Manager, Western Area Power Administration, P.O. Box 281213, Lakewood, CO 80228–8213, telephone (720) 962–7448 or (800) 336–7288, fax (720) 962–7263 or 7269, e-mail *wieringa@wapa.gov*. For general information on DOE's National Environmental Policy Act (NEPA) review procedures or status of a NEPA review, contact Ms. Carol M. Borgstrom, Director of NEPA Policy and Compliance, EH–42, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, telephone (202) 586–4600 or (800) 472–2756.

**SUPPLEMENTARY INFORMATION:** Western intends to prepare an EIS on the proposal by Navitas to construct and operate the Project in Brookings County, South Dakota, southeast of the City of White. The EIS will address the construction and operation of the proposed Project, which includes wind turbine generators, access roads, collection and feeder lines, a communications system, and a new electrical substation. In addition to the proposed action, the no-action alternative, and any action alternatives defined as a result of the EIS scoping process, will also be addressed in the EIS. The EIS process will comply with the NEPA (42 U.S.C. 4321–4347, as amended), Council on Environmental Quality regulations for implementing NEPA (40 CFR parts 1500–1508), and DOE NEPA implementing procedures (10 CFR part 1021).

Navitas has applied to Western to interconnect the proposed Project to Western's power transmission system. Western is a power marketing agency of

DOE that markets Federal electric power to municipalities, public utilities, and Native American tribes. Western offers capacity on its transmission system to deliver electricity when such capacity is available, under Western's Open Access Transmission Service Tariff (63 FR 5376). The Tariff substantively complies with the Federal Energy Regulatory Commission Final Orders No. 888 and 888A, which are intended to ensure non-discriminatory transmission system access. Western needs to grant or deny Navitas' interconnection request under the provisions of its General Guidelines for Interconnections.

Navitas is proposing to construct the Project, an approximately 200-megawatt (MW) wind turbine generation project, in a 31-square mile project area in Brookings County, South Dakota. The project area is surrounded by a 1-mile buffer zone, which would be included in the environmental analysis, for a total of approximately 55.5 square miles. The project area is located immediately southeast of the City of White and approximately 10 miles northeast of the City of Brookings, predominantly in Sherman Township, just west of the South Dakota/Minnesota state line.

The project area is mostly rural cropland, with some grazing land in rougher topography. Navitas has identified National Wetland Inventory wetlands and 100-year floodplains within the project area; these would be considered avoidance areas when siting the wind generators and supporting facilities. Each wind turbine would involve the permanent disturbance of an average of 0.5 acre. The proposed Project would be constructed entirely on private land.

The proposed Project would consist of up to 102 wind turbine generators on single pole structures, each rated at 2 MW. The turbines would have three blades, each 38 to 42 meters long, and would revolve at up to 18 revolutions per minute. The structures would each be 70 to 100 meters high and 4 to 5 meters in diameter at the base. The wind turbines would be installed on a concrete base, and each would have a pad-mounted transformer near the base. Lighting in accordance with U.S. Fish and Wildlife Service and Federal Aviation Administration requirements would be provided. There would be a class 5 all-weather gravel access road constructed to each turbine location, located along existing fence lines to the extent possible. The wind turbines would be connected by overhead feeder lines, underground power collection circuits, and a communications network. The underground collector circuits, comprised of three cables, would be buried to a depth that would not interfere with farming operations.

Siting of the wind turbine generators has not been completed, but would be designed to optimize wind and land resources in the area while minimizing environmental impacts to the extent practicable. Local zoning requirements would be complied with, including setbacks from residences, roads and existing transmission and distribution lines. Navitas has acquired lease options within the 31-square mile project area sufficient to support the 200-MW Project. Spacing of the wind turbines would also be determined by localized wind conditions and topography, turbine technology, and desired east-west spacing of three rotor diameters and north-south spacing of six rotor diameters. Navitas would like to begin construction in Spring 2006; the life of the proposed Project is anticipated to be a minimum of 20 years.

Power generated by the Project would be delivered to a new Navitas substation, which would be constructed immediately adjacent to Western's existing White Substation. This new substation would occupy up to 11 acres of land. White Substation is located in the southeast corner of the project area. Navitas has applied to Western to interconnect the proposed Project to Western's power transmission system at White Substation.

Because interconnection of the proposed Project would incorporate a major new generation resource into Western's power transmission system, Western has determined that an EIS is required under DOE NEPA implementing procedures, 10 CFR part 1021, Subpart D, Appendix D, class of action D6. Western will be the lead Federal agency for preparing the EIS, as defined at 40 CFR 1501.5. Since the proposed Project would be constructed entirely on private land, there are no Federal or state land management agencies with jurisdiction. Western will invite Federal, state, local, and tribal agencies with jurisdiction by law or special expertise with respect to environmental issues to be cooperating agencies on the EIS, as defined at 40 CFR 1501.6. Such agencies may also make a request to Western to be a cooperating agency. Designated cooperating agencies have certain responsibilities to support the NEPA process, as specified at 40 CFR 1501.6(b).

Full public participation and disclosure are planned for the entire EIS process. Western anticipates the EIS process will take about one year, and will include the open-house public scoping meeting; consultation and involvement with appropriate Federal, State, local, and tribal governmental agencies; public review and a hearing on the published draft EIS; a published final EIS; a review period; and publication of a Record of Decision expected in early 2006. Additional informal public meetings may be held in the project area if public interest and issues indicate a need. Western may also mail newsletters to the project mailing list to communicate Project status and developments.

Western will hold a 30-day scoping period to ensure that interested members of the public and groups, and Federal, state, local, and tribal agencies have an opportunity to provide input on the scope of the process and the alternatives that will be addressed in the EIS. Western will also hold a public open-house scoping meeting near the project area during the scoping period. The purpose of the scoping meeting will be to provide information about the proposed Project, answer questions, and take verbal and written comments from interested parties.

The open-house public scoping meeting will be held at the Midwest Center for Wind Energy, 2390 County Highway 1, Hendricks, Minnesota, on Tuesday, March 1, 2005. Members of the public and representatives of groups, Federal, state, local and tribal agencies are welcome to attend anytime between 5 and 8 p.m. The Center is located approximately 25 miles northeast of the City of Brookings and approximately 15 miles east of the City of White, just east of the South Dakota/Minnesota state line. The Center has displays and other information on the development of wind energy projects which attendees may find useful. Attendees will have the opportunity to view proposed Project and NEPA process displays and other information. The open-house scoping meeting will be very informal, with Western and Navitas representatives available for one-on-one discussions with attendees. Written comments may be left with one of Western's representatives at the scoping meeting, or may be provided by e-mail or U.S. Postal Service mail to Western. Written comments should be sent to the address provided above. Comments on Project scoping and alternatives will be due before the scoping period expires on March 31, 2005, but comments on other aspects of the proposed Project will be accepted and considered throughout the NEPA process.

Dated: February 8, 2005.

**Michael S. Hacskaylo,**

*Administrator.*

[FR Doc. 05–3147 Filed 2–17–05; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Western Area Power Administration

### Boulder Canyon Project—Rate Order No. WAPA–120

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of Proposed Rate Adjustment and Extension of Rate-Setting Formula.

**SUMMARY:** The Western Area Power Administration (Western) is initiating a rate adjustment process for Boulder Canyon Project (BCP) electric service. Western proposes to extend the existing rate-setting formula, and approve the proposed base charge and rates for FY 2006. Publication of this **Federal Register** notice begins the formal process to extend the existing rate-setting formula and the proposed base charge and rates. The proposed base charge and rates will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of required investment within the allowable period.

**DATES:** The consultation and comment period begins today and will end May 19, 2005. Western will present a detailed explanation of the proposed base charge and rates at a public information forum on April 6, 2005, 10:30 a.m. MST, Phoenix, AZ. Western will accept oral and written comments at a public comment forum on May 4, 2005, 10:30 a.m. MST, Phoenix, AZ.

Western will accept written comments any time during the consultation and comment period.

**ADDRESSES:** The public information forum and public comment forum will be held at the Desert Southwest Regional Customer Service Office, 615 South 43rd Avenue, Phoenix, AZ. Send written comments to J. Tyler Carlson, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, e-mail *carlson@wapa.gov*. Western will post information about the rate process on its Web site at *http://www.wapa.gov/dsw/pwrmkt/BCP/RateAdjust.htm*. Western will post official comments received via letter and e-mail to its Web site after the close of the comment period. Western must receive written comments by the end of the consultation and comment period to ensure they are considered in Western's decision process.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jack Murray, Rates Team Lead, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, telephone (602) 605–2442, e-mail *jmurray@wapa.gov*.

**SUPPLEMENTARY INFORMATION:** Annual base charge and rates adjustments are required by the existing rate-setting formula methodology approved by the Federal Energy Regulatory Commission (Commission) on April 19, 1996. Rate Schedule BCP–F5 was placed into effect on November 1, 1995, and expires on September 30, 2005. Western proposes to extend the existing rate-setting formula through September 30, 2010, and approve the proposed base charge and rates for FY 2006. The proposed base charge and rates for BCP electric service are designed under the existing rate-setting formula to recover an annual revenue requirement that includes investment repayment, interest, operation and maintenance, replacements, payment to states, visitor services, and uprating program payments. These annual costs are reduced by the projected revenue from water sales, visitor services, water pump energy sales, facility use charges, miscellaneous leases, and late fees. The annual revenue requirement is the annual base charge. The annual base charge for electric service is divided equally between capacity and energy. Annual energy dollars are divided by annual energy sales, and annual capacity dollars are divided by annual capacity sales to determine the proposed energy rate and the proposed capacity rate.

The Deputy Secretary of Energy (DOE) approved the extension of the existing rate-setting formula and Rate Schedule BCP–F6 for BCP firm power service on September 18, 2000 (Rate Order No. WAPA–94, October 13, 2000), and the Commission confirmed and approved the schedule on July 31, 2001, under FERC Docket No. EF00–5092–000. Approval for the rate-setting formula and Rate Schedule BCP–F6 covered 5 years beginning on October 1, 2000, ending on September 30, 2005.

Under Rate Schedule BCP–F6, the composite rate is 14.82 mills/kWh and the base charge is $57,654,683 for FY 2005. The forecasted energy rate is 7.41 mills per kilowatt-hour (mills/kWh) and the forecasted capacity rate is $1.39 per kilowatt month (kWmonth). Under Rate Schedule BCP–F7, the proposed base charge for FY 2006 will result in an overall composite rate increase of about 10 percent. The proposed base charge will increase about 7 percent, the proposed forecasted energy rate will increase about 10 percent, and the proposed forecasted capacity rate will increase about 7 percent. The proposed base charge and rates for BCP electric service are listed in the following table.

TABLE 1.—PROPOSED ELECTRIC SERVICE BASE CHARGE AND RATES

| | Existing base charge and rates | Proposed base charge and rates October 1, 2005 | Percent change |
|---|---|---|---|
| Total Composite (mills/kWh) | 14.82 | 16.43 | 10 |
| Base Charge ($) | $57,654,683 | $61,694,940 | 7 |
| Energy Rate (mills/kWh) | 7.41 | 8.21 | 10 |
| Capacity Rate ($/kWmonth) | $1.39 | $1.49 | 7 |

**Legal Authority**

Since the rate-setting formula and proposed base charge and rates constitute a major rate adjustment as defined by 10 CFR part 903, Western will hold both a public information forum and a public comment forum. After review of public comments, and possible amendments or adjustments, Western will recommend the Deputy Secretary of Energy extend the rate-setting formula and approve the proposed base charge and rates for FY 2006 on an interim basis.

Western is establishing the electric service base charge and rates for BCP

under the Department of Energy Organization Act (42 U.S.C. 7152); 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.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Commission. Existing Department of Energy (DOE) procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985 (50 FR 37835).

### Availability of Information

All brochures, studies, comments, letters, memorandums, or other documents that Western initiates or uses to develop the proposed base charge and rates are available for inspection and copying at the Desert Southwest Customer Service Regional Office, Western Area Power Administration, located at 615 South 43rd Avenue, Phoenix, Arizona. Many of these documents and supporting information are also available on Western's Web site at: *http://www.wapa.gov/dsw/pwrmkt/BCP/RateAdjust.htm*.

### 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. 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 parts 1500–1508); and DOE NEPA Regulations (10 CFR part 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; accordingly, no clearance of this notice by the Office of Management and Budget is required.

*Small Business Regulatory Enforcement Fairness Act*

Western has determined that 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: February 7, 2005.

**Michael S. Hacskaylo,**

*Administrator.*

[FR Doc. 05–3146 Filed 2–17–05; 8:45 am]

BILLING CODE 6450–01–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[OPPT–2003–0004; FRL–7699–7]**

## Access to Confidential Business Information by Geologics Corporation

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

**ACTION:** Notice.

**SUMMARY:** EPA has authorized its contractor Geologics Corporation, of Alexandria, VA, access to information which has been submitted to EPA under sections 4, 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

**DATES:** Access to the confidential data will occur no sooner than February 23, 2005.

**FOR FURTHER INFORMATION CONTACT:** Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address:*TSCA-Hotline@.epa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Notice Apply to Me?*

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under TSCA. Since other entities may also be interested, 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 Documents?*

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT–2003–0004. 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 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 EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744, and the telephone number for the OPPT Docket, which is located in the EPA Docket Center is (202) 566–0280.

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. What Action is the Agency Taking?

Under Deliver Order Number EP05W001068, Geologics Corporation, of 5285 Shawnee Road, Suite 210, Alexandria, VA, will assist EPA in carrying out data retrieval and review, supporting a new 8(e) results-based

performance measure for OPPT's New Chemicals Program.

In accordance with 40 CFR 2.306(j), EPA has determined that under Deliver Order Number EP05W001068, Geologics Corporation will require access to CBI submitted to EPA under sections 4, 5, 6, and 8 of TSCA, to perform successfully the duties specified under the contract.

Geologics personnel will be given information submitted to EPA under sections 4, 5, 6, and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, and 8 of TSCA, that the Agency may provide Geologics Corporation access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this deliver order will take place at EPA Headquarters.

Clearance for access to TSCA CBI under Deliver Order Number EP05W001068 may continue until October 31, 2005. Access will commence no sooner than February 23, 2005.

Geologics personnel have signed non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

**List of Subjects**

Environmental protection, Confidential business information.

Dated: February 11, 2005.

**Vicki A. Simons,**

*Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 05–3060 Filed 2–17–05; 8:45 am]

BILLING CODE 6560–50–S

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## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–6660–6]**

## Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed February 7, 2005 Through February 11, 2005

Pursuant to 40 CFR 1506.9.

*EIS No. 050055, Final EIS, AFS, AL,* Longleaf Ecosystem Restoration Project, Proposes a Five-Year Project to Begin Restoration of Native Longleaf, Talladega National Forest, Oakmulgee District, Tuscaloosa, Hale, Bibbs and Perry Counties, AL, Wait Period Ends: March 21, 2005, Contact: Jim Shores (205) 926–9765.

*EIS No. 050056, Draft EIS, FHW, TX,* Trinity Parkway Project, Construction of Limited Access Toll Facility from IH–35 E/TX–183 to U.S. –175/TX 310, U.S. Army COE Section 10 and 404 Permits, Dallas County, TX, Comment Period Ends: April 4, 2005, Contact: Salvador Deocampo (512) 536–5950.

*EIS No. 050057, Final EIS, AFS, MT,* Bridger Bowl Ski Area, Permit Renewal and Master Development Plan Update, Implementation, Special Use Permit and COE Section 404 Permit, Gallatin National Forest, in the City of Bozeman, MT, Wait Period Ends: March 21, 2005, Contact: Nancy Halstrom (406) 522–2520.

*EIS No. 050058, Final EIS, NAS, HI,* Outrigger Telescopes Project, Proposed for the W.M. Keck Observatory Site within the Mauna Kea Science Reserve, Funding, Construction, Installation and Operation, Island of Hawaii, Wait Period Ends: March 21, 2005, Contact: Kenneth M. Kumor (202) 358–1112.

EIS No. 050059, Draft EIS, NPS, VA, Manassas National Battlefield Park Bypass Study, From US–29 East of Park Boundary and VA–234 South of Park Boundary to U.S. 29 West of Park Boundary and VA–234 North of Park Boundary, U.S. Army COE Section 404 Permit, Prince William and Fairfax Counties, VA, Comment Period Ends: April 4, 2005, Contact: Jack Van Dop (703) 404–6282. This document is available on the Internet at: *http://www.battlefiedbypass.com.*

*EIS No. 050060, Draft EIS, COE, TX,* Cedar Bayou Navigation Channel (CBNC) Improvements Project, Implementation, Near Baytown in Harris and Chambers Counties, TX, Comment Period Ends: April 4, 2005, Contact: Dr. Terry Roberts (409) 766–3035.

*EIS No. 050061, Final EIS, FHW, MN,* Ayd Mill Road Corridor, Improvements from I–35 E to St. Anthony Avenue (I–94) 2.6 kilometer (1.6 miles), Funding, City of Saint Paul, Ramsey County, MN, Wait Period Ends: March 21, 2005, Contact: Cheryl Martin (651) 291–6120.

*EIS No. 050062, Draft EIS, COE, NC,* Fort Bragg Headquarters for XVIII Airborne Corps and Army Special Operations Command, To Determine the Level of Training on the Overhills Tract Program, Cumberland and Harnett Counties, NC, Comment Period Ends: April 4, 2005, Contact: David A. Heinz (910) 396–8207.

*EIS No. 050063, Final EIS, AFS, UT,* Monticello and Blanding Municipal Watershed Improvement Projects, Implementation, Manti-La Sal National Forest, Monticello Ranger District, San Juan County, UT, Wait Period Ends: March 21, 2005, Contact: Elton Chang (503) 587–4710.

*EIS No. 050064, Final EIS, NIH, TX,* Galveston National Laboratory for Biodefense and Emerging Infectious Diseases Research Facility at the University of Texas Medical Branch, Construction, Partial Funding, Grant, Galveston, TX, Wait Period Ends: March 22, 2005, Contact: Valerie Nottingham (301) 496–7775.

**Amended Notices**

*EIS No. 040504, Draft EIS, SFW, CA,* Coachella Valley Multiple Species Habitat Conservation Plan (MSHCP), Santa Rosa and San Jacinto Mountains Trails Plan, Issuance of Incidental Take Permits, Riverside County, CA, Comment Period Ends: March 7, 2005, Contact: Julie Concannon (503) 231–6747. Revision of FR Notice Published on 11/05/04: CEQ Comment Period Ending 02/2/2005 has been Extended to 03/07/2005.

*EIS No. 050000, Draft EIS, AFS, UT,* Ogden Ranger District Travel Plan, To Update the Travel Management Plan, Wasatch-Cache National Plan, Ogden Ranger District, Box Elder, Cache, Morgan, Weber and Rich Counties, UT, Comment Period Ends: March 30, 2005, Contact: Rick Vallejos (801) 625–5112. Revision of FR Notice Published on 01/14/2005: CEQ Comment Period Ending on 2/28/2005 has been Extended to 03/30/2005.

*EIS No. 050004, Final EIS, SFW, WA, ID, OR, CA,* Caspian Tern (sterna caspia) Management to Reduce Predation of Juvenile Salmonids in the Columbia River Esturary, To Comply with the 2002 Settlement Agreement, Endangered Species Act

*(ESA), Columbia River, WA, OR, ID and CA,* Wait Period Ends: February 14, 2005, Contact: Nanette Seto (503) 231–6164. Revision of FR Notice Published on 01/14/2005: Time Extended Put in by Error the Wait Ends on 2/14/2005.

Dated: February 15, 2005.

**Robert W. Hargrove,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 05–3187 Filed 2–17–05; 8:45 am]

BILLING CODE 6560–50–U

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–6660–7]**

## Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act, as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 2, 2004 (69 FR 17403).

### Draft EISs

*ERP No. D–AFS–J65428–CO* Rating EC2, Vail Valley Forest Health Project, Proposed Landscape-Scale Vegetation Management and Fuels Reduction, White River National Forest, Holy Cross Ranger District, Eagle County, CO.

*Summary:* EPA expressed environmental concerns about potential effects to aquatic and terrestrial resources from large scale management activity, and requested additional information on the ongoing beetle epidemic, especially its impact on meeting project goals.

*ERP No. D–AFS–J65431–UT* Rating EC2, Duck Creek Fuels Treatment Analysis, To Reduce Fuels, Enhance Fire-Tolerant Vegetation and Provide Fuel Breaks, Dixie National Forest, Cedar City Ranger District, Kane County, UT.

*Summary:* EPA expressed environmental concerns about the potential for adverse impacts to water quality and aquatic habitat, degradation of soils and impacts to wildlife from reduction of old growth habitat. The Final EIS should discuss additional mitigation measures to reduce impacts in important wildlife habitat and back-country areas.

*ERP No. D–AFS–J65434–CO* Rating EC2, County Line Vegetation Management Project, Salvaging Spruce Beetle Infected Trees and Thinning Spruce-Fir Stand, Rio Grande National Forest, Conejos Peak Ranger District, Conejes County, CO.

*Summary:* EPA expressed environmental concerns about soil disturbance and erosion, runoff, sedimentation, and habitat impacts in streams that have a population of genetically pure Rio Grande cutthroat trout, and wildlife impacts to sensitive species such as threatened Canada Lynx, Northern Goshawk, and Boreal Owl. EPA recommended that the Preferred Alternative be modified to protect critical, older-growth spruce-fir wildlife habitats.

*ERP No. D–AFS–K65277–CA* Rating EC2, Modoc National Forest Noxious Weed Treatment Project, Proposes to Implement a Control and Eradication Project, Lassen, Modoc and Siskiyou Counties, CA.

*Summary:* EPA expressed environmental concerns about integration of weed treatments, impacts to water quality, toxicity of herbicides to wildlife, and addressing tribal concerns regarding herbicide use.

*ERP No. D–USA–L11037–AK* Rating EC2, Battle Area Complex (BAX) and a Combined Arms Collective Training Facility (CACTF) Construction and Operation, U.S. Army Training Lands in Alaska.

*Summary:* EPA expressed concerns related to water resource, wetland, and habitat impacts, and recommended that additional criteria could be used to expand the range of alternatives in order to minimize environmental impacts.

*ERP No. DR–IBR–K39048–CA* Rating EC2, Truckee River Operating Agreement (TROA) Modify Operations of Five Federal and Two Non-Federal Reservoirs to Facilitate Distribution of Water, Truckee River Basin, EL Dorado, Nevada, Placer and Sierra Counties, CA and Douglas, Lyon, Storey and Washoe Counties, NV.

*Summary:* EPA expressed concerns about potential impacts to water quality and sensitive resources, and requested additional information in the Final EIS on water quality, alternatives, biological resources, cumulative impacts, water conservation, and program monitoring and reporting measures.

### Final EISs

*ERP No. F–AFS–J65399–00* High Mountains Heli-Skiing (HMH) Project, Issuance of a New 5–Year Special Use Permit (SUP) to Continue Operating Guided Helicopter Skiing in Portions of the Bridger-Teton National Forest and Caribou-Targhee National Forest (CTNF), Teton and Lincoln Counties, WY and Teton and Bonneville Counties, ID.

*Summary:* EPA expressed no objections to the proposed action.

*ERP No. F–BIA–C60004–NY* St. Regis Mohawk Tribe, Mohawk Mountain Casino and Resort, Proposed Transfer of 66 Acres of Land into Federal Trust Status, Fee-to-Trust Acquisition, Sullivan County, NY.

*Summary:* EPA continues to express concern about the project's cumulative effects and air quality analyses.

*ERP No. F–FHW–G40174–TX* Eastern Extension of the President George Bush Turnpike (PGBT) from TX–78 to I–30, New Controlled Access Tollway Construction at a New Location, Cities of Garland, Sachse, Rowlett and Dallas, Dallas County, TX.

*Summary:* No comment letter was sent to the preparing agency.

*ERP No. FA–AFS–L67028–AK* Kensington Gold Project, Proposed Modifications of the 1998 Approved Plan Operation, NPDES, ESA and US COE Section 10 and 404 Permits, Tongass National Forest, City of Juneau, AK.

*Summary:* This EIS has addressed EPA's objections about toxicity in the lake and the NPDES discharge. EPA is continuing to work through the 404(b)(1) process.

*ERP No. F1–AFS–J65308–UT* Wasatch Powerbird Guides Permit Renewal, Authorization to Continue Providing Guided Helicopter Skiing Activities on National Forest System (NFS) Land on the Wasatch-Cache and Uinta National Forests, Special-Use Permit (SUP), Provo and Salt Lake City, UT.

*Summary:* EPA expressed no objections to the proposed action.

*ERP No. F1–FHW–F40361–MI* MI–59 Livingston County Widening Project between I–96 and US 23, Recommended Alternative was Selected, Right-of-Way Preservation Center Corridor, Funding, NPDES and U.S. Army COE Section 404 Permits Issuance, Livingston County, MI.

*Summary:* EPA has environmental concerns about the project regarding invasive species control, and also requests additional information in the Record of Decision concerning wetlands impacts and secondary land use changes.

Dated: February 15, 2005.

**Robert W. Hargrove,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 05–3188 Filed 2–17–05; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7874–4]**

## Targeted Watersheds Grant Program: Call for Nominations

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

**ACTION:** Notice.

**SUMMARY:** EPA today is announcing the Call for Nominations of watershed proposals under the Targeted

Watersheds Grant Program. Formerly called the Watershed Initiative, the Targeted Watersheds Grant Program is a competitive grant program designed to support the protection and restoration of the country's water resources through a holistic watershed approach to water quality management. For fiscal year 2005, Congress has appropriated a total of $18 million for the Program of which $10 million will be directed to nation-wide projects for improving water quality and the remaining $8 million will be directed toward projects in the Chesapeake Bay watershed. Today's notice sets forth the process that will be used for selecting watersheds for the nation-wide projects, and serves as the call for nominations from Governors and Tribal Leaders. Subsequently, EPA will publish a separate notice that will outline the criteria and selection process for Chesapeake Bay nominations.

**DATES:** The deadline for EPA receipt of nominations, both in hard copy and in electronic form, is May 19, 2005. Nominations and supporting materials received after this deadline will not be considered.

**ADDRESSES:** Two hard copies of the nomination packages must be submitted in their entirety by express mail or courier service. Deliver one copy to Carol Peterson, Office of Wetlands, Oceans, and Watersheds, USEPA, Room 7136E, 1301 Constitution Avenue, NW., Washington, DC 20004; telephone 202–566–1304. The other copy is to be delivered to the appropriate EPA Regional office (see section IV.E for regional names and addresses). Please mark all submissions ATTN: Targeted Watersheds.

In addition to the hard copies, a portion of the nomination package must also be submitted electronically to the e-mail address provided; the subject line should read ''STATE—WATERSHED NAME.'' Please follow the detailed instructions provided in section IV.D of the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** Carol Peterson, USEPA, 1200 Pennsylvania Ave., NW., (4501T), Washington, DC, 20460; telephone: 202–566–1304; e-mail: *initiative.watershed@epa.gov* or one of the Regional contacts listed in section VII of the **SUPPLEMENTARY INFORMATION** section below. Additional information, forms, and any updated guidance will be posted on EPA's Targeted Watersheds Web site at *http://www.epa.gov/owow/watershed/initiative.*

**SUPPLEMENTARY INFORMATION:**

## I. Funding Opportunity Description

### *A. The Targeted Watersheds Grant Program*

The Targeted Watersheds Grant Program is built on the fundamental concept of managing water resource use and water quality on a holistic watershed basis. The watershed approach focuses regional and State efforts to integrate water and source water protection programs to support locally-led collaborative efforts within hydrologically defined boundaries that protect and restore our aquatic resources and ecosystems. This approach offers an efficient opportunity to tackle today's environmental challenges. The Targeted Watersheds Grant Program encourages watershed practitioners to examine water-related problems in the context of the larger watershed in which they exist, to develop solutions to those problems by creatively applying the full array of available tools, including Federal, State, and local programs, and to restore and preserve water resources through strategic planning and implementation that draw in public and private sector partners. Both the watershed approach and the Targeted Watersheds Grant Program focus on multi-faceted plans for protecting and restoring water resources that are developed using partnership efforts of diverse stakeholders. Projects selected for funding will go beyond implementing separate, detached activities and will focus on implementing and measuring the effectiveness of an integrated watershed-based approach to conservation and restoration throughout a watershed. Successful nominees will focus on far-reaching approaches that will improve water quality and are consistent with the goals of the Clean Water Act.

### *B. Goals for 2005*

In this third year of the program, EPA will continue to support coalition-based strategies for improving water resources on a watershed level, including activities such as attaining water quality standards, and protecting and restoring the natural and beneficial uses of floodplains. The goal of the Targeted Watersheds Grant Program is to advance successful partnerships and coalitions that have completed the necessary watershed assessments and have a technically sound watershed plan ready to carry out. This Program is intended to encourage the kind of pro-active, and incentive-based protection and restoration measures that will yield cleaner water and better protected ecosystems.

EPA will select projects that are intended to improve water quality and are based on the fundamentals of the Clean Water Act, that is, projects that relate to the prevention, reduction, and elimination of water pollution. The Agency will continue to base its selections on projects that exhibit a high degree of innovation, measurable results, partnerships, outreach and cost-effectiveness. In addition, special emphasis this year will be placed on water quality trading projects. To encourage States, interstate agencies, and tribes to develop and implement water quality trading programs for nutrients, sediments, and other pollutants, EPA will reserve about fifteen percent of the Targeted Watersheds grant funds for promising trading projects that meet the prescribed criteria. While trading projects may take longer to develop and implement due to necessary front-end tasks such as establishing a market framework and identifying applicable trading ratios, EPA is interested in funding trading projects that will result in reduced pollutant loadings in the near to mid-term. Thus, more specific criteria related to trading is provided in this year's solicitation (see section V.A). Examples of trading proposals with these characteristics can be found on the Targeted Watersheds Grant Program Web site at *http://www.epa.gov/owow/watershed/initiative/2004/04proposals.html* under Passiac River, NJ and Cape Fear River, NC. EPA's Water Quality Trading Policy and other relevant information can be found at *http://www.epa.gov/owow/watershed/trading/.*

## II. Award Information

Approximately $10 million will be available to support nation-wide projects of which fifteen percent will be reserved for trading projects. Funding also will be continued to existing grants that work toward providing services, such as, national tools, training, and technical assistance to all watershed organizations.

EPA anticipates that typical grant awards for the selected watersheds will range from $600,000 to $900,000 depending on the amount requested and the overall size and need of the project. It is important to note that, even if selected to receive a grant, full funding of a proposal is not guaranteed, and EPA reserves the right to make partial awards. For example, the Agency may choose not to fund one particular aspect of the proposal or may choose to decrease a requested award by a certain percentage. EPA also reserves the right

to reject all proposals and make no awards.

## III. Eligibility Information

### *A. Authority*

For FY 2005, EPA has been granted independent authority for the Targeted Watersheds Grant Program. This authority is contained in the Consolidated Appropriations (Omnibus Bill), Public Law 108–447. The new authority allows EPA to tailor the scope of the Targeted Watersheds Grant Program to better align with the goals of the Clean Water Act of fishable, swimmable waters, and the objectives of the Agency's strategic plan to protect the environment and safeguard human health. This clears the way for EPA to fund a broader range of projects and allows the Agency to fund projects that directly entail environmental protection and/or restoration activities, most specifically, on-the-ground implementation projects.

Regulations pertaining to EPA grants and other assistance agreements are in Title 40 of the Code of Federal Regulations (CFR) parts, 30, 31, and 40. All costs incurred under this program must be allowable under the applicable OMB Cost Circulars: A–87 (States and local governments), A–122 (nonprofit organizations), or A–21 (universities). Copies of these circulars can be found at *http://www.whitehouse.gov/omb/circulars/*. In accordance with EPA policy and the OMB circulars, as appropriate, any recipient of funding must agree not to use assistance funds for lobbying, fund-raising, or political activities (*e.g.*, lobbying members of Congress or lobbying for other Federal grants, cooperative agreements, or contracts).

### *B. Eligible Applicants*

Any governmental or nonprofit non-governmental entity is eligible to receive a grant under the Targeted Watersheds Grant Program. Recipients can include: States and tribes, public water pollution control agencies; interstate or inter-tribal agencies; public or non-profit private agencies, institutions, or organizations; and individuals. All non-profit watershed organizations are eligible and are encouraged to submit a nomination. Watershed organizations that were selected for funding in 2003 or 2004 are not eligible. For-profit commercial entities are ineligible for funding but are strongly encouraged to be active partners. The term ''State'' is defined to include the District of Columbia, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands (40 CFR 31.3).

Interjurisdictional watershed partnerships, that is, those that encompass abutting areas and, thus, neighboring political authorities, or that transcend international boundaries, are encouraged. Watershed nominations that encompass more than one governmental authority will be considered interjurisdictional, provided that the appropriate water agency in the adjacent jurisdiction is a partner or otherwise supports the project(s).

### *C. Eligible Activities*

EPA will consider any activity, apart from those listed below, that will result in the protection, preservation, and restoration of a watershed, that incorporates a watershed-based approach, and meets the prescribed criteria, e.g, is well developed and will produce measurable environmental outcomes. Activities proposed for funding are not necessarily expected to address the entire watershed, but are expected to have been developed based on a comprehensive assessment and plan for the watershed. As such, all activities must directly support the described watershed plan, and Targeted Watersheds Grant funds must be used in accordance with the plan. Examples of selected proposals and funded activities from 2003 and 2004 can be found on the Web site at *http://www.epa.gov/owow/watershed/initiative/2003/* and *http://www.epa.gov/owow/watershed/initiative/2004/*, respectively.

EPA has chosen to declare certain activities ineligible for funding. These include any proposals to directly support activities required under the Clean Water Act. This entails funds for the development of Total Maximum Daily Loads (TMDLs), and Office of Water regulatory programs including Phase II Stormwater projects. Proposals implementing the non-regulatory component of TMDLs, e.g. the elements of a watershed plan that address non-point pollution, however, are eligible. The construction of buildings or other major structures, or the purchase of major equipment or machinery, also will not be funded under this Program. Proposals containing subgrant programs (also called pass-through grants) are allowed, but the subgrant portion must account for no more than 20% of the requested funding amount.

### *D. Cost Sharing/Matching Requirements*

EPA is requiring applicants to demonstrate a minimum non-Federal match of 25% of the total cost of the project or projects. This means EPA will fund a maximum of 75% of the total project cost. EPA encourages applicants to leverage as much investment as possible. In addition to cash, matching funds can come from in-kind goods and services, such as the use of volunteers and their donated time, equipment, expertise, etc., consistent with the regulations governing matching fund requirements (40 CFR 31.24 or 40 CFR 30.23). Federal funds may not be used to meet the match requirement for this grant program unless authorized by the statute governing their use.

Tribes and Tribal watershed groups may be exempt from this match requirement if they are constrained to such an extent that fulfilling the match requirement would impose undue hardship. Tribes wishing to be exempt from the minimum 25% match requirement must submit a one-page written request with justification. Exemption requests should be sent directly to the EPA Headquarters contact listed in section VII, forty-five (45) days prior to the nomination deadline. If approved, the nomination will be scored as if it meets the minimum 25% match.

## IV. Application and Submission Information

EPA will select watersheds and will award the grants through a national competition. Nominations will be selected based on the quality of the written materials received and adherence to the selection criteria and goals of the Targeted Watersheds Grant Program. Emphasis will be placed on those proposed projects with clear objectives, measurable environmental indicators, and an executable monitoring plan. Funding decisions will be made based on the evaluation criteria outlined in section V.A of this notice. EPA will invite only those nominees whose proposals are selected under this Program to submit formal grant applications (section VI).

### *A. Nomination Process*

Watersheds must be nominated by Governors or Tribal Leaders. (For the purposes of this notice, a tribal nomination may be submitted by an elected Tribal Official.) Each Governor or Tribal Leader may prepare or solicit watershed proposals from eligible entities in a manner most appropriate to their State or tribe, and nominate the most meritorious to EPA.

A Governor or Tribal Leader may nominate up to two watersheds, each of which is wholly within its boundaries, plus an unlimited number of interjurisdictional watersheds, i.e., those that encompass several States, Tribes or countries. For

interjurisdictional watersheds, any of the engaged Governors/Tribal Leaders may submit the nomination. Such watershed nominations must include an official endorsement of all partnering States or Tribes in their nomination package. Governors and Tribal Leaders are to submit their watershed nominations to EPA.

*B. Content and Form of Nomination Package*

In preparing nomination materials, nominees should focus on the overarching goal by which their overall nomination will be judged, i.e, how the proposed projects are interrelated to benefit the whole watershed. Within the required components outlined below, nominees should address completely and to the best of their ability, the criteria the Agency will be using in its evaluation as outlined in section V.A below.

Each nomination package must contain the components listed in this section. Failure to submit any of this information ultimately will result in disqualification and removal from the selection process. Conversely, additional, unsolicited material is strongly discouraged and any such material submitted will not be reviewed.

1. *Nomination Letter.* A letter signed by the Governor or Tribal Leader formally nominating the watershed for consideration for funding must accompany each nomination package.

2. *Title Page.* The title page must indicate: (1) The name of the watershed along with the designated 8-digit Hydrological Unit Code(s) (HUCs); (2) if applicable, the impaired waters, such as any degraded stream segments within the project area that are on the State's 303(d) list; (3) nominee contact information, i.e., name, affiliation, address, telephone, and e-mail of the person with whom the Agency should correspond; and (4) Internet Web site (i.e., URL) of the organization if available. HUCs (also known as USGS Cataloging Units) and State 303(d) listings can be found on EPA's Surf Your Watershed Web site at *http://www.epa.gov/surf/locate/index.cfm*.

3. *Abstract.* A 150-word or less summary of the nomination.

4. *Project Description.* The narrative description of the proposed activities is limited to a total of ten, double-spaced pages in which the following components are addressed. The page numbers shown in parentheses for each component listed below are suggested lengths only, and nominees may adjust their project description within the 10-page limit in a manner that best fits their needs.

(a) Introduction (2 pages).

Characterize the watershed, including any wetlands, and overall watershed planning efforts. Describe what efforts have been undertaken to improve watershed health, next steps, and future plans. An assessment of the natural resource and environmental conditions, and an identification of problem sources and areas for treatment are required. These include:

(1) A description of the watershed's biological, physical, and, if relevant, socio-economic and/or cultural characteristics.

(2) An identification and prioritization of the threats and impairments facing the watershed, focusing on those that will be addressed by the proposal.

(3) An overall description of the watershed plan including short- and long-term watershed goals.

(4) An identification of the assessments and plans that have been completed to date.

(b) Description of the Proposed Projects (7 pages).

Describe the projects to be funded under the Targeted Watersheds Grant Program. These should be described in terms of activities that will meet the stated objectives and yield positive environmental outcomes. The following information must be included:

(1) Describe how the project(s) will improve the identified impairments or stream conditions. Explain how the projects fit together and are interrelated to benefit and affect watershed health.

(2) Describe in detail each project (if more than one) including: (i) A description of the components and goals of the project(s), (ii) a schedule for implementing the project(s); (iii) a summary of the costs of the project(s) with reference to the appended itemized budget for details; and (iv) milestones and dates for determining whether or not the intended goals of the watershed project(s) are being realized.

(3) Describe the monitoring and evaluation component along with identified environmental indicators. Attention should be given to additional pre-project baseline data requirements. This component must include performance measures and progress goals, as well as a description of how the ultimate success of the projects will be measured. Performance measures must be environmental (e.g., chemical or microbial levels attained). Other measures to be monitored should be infrastructural (e.g., additional partnerships formed) and implementational (e.g., on-the-ground work performed). The progress and performance of the projects must be measurable by technically sound practices.

(4) Include a description of expected environmental outcomes. Describe the method to measure the environmental improvement that is expected to result from the project(s) and describe how the project(s) will be evaluated. Criteria by which the project(s) will be judged and by which the project will be considered successful should be incorporated into the description.

(5) Describe how the projects complement or are consistent with other EPA, Federal, and/or State programs or mandates. Other Federal contributors or supporting partners should also be identified.

(c) Description of Outreach Activities (1 page).

Describe the information and outreach plan that will be used to enhance public understanding of the watershed and encourage participation in the local project or projects, and future activities regarding implementing the goals of the watershed plan. Because the selected watersheds are intended to serve as models for other communities, describe the outreach plan and how it will transfer the knowledge gained from this effort to other areas and organizations.

5. *Budget.* Provide a detailed breakdown of cost by category for each project.

(a) Standard Budget Form. To facilitate the compilation and review of financial information, the Agency is providing a standard form for potential applicants to use when submitting project budgets. This form (Table 1) may be reconstructed or downloaded from the Targeted Watersheds Web site at *http://www.epa.gov/owow/watershed/initiative/budget.form*. All budget information, including grant administration costs, matching funds and other leveraged services, and travel cost to the annual conference, must be provided on this form. (Information on matching funds and the annual conference is described in subsections (b) and (c) below). Nominees should include cost estimates for each of the proposed project activities to be conducted under the grant. Due to the increase in grant management requirements, EPA suggests that nominees budget up to 15% of the total project costs for administrative purposes.

Explanations of the costs associated with each entry should be included in the narrative portion of the nomination package.

TABLE 1.—BUDGET INFORMATION—EPA TARGETED WATERSHEDS GRANT PROGRAM [1]

| Watershed Project, Activity or Work Plan Element | Federal | Non-Federal | Total |
|---|---|---|---|
| **SECTION A—BUDGET SUMMARY** | | | |
| 1.<br>2.<br>3.<br>4. | $ | $ | $ |
| Totals | $ | $ | $ |

[1] Excerpted from Standard Form 424A, OMB Circular A–102.

| Budget Categories | Watershed Project, Activity or Work Plan Element | | | | Total |
|---|---|---|---|---|---|
| | (1) | (2) | (3) | (4) | |
| **SECTION B—BUDGET CATEGORIES** | | | | | |
| a. Personnel<br>b. Fringe Benefits<br>c. Travel<br>d. Equipment<br>e. Supplies<br>f. Contractual<br>g. Construction<br>h. Other<br>i. Total Direct Charges (sum line a-h)<br>j. Indirect Charges | $ | $ | $ | $ | $ |
| Totals (sum line i–j) | $ | $ | $ | $ | $ |

(b) Matching Requirement. Applicants must demonstrate a minimum non-Federal match of 25% of the total cost of the project or projects. This means EPA will fund a maximum of 75% of the total project cost. To determine if the minimum match is met, the following formulas may be helpful:

$$\frac{\textit{amount (\$) requested from EPA} \times 100}{\text{cost (\$) of entire project}} \leq 75 \text{ or}$$

$$\frac{\textit{amount (\$) requested from EPA}}{\text{minimum match (\$)}} = 3$$

For example, a $1.2M grant could be used to support a $1.6M project proposal. Another way of looking at this is if the nominee requests $1M, it must be able to provide $333,334.00 in matching funds or services. In this example, the total cost of the proposal would be just under $1.34M. Please contact your Regional contact person listed in section VII if you have any questions about calculating the match requirement.

(c) Annual Conference. Watershed organizations selected for grant funding will be required to attend the annual three-day National Targeted Watersheds Conference during each year of the grant. The purpose of this conference is to provide these watershed organizations with training and support to better restore, protect, and manage their watersheds, provide help and assistance in Agency grants management requirements and, most importantly, provide grant recipients with opportunities to share successful approaches with each other and other peer-to-peer learning opportunities.

Attendance at the conference will be mandatory and will be one of the Terms and Conditions of the grant. The grantee will be allowed to use the grant funds to pay for travel and lodging. The cost of hosting the conference will be paid for by EPA. If the recipient wishes to use the award money for travel expenses, these costs must be included in the submitted proposed budget. The Agency will make every effort to hold the three-day conference in a central location to minimize travel costs.

(d) Information Technology. Also as a Term and Condition of the grant, recipients will be required to institute standardized reporting requirements into their workplans and include such costs in their budgets. All environmental data will be required to be entered into the Agency's Storage and Retrieval (STORET) data system and recipients may need to purchase appropriate ORACLE software. STORET is a repository for water quality, biological, and other physical data used by State environmental agencies, EPA and other Federal agencies, universities, private citizens, and many other organizations. An introduction to the STORET system will be provided at the annual conference, as well as information regarding training sessions sponsored by EPA. Watershed organizations may also want to contact their State agency responsible for entering data into the system. More information about STORET can be found at *http://www.epa.gov/STORET*.

*6. Appendices.*

(a) Experience in Grant Management (1 page maximum).

To ensure that nominees possess the management and technical skills required to administer the grant, a description of management experience is needed. In a 1-page appendix to the project description, provide information on the past experience of the project leader(s) and/or partners in designing, implementing, coordinating activities, and effectively managing a Federal grant. Identify the entity that will be the grantee and thus responsible for the administration of the grant workplan and for being the fiscal agent receiving the funds. Include academic experience only if relevant to the proposal. Do not send resumes.

(b) Letter(s) of Support.

To substantiate the information contained in the narrative portion of the submission, documentation to verify partnerships and matching funds is required. Items that must accompany the narrative description and submitted

as appendices include the following items.

(i) Signed letter(s) from active partners indicating their commitment to implementing the workplan or for specific proposed projects.

(ii) A minimum of one signed letter from an entity committing to provide matching funds, either in cash or in-kind goods and services, including the total value of its commitment toward the projects.

(iii) For interjurisdictional nominations, a signed letter(s) from the appropriate organization in the adjacent State, tribe, or country expressing their support and participation in the proposed project(s). For example, a letter from another Governor, Tribal leader, State water commissioner, State water quality director, environmental director, or similar position in Canada or Mexico is acceptable.

(c) Map. A map of the watershed and the proposal work areas is required.

*C. Format*

Each nomination package must contain: (1) A one-page cover letter signed by the Governor or Tribal Leader, (2) a title page with appropriate information, (3) a 150-word or less abstract, (4) project description, (5) the budget form, (6) a one-page description of grant management experience, (7) letter(s) and certification(s) of support, and (8) maps. The project description of the nomination must be no more than ten double-spaced pages long, using a 12-point conventional font and one inch margins. This section must include all of the required components listed in section IV.B. To ensure a fair and equitable evaluation of the nominations, please do not exceed the above limits. A nomination that contains a project description narrative that exceeds ten double-spaced pages will not be considered. The title page, abstract, and required appendices will not count toward the 10-page limit. The entire nomination package should be printed on 8½″x11″ paper.

*D. Submission Process*

EPA invites each Governor and Tribal Leader to submit nominations for grants under the 2005 Targeted Watershed Grants Program.

Nominations must be received by EPA by May 19, 2005.

*1. Electronic.* EPA is requiring that a portion of the nomination be submitted electronically. Please send an electronic copy of *only* the title page, abstract, project description, and budget form to the electronic mailbox at *initiative.watershed@epa.gov*. Electronic submissions are limited to 120 KB in size and one submission per nomination. Please *do not* send maps, letters of support, match certifications, or pictures of any kind via the electronic mailbox. The subject line should be in the format ''STATE—Watershed Name'' (*e.g.*, MD—Rock Creek). No confidential business information should be sent via e-mail. If unusual or extraordinary circumstances prevent electronic submission of the nomination, please contact the appropriate Regional contact person to discuss alternate arrangements.

*2. Paper.* Two hard copies of the complete nomination package (including all nominating and support letters) are required to be sent by express mail or courier service. One package is to be sent to EPA Headquarters and the other is to go to the appropriate Regional Office. All names and addresses are listed below. Mark all submissions: ATTN: Targeted Watersheds.

*E. Submission Addresses*

Submissions must be delivered to the following:

*Headquarters:*

Carol Peterson, Office of Wetlands, Oceans, and Watersheds; U.S. EPA; Rm. 7136; 1301 Constitution Avenue; NW., Washington, DC 20004.

*EPA Regional Offices:*

Region I—Connecticut, Maine, Massachusetts, Rhode Island, Vermont, New Hampshire
Marilyn Smith-Church; U.S. EPA Region 1; 1 Congress Street, Suite 1100; Mail Code CWN; Boston, MA 02114–2023.

Region II—New Jersey, New York, Puerto Rico, U.S. Virgin Islands
Cyndy Kopitsky, U.S. EPA Region 2; 290 Broadway; 24th Floor; New York, NY 10007–1866;

Region III—Delaware, Maryland, Pennsylvania, Virginia, West Virginia, Washington, DC
Ralph Spagnolo; U.S. EPA Region 3; Mail Code 3WP12; 1650 Arch Street; Philadelphia, PA 19103–2029.

Region IV—Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Kentucky, Tennessee
William L. Cox; U.S. EPA Region 4; Sam Nunn Atlanta Federal Center; 15th Floor; 61 Forsyth Street, SW.; Atlanta, GA 30303–3104.

Region V—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
Paul Thomas; U.S. EPA Region 5; Mail Code WW–16J; 77 W. Jackson Blvd; Chicago, IL 60604.

Region VI—Louisiana, Texas, Oklahoma, Arkansas, New Mexico
Brad Lamb; U.S. EPA Region 6; Mail Code 6WQ–EW; 1445 Ross Avenue; Dallas, TX 75202.

Region VII—Iowa, Kansas, Missouri, Nebraska
Margaret Stockdale; U.S. EPA Region 7; Mail Code WWPD/GPCB; 901 North 5th Street; Kansas City, KS 66101.

Region VIII—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
Peter Ismert; U.S. EPA Region 8; Mail Code 8EPR–EP; 999 18th Street, Suite 300; Denver, CO 80202–2466.

Region IX—Arizona, California, Hawaii, Nevada, American Samoa, Mariana Islands, Guam
Sam Ziegler; U.S. EPA Region 9; Mail Code WTR–3; 75 Hawthorne Street; San Francisco, CA 94105.

Region X—Alaska, Idaho, Oregon, Washington
Bevin Reid; U.S. EPA Region 10; Mail Code OWW–137; 1200 Sixth Avenue; Seattle, WA 98101

*F. Checklist*

To assist nominees in collecting and formatting their package materials, the following checklist is provided (Table 2). These factors will be used by the Agency in screening the nominations for eligibility. The absence of any of these factors could result in disqualification from the onset without notice.

TABLE 2.—CHECKLIST OF REQUIRED ELEMENTS

| | |
|---|---|
| 1. Package Components: | |
| Nominating letter signed by the Governor or Tribal Leader or Tribal Official | b |
| Title page | b |
| 150-word Abstract | b |
| 10-page Project Description | b |
| Budget form | b |
| 1-page description of Grant Management Experience | b |
| Letter(s) signed by active partners | b |

TABLE 2.—CHECKLIST OF REQUIRED ELEMENTS—Continued

| | |
|---|---|
| Letter(s) committing matching funds | b |
| Letters(s) supporting inter-jurisdictional nominations (if applicable) | b |
| Map(s) | b |
| 2. Project Description Format: | |
| 12-point font size | b |
| Double-spaced | b |
| 1″ Margins | b |
| 8½ x 11″ paper | b |
| 3. Match Requirement: | |
| 25% Minimum match | b |
| Match includes Federal funds and applicant has cited authority | b |
| Waiver of match requested due to undue hardship (Tribal only) | b |
| 4. Submission: | |
| 1 hard copy of all materials sent to EPA Headquarters | b |
| 1 hard copy of all materials sent to appropriate EPA Regional Office | b |
| Electronic copy of narrative text only sent to *initiative.watershed@epa.gov* (subject line: STATE-Watershed Name) | b |

## V. Application Review Information

### *A. Evaluation Criteria*

Watershed nominations will be reviewed, evaluated, and scored based on the following criteria with a possible total score of 60 points.

*1. Innovation* (10 points). Emphasis will be placed on progressive and forward-thinking projects and watershed nominations that undertake unique, innovative, or novel approaches to environmental problem-solving. The Agency recognizes that there can be innovative approaches that do not involve trading. However, for proposals that incorporate trading approaches to water quality, EPA will view more favorably projects that have the following characteristics: a TMDL or other ''cap'' for the pollutant is either in place or is imminent; a pollutant that comes from numerous (point and nonpoint) sources within the watershed and several sources have a pollutant control obligation; and some sources that are likely to have significantly different control costs to achieve the desired pollutant reductions.

*2. Tangible Solutions* (total of 30 points). Nominees will be evaluated based on the extent they demonstrate an in-depth knowledge of the watershed ecology, present a sound approach for combating threats and impairments, and include a description of how environmental results can be achieved and measured. Under this criteria, reviewers will focus on the following components:

(a) Feasibility (10 points). Reviewers will look at how well developed the project is, *i.e.*, the readiness of the project, technical merit, and expected environmental improvements. The focus will be on nominations that describe projects that are part of larger watershed assessments and plans, and reflect a watershed-based approach to conservation and restoration. The evaluation will focus on the overall soundness of the nomination from both an ecological and design perspective with an emphasis on those projects that can be implemented quickly. In summary, the evaluation will focus on whether nominees have demonstrated an understanding of priority water resource problems within the watershed, have substantially completed the assessment and planning phase, and are prepared to begin work.

(b) Environmental Measures (15 points). Under this criterion, a nomination will be evaluated based on how well it is supported by a clearly articulated set of performance and progress measures, and identified and measurable environmental indicators. A more detailed monitoring and data collection strategy is preferred. Reviewers will evaluate the proposal in relation to its likelihood to achieve predicted measurable, defensible environmental results in a relatively short time period, including potentially attaining expected outcomes, reaching project goals, and producing on-the-ground, quantifiable environmental change using sound science.

(c) Integration (5 points). Reviewers will evaluate the extent to which the proposed project plan provides an approach that integrates various tools including, but not limited to, those provided by local, State, Tribal and Federal programs, to solve the environmental problems. Emphasis will be placed on how well the proposal demonstrates a thoughtful and a strategic approach to problem-solving.

*3. Broad Support* (total of 10 points). Acknowledging and responding to representative interests from a broad and varied perspective is crucial to any successful watershed enterprise. This criteria will be based on the nominees ability to demonstrate and substantiate a strong collaborative effort.

(a) Partnerships (5 points). The reviewers will examine whether the watershed nomination incorporates a wide variety of public, private, and non-profit participation. The evaluation will be based on the level to which a nominee can demonstrate strong and diverse stakeholder stewardship and support. Reviewers will look for documented, effective working relationships among State, Tribal, and local entities, along with evidence of broad-based community involvement.

(b) Interjurisdictionality (5 points). Reviewers will evaluate whether the nomination actively involves more than one governmental entity, be it municipal, county, State, Tribal, Federal or country. Reviewers will look at the depth and breadth of jurisdictional participation and will also take into consideration any significant parties that are noticeably absent in lending their support of the nomination.

*4. Outreach* (5 points). Proposals will be evaluated on the design and breadth of their outreach program with an emphasis on those proposals that demonstrate a clear strategy for transferring the knowledge and experience garnered over the next few years to other watersheds with similar environmental conditions. Reviewers will also assess how the proposal addresses training and educational approaches to disseminating information about successful approaches and results.

*5. Financial Integrity* (5 points). The evaluation will examine the adequacy of the budget information provided, and whether the budget is reasonable and clearly presented. Reviewers will also consider the extent that the proposal exceeds the minimum match requirement or can certify a broad range of leveraging capacity.

*B. Review and Selection Process*

Governors and Tribal Leaders are to submit their watershed nominations to EPA. Once received by EPA, the nominations will undergo four phases of review. In phase one, all nominations will be pre-reviewed, or screened, by EPA Regional staff to determine if they are eligible, complete, and prepared in accordance with the instructions provided in this notice. If any of the required elements of the nomination package are inadvertently omitted, EPA may choose to contact the nominee. In phase two, each of the Agency's Regional Offices will convene a Review and Evaluation Panel to initially assess how well the nominations meet the evaluation criteria described above. Based on the panel review and recommendations, each Regional Administrator will then forward the Region's top three candidates to EPA Headquarters Office of Water in Washington, DC.

Phases three and four of the review process will occur at the national level. Upon receipt of the Regional recommendations, the Office of Water will convene a Technical Advisory Panel consisting of representatives from the Agency's Program and Regional Offices to review and rank the watershed nominations. In addition to the evaluation criteria listed above, factors such as geographic diversity, project diversity, watershed size, urban/rural mix, and cost will be considered in ranking nominations. During phase four, the National Panel will present its findings and recommendations to the Assistant Administrator of Water for approval and transmittal to the Administrator. The Administrator will make the final decision on the watersheds to be funded. Finalists will be contacted by telephone. All nominees, including those who are not selected for funding, will be notified by mail.

EPA expects to announce the selected watershed nominations in the summer of 2005. Selected watershed grantees will complete the grant award process, including final grant workplan negotiations through the appropriate EPA Regional Office in the fall of 2005. In general, grants awarded will be one-time awards and grant recipients should use the funds within 2–3 years (slightly longer for trading projects). Any subsequent Targeted Watersheds Grant funding would involve a new call for watershed nominations and is predicated on continued appropriations. Therefore, any proposal for work beyond the initial funding period would need to be submitted through the competitive process and will not receive preferential consideration based on the applicant's previous award.

## VI. Post-Selection Award Administration Information

*A. Applying for a Grant*

EPA will invite only nominees whose proposals are selected to submit grant applications. Once notified that their proposal has been selected for funding, the nominee will have 60 days to complete the formal grant application process (*i.e.*, Application for Federal Assistance, Standard Form 424 *et al*). The standard EPA grants application package must be filed according to Agency guidelines. Detailed information and assistance, including an application kit, required forms, and a check list, can be found at *http://www.epa.gov/ogd/AppKit/*. In anticipation of this process, all potential nominees may want to explore the above Web site for useful and pertinent information prior to preparing and submitting their nomination materials.

A new policy directive from the Office of Management and Budget effective October 1, 2004 requires grant applicants to provide a number from the Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) when applying for Federal assistance agreements. Organizations can receive a DUNS number at no cost by calling the toll free DUNS number request line at 1–866–705–5711. Additional information on obtaining a DUNS number can also be found at: *http://www.dnb.com*.

The Catalog of Federal Domestic Assistance number for this program is 66.439 Targeted Watershed Initiative. Any disputes regarding proposals or applications submitted in response to these guidelines will be resolved in accordance with 40 CFR 30.63 and part 31, subpart F. Applicants will be notified if dispute provisions change. Applicants should clearly mark information they consider confidential. EPA will make final confidentiality determinations in accordance with regulations in 40 CFR part 2, subpart B.

Although the selections will be announced at the national level, Targeted Watershed grants will be awarded and managed by the respective EPA Regional Offices. Selected nominees may be asked to modify objectives, workplans, or budgets prior to final approval of the grant award. The exact amount of funds to be awarded, the final scope of activities, the duration of the projects, and specific role of the EPA Regional Project Officer will be determined in the pre-award negotiations between the selected nominee and EPA. The designated EPA Regional Contact listed in section VII will be available to provide additional guidance in completing the grant application, and other necessary forms, and answering any questions. EPA will also work with the applicant to comply with the Intergovernmental review requirements of Executive Order 12372 and 40 CFR part 29. Grant applicants will receive a notice of award through postal mail. The notice of award signed by the Award Official (or equivalent) in the Grants Administration Division is the authorizing document, and will be mailed to the individual signing the original application.

*B. Administrative and National Policy Requirements*

Certain quality assurance and/or quality control (QA/QC) and peer review requirements are applicable to the collection of environmental data. Applicants should allow sufficient time and resources for this process in their proposed projects. Environmental data are any measurements or information that describe environmental processes, location, or condition; ecological or health effects and consequences; or the performance of environmental technology. Environmental data also include information collected directly from measurements, produced from models, and obtained from other sources such as data bases or published literature. Regulations pertaining to QA/QC requirements can be found in 40 CFR 30.54 and 31.45. Additional guidance can be found at *http://www.epa.gov/quality/qa_docs.html#noeparqt.*

*C. Reporting*

Project monitoring and reporting requirements can be found in 40 CFR 30.50–30.52, 40 CFR 31.40–31.41 and 40 CFR 40.160.1–40.160.5. In general, grantees are responsible for managing the day-to-day operations and activities supported by the grant to assure compliance with applicable Federal requirements, and for ensuring that established milestones and performance goals are being achieved. Performance reports and financial reports must be submitted quarterly and are due 30 days after the reporting period. The format of these reports will be identified during the grant application time frame, and will include reporting on established performance measures indicated in the project description (*i.e.*, environmental, infrastructure, and implementation measures). The final report is due 90 days after the grant has expired. Grant managers should consult, and work

closely with, their Regional contact person throughout the award period.

**VII. Agency Contacts**

*Headquarters:*

Carol Peterson, telephone 202–566–1034; e-mail *initiative.watershed@epa.gov.*

*EPA Regional Offices:*

Region I—Connecticut, Maine, Massachusetts, Rhode Island, Vermont, New Hampshire

Marilyn Smith-Church or Jerry Potamis, telephones 617–918–1133 and 617–918–1651; e-mails *smith-church.marilyn@epa.gov* and *potamis.gerald@epa.gov*, respectively.

Region II—New Jersey, New York, Puerto Rico, U.S. Virgin Islands

Cyndy Kopitsky; telephone 212–637–3832; e-mail *kopitsky.cyndy@epa.gov*.

Region III—Delaware, Maryland, Pennsylvania, Virginia, West Virginia, Washington, DC

Ralph Spagnolo, telephone 215–814–2718; e-mail *spagnolo.ralph@epa.gov*.

Region IV—Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Kentucky, Tennessee

William L. Cox, telephone 404–562–9351; e-mail *cox.williaml@epa.gov*.

Region V—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Paul Thomas, telephone 312–886–7742; e-mail *thomas.paul@epa.gov*.

Region VI—Louisiana, Texas, Oklahoma, Arkansas, New Mexico

Brad Lamb, telephone 214–665–6683; e-mail *lamb.brad@epa.gov*.

Region VII—Iowa, Kansas, Missouri, Nebraska

Margaret Stockdale, telephone 913–551–7936; e-mail *stockdale.margaret@epa.gov*.

Region VIII—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Peter Ismert; telephone 303–312–6215; e-mail *ismert.peter@epa.gov*.

Region IX—Arizona, California, Hawaii, Nevada, American Samoa, Mariana Islands, Guam

Sam Ziegler, telephone 415–972–3399; e-mail *ziegler.sam@epa.gov*.

Region X—Alaska, Idaho, Oregon, Washington

Bevin Reid, telephone 206–553–1566; e-mail *Reid.BevinG@epa.gov*.

Dated: February 14, 2005.

**Benjamin H. Grumbles,**

*Assistant Administrator for Water.*

[FR Doc. 05–3184 Filed 2–17–05; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7874–5]**

## Sadler Drum Superfund Site; Notice of Proposed Settlement

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed settlement; request for public comment.

**SUMMARY:** The United States Environmental Protection Agency is proposing to enter into a settlement for the partial reimbursement of past response costs, pursuant to section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(h)(1), concerning the Sadler Drum Superfund Site in Mulberry, Polk County, Florida, with Settling Party, Leroy Helms, an individual. The Agency will consider public comments on the proposed settlement until March 21, 2005. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Paula V. Batchelor, WMD–SEIMB, U.S. EPA, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303, (404) 562–8887.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

Dated: February 7, 2005.

**Rosalind H. Brown,**

*Chief, Superfund Enforcement & Information Management Branch, Waste Management Division.*

[FR Doc. 05–3182 Filed 2–17–05; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL RESERVE SYSTEM

## Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

**AGENCY:** Board of Governors of the Federal Reserve System

**ACTION:** Notice

**SUMMARY:** Background. Notice is hereby given of the final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer – Michelle Long –Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829).

OMB Desk Officer – Mark Menchik –– Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, or email to mmenchik@omb.eop.gov

**Final approval under OMB delegated authority of the extension for three years, without revision of the following report:**

*Report titles:* Registration Statement for Persons Who Extend Credit Secured by Margin Stock (Other Than Banks, Brokers, or Dealers); Deregistration Statement for Persons Registered Pursuant to Regulation U; Statement of Purpose for an Extension of Credit Secured by Margin Stock by a Person Subject to Registration Under Regulation U; Annual Report; Statement of Purpose for an Extension of Credit by a Creditor; and Statement of Purpose for an Extension of Credit Secured by Margin Stock.

*Agency form numbers:* FR G–1, FR G–2, FR G–3, FR G–4, FR T–4, FR U–1

*OMB control numbers:* 7100–0011: FR G–1, FR G–2, FR G–4; 7100–0018: FR G–3; 7100–0019: FR T–4; and 7100–0115: FR U–1

*Frequency:* FR G–1, FR G–2, FR G–3, FR T–4, and FR U–1: on occasion FR G–4: annual

*Reporters:* Individuals and business

*Annual reporting hours:* 1,506 reporting; 155,147 recordkeeping

*Estimated average hours per response:* FR G–1: 2.5 hours; FR G–2: 15 minutes; FR G–3: 10 minutes; FR G–4: 2.0 hours; FR T–4: 10 minutes; and FR U–1: 10 minutes

*Number of respondents:* FR G–1: 39; FR G–2: 103; FR G–3: 278; FR G–4: 691; FR T–4: 138; and FR U–1: 4,278

*General description of report:* These information collections are mandatory (15 U.S.C. §§ 78g). The information in

the FR G–1 and FR G–4 is given confidential treatment under the Freedom of Information Act (5 U.S.C. §§ 552(b)(4)). The FR G–2 does not contain confidential information. The FR G–3, FR T–4, and FR U–1 are not submitted to the Federal Reserve and, as such, no issue of confidentiality arises.

*Abstract:* The Securities Exchange Act of 1934 authorizes the Board to regulate securities credit issued by banks, brokers and dealers, and other lenders. The purpose statements, FR U–1, FR T–4, and FR G–3, are recordkeeping requirements for banks, brokers and dealers, and other lenders, respectively, to document the purpose of their loans secured by margin stock. Other lenders also must register and deregister with the Federal Reserve using the FR G–1 and FR G–2, respectively, and must file an annual report (FR G–4). The Federal Reserve uses the data to identify lenders subject to Regulation U, to verify compliance with Regulations T, U, and X, and to monitor margin credit.

Board of Governors of the Federal Reserve System, February 14, 2005.

**Jennifer J. Johnson**

*Secretary of the Board.*

[FR Doc. 05–3143 Filed 2–17–05; 8:45 am]

BILLING CODE 6210–01–S

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 14, 2005.

**A. Federal Reserve Bank of Minneapolis** (Jacqueline G. Nicholas, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

*1. Bozeman Bancorp, Inc.*, Manhattan, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Bozeman, Bozeman, Montana.

Board of Governors of the Federal Reserve System, February 14, 2005.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 05–3142 Filed 2–17–05; 8:45 am]

BILLING CODE 6210–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Annual Update of the HHS Poverty Guidelines

**AGENCY:** Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** This notice provides an update of the HHS poverty guidelines to account for last (calendar) year's increase in prices as measured by the Consumer Price Index.

**EFFECTIVE DATE:** These guidelines go into effect on the day they are published (unless an office administering a program using the guidelines specifies a different effective date for that particular program).

**ADDRESSES:** Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services (HHS), Washington, DC 20201.

**FOR FURTHER INFORMATION CONTACT:** For information about how the poverty guidelines are used or how income is defined in a particular program, contact the Federal (or other) office that is responsible for that program.

For general questions about the poverty guidelines (but NOT for questions about a particular program that uses the poverty guidelines), contact Gordon Fisher, Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services, Washington, DC 20201—telephone: (202) 690–7507; persons with Internet access may visit the poverty guidelines Internet site at *http://aspe.hhs.gov/poverty*.

For information about the Hill-Burton Uncompensated Services Program (no-fee or reduced-fee health care services at certain hospitals and other health care facilities for certain persons meeting eligibility criteria involving the poverty guidelines), contact the Office of the Director, Division of Facilities Compliance and Recovery, Health Resources and Services Administration, HHS, Room 10–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. To speak to a person, call (301) 443–5656. To receive a Hill-Burton information package, call 1–800–638–0742 (for callers outside Maryland) or 1–800–492–0359 (for callers in Maryland), and leave your name and address on the Hotline recording. Persons with Internet access may visit the Division of Facilities Compliance and Recovery Internet Home page site at *http://www.hrsa.gov/osp/dfcr*. The Division of Facilities Compliance and Recovery notes that as set by 42 CFR 124.505(b), the effective date of this update of the poverty guidelines for facilities obligated under the Hill-Burton Uncompensated Services Program is sixty days from the date of this publication.

For information about the percentage multiple of the poverty guidelines to be used on immigration forms such as USCIS Form I–864, Affidavit of Support, contact U.S. Citizenship and Immigration Services. To obtain information on the most recent applicable poverty guidelines from U.S. Citizenship and Immigration Services, call 1–800–375–5283. Persons with Internet access may obtain the information from the U.S. Citizenship and Immigration Services Internet site at *http://uscis.gov/graphics/howdoi/affsupp.htm*.

For information about the Department of Labor's Lower Living Standard Income Level (an alternative eligibility criterion with the poverty guidelines for certain programs under the Workforce Investment Act of 1998), contact Janeice Youngblood, Employment and Training Administration, U.S. Department of Labor—telephone: (202) 693–3606—e-mail: *youngblood.janeice@dol.gov*; persons with Internet access may visit the Employment and Training Administration's Lower Living Standard

Income Level Internet site at *http://www.doleta.gov/llsil.*

For information about the number of people in poverty since 1959 or about the Census Bureau poverty thresholds, contact the Housing and Household Economic Statistics Division information staff (HHES-Info), Room G251, Federal Office Building #3, U.S. Census Bureau, Washington, DC 20233–8500—telephone: (301) 763–3242. Persons with Internet access may visit the Poverty section of the Census Bureau's Internet site at *http://www.census.gov/hhes/www/poverty.html* or the U.S. Census Bureau Question and Answer Center at *http://ask.census.gov.*

| Persons in family unit | Poverty guideline |
|---|---|
| **2005 Poverty Guidelines for the 48 Contiguous States and the District of Columbia** | |
| 1 | $9,570 |
| 2 | 12,830 |
| 3 | 16,090 |
| 4 | 19,350 |
| 5 | 22,610 |
| 6 | 25,870 |
| 7 | 29,130 |
| 8 | 32,390 |
| For family units with more than 8 persons, add $3,260 for each additional person. | |
| **2005 Poverty Guidelines for Alaska** | |
| 1 | $11,950 |
| 2 | 16,030 |
| 3 | 20,110 |
| 4 | 24,190 |
| 5 | 28,270 |
| 6 | 32,350 |
| 7 | 36,430 |
| 8 | 40,510 |
| For family units with more than 8 persons, add $4,080 for each additional person. | |
| **2005 Poverty Guidelines for Hawaii** | |
| 1 | $11,010 |
| 2 | 14,760 |
| 3 | 18,510 |
| 4 | 22,260 |
| 5 | 26,010 |
| 6 | 29,760 |
| 7 | 33,510 |
| 8 | 37,260 |
| For family units with more than 8 persons, add $3,750 for each additional person. | |

Separate poverty guideline figures for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966–1970 period. Note that the Census Bureau poverty thresholds—the version of the poverty measure used for statistical purposes—have never had separate figures for Alaska and Hawaii. The poverty guidelines are not defined for Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and Palau. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office that administers the program is responsible for deciding whether to use the contiguous-states-and-D.C. guidelines for those jurisdictions or to follow some other procedure.

The preceding figures are the 2005 update of the poverty guidelines required by section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (Pub. L. 97–35—reauthorized by Pub. L. 105–285, Section 201 (1998)). As required by law, this update reflects last year's change in the Consumer Price Index (CPI–U); it was done using the same procedure used in previous years. (The poverty guidelines are calculated each year from the latest published Census Bureau poverty thresholds—not from the previous year's guidelines. Besides the inflation adjustment, the guidelines are also rounded and adjusted to standardize the differences between family sizes.)

Section 673(2) of OBRA–1981 (42 U.S.C. 9902(2)) requires the use of these poverty guidelines as an eligibility criterion for the Community Services Block Grant program. The poverty guidelines are also used as an eligibility criterion by a number of other Federal programs (both HHS and non-HHS). Due to confusing legislative language dating back to 1972, the poverty guidelines have sometimes been mistakenly referred to as the ''OMB'' (Office of Management and Budget) poverty guidelines or poverty line. In fact, OMB has never issued the guidelines; the guidelines are issued each year by the Department of Health and Human Services. The poverty guidelines may be formally referenced as ''the poverty guidelines updated periodically in the **Federal Register** by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).''

The poverty guidelines are a simplified version of the poverty thresholds that the Census Bureau uses for statistical purposes—to prepare its estimates of the number of persons and families in poverty. The poverty guidelines issued by the Department of Health and Human Services are used for administrative purposes—for instance, for determining whether a person or family is financially eligible for assistance or services under a particular Federal program. Since the poverty guidelines in this notice—the 2005 guidelines—reflect price changes through calendar year 2004, they are approximately equal to the poverty thresholds for calendar year 2004 which the Census Bureau expects to issue in August 2005. (A preliminary version of the 2004 thresholds is now available from the Census Bureau.)

In certain cases, as noted in the relevant authorizing legislation or program regulations, a program uses the poverty guidelines as only one of several eligibility criteria, or uses a percentage multiple of the guidelines (for example, 125 percent or 185 percent of the guidelines). Non-Federal organizations that use the poverty guidelines under their own authority in non-Federally-funded activities can choose to use a percentage multiple of the guidelines such as 125 percent or 185 percent.

In some cases, these poverty guidelines may not become effective for a particular program until a regulation or notice specifically applying to the program in question has been issued.

The poverty guidelines given above should be used for both farm and non-farm families. Similarly, these guidelines should be used for both aged and non-aged units. The poverty guidelines have never had an aged/non-aged distinction; only the Census Bureau poverty thresholds have separate figures for aged and non-aged one-person and two-person units.

Note that this notice no longer provides definitions of ''income,'' ''family,'' ''unrelated individual,'' and ''household.'' This is because there are no universal administrative definitions of these terms that are valid for all programs that use the poverty guidelines. Since the definitions previously included were illustrative only and were not meant to be binding, it was decided to omit them. To find out whether income is before taxes or after taxes, or whether a particular type of income should be counted in determining eligibility for a specific program, or for what time period income should be counted, or what precise definition of ''family'' or ''household'' is used by a particular program, or whether a particular person should be counted in determining income eligibility, please consult the office or organization administering the

program in question; that office or organization has the responsibility for making decisions about such definitions (to the extent that the definition is not already contained in legislation or regulations).

Dated: February 14, 2005.

**Michael O. Leavitt,**

*Secretary of Health and Human Services.*

[FR Doc. 05–3144 Filed 2–15–05; 12:57 pm]

BILLING CODE 4154–05–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare and Medicaid Services

**[Document Identifier: CMS–10134 and CMS–10138]**

### Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

**AGENCY:** Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collections referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with an initiative of the Administration and is required in order to meet the demands of new legislation. We cannot reasonably comply with the normal clearance procedures because of statutory deadlines.

The Benefits Improvement & Protection Act of 2000 mandated the Physician Group Practice (PGP) Demonstration and gave the Secretary discretion to use quality measures to assess physician performance in order to reward them for improvements in the quality and efficiency of health care.

The Medicare Care Management Performance (MCMP) Demonstration was authorized by Section 649 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). The project requires the Secretary to establish a pay-for-performance 3-year pilot with physicians to promote the adoption and use of health information technology to improve the quality of patient care for chronically ill Medicare patients. The mandate specifies that rewards shall be based on the electronic reporting of clinical quality and outcomes measures in accordance with requirements established by the Secretary under the demonstration program.

CMS is requesting OMB review and approval of this collection by April 1, 2005, with a 180-day approval period. Written comments and recommendation will be considered from the public if received by the individuals designated below by March 18, 2005.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Physician Group Practice (PGP) Standardized Ambulatory Care Quality Measure Collection Initiative; *Use:* The Benefits Improvement & Protection Act of 2000 mandated the Physician Group Practice (PGP) Demonstration and gave the Secretary discretion to use quality measures to assess physician performance in order to reward them for improvements in the quality and efficiency of health care. This demonstration is intended to strengthen the Medicare program by offering innovative models to people on Medicare that improve quality and access and lower costs. As a result, people on Medicare will directly benefit from these innovative models.; *Form Number:* CMS–10134 (OMB#: 0938–NEW); *Frequency:* Annually; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 10; *Total Annual Responses:* 10; *Total Annual Hours:* 790.

2. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Medicare Care Management Performance (MCMP) Demonstration—Standardized Ambulatory Care Quality Collection Initiative; *Use:* The MCMP Demonstration was authorized by Section 649 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). This project requires the Secretary to establish a pay-for-performance 3-year pilot with physicians to promote the adoption and use of health information technology to improve the quality of patient care for chronically ill Medicare patients. This demonstration represents the first pay for performance project fostering the adoption of health information technology in small physician group practices and will enable a test of the concept to improve the quality and efficiency of care in Fee-for-Service (FFS) Medicare.; *Form Number:* CMS–10138 (OMB# 0938–NEW); *Frequency:* Annually; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 800; *Total Annual Responses:* 800; *Total Annual Hours:* 15,200.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://cms.hhs.gov/regulations/pra/*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be received by the designees referenced below by March 18, 2005: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Dawn Willinghan, CMS–10134 and CMS–10138, Room C5–14–03, 7500 Security Boulevard, Baltimore, Maryland 21244–1850; and, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn.: Christopher Martin, Desk Officer, Fax # 202–395–6974.

Dated: February 8, 2005.

**John P. Burke, III,**

*CMS Paperwork Reduction Act Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Regulations Development Group.*

[FR Doc. 05–3044 Filed 2–17–05; 8:45 am]

BILLING CODE 4320–03–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–10115, CMS–2552 and CMS–R–148]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Federal Funding of Emergency Health Services (Section 1011): Enrollment Application; *Use:* These information collections will allow hospitals and other providers to enroll to receive payment for Section 1011 claim submissions. Section 1011 provides $250 million per year for fiscal years 2005–2008 for payments to eligible providers for emergency health services provided to undocumented aliens and other specified aliens; *Form Number:* CMS–10115 (OMB#: 0938–0929); *Frequency:* Other: as needed; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, local or tribal govt.; *Number of Respondents:* 62,500; *Total Annual Responses:* 62,500; *Total Annual Hours:* 31,250.

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Hospital and Health Care Complexes Cost Report and Supporting Regulations in 42 CFR 413.20 and 413.24; *Use:* This form is completed by Hospitals and Health Care Complexes participating in the Medicare program. Hospitals and Health Care Complexes use this form to report the health care costs for services they provide. The information reported on this form is used by CMS to determine the amount of reimbursable costs for services rendered to Medicare beneficiaries. The revisions to this form contain the provisions for implementing section 422 of the MMA. Section 422 deals with the calculation of GME and IME payments for redistribution of unused resident slots; *Form Number:* CMS–2552–96 (OMB# 0938–0050); *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, local or tribal government; *Number of Respondents:* 6,111; *Total Annual Responses:* 6,111; *Total Annual Hours:* 4,046,782.

3. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Limitations on Provider Related Donations and Health Care Related Taxes; Limitation on payments to Disproportionate Share Hospitals; Medicaid and Supporting Regulations in 42 CFR 433.68, 433.74, and 447.272; *Use:* This information collection is necessary to ensure compliance with Sections 1903 and 1923 of the Social Security Act for the purpose of preventing payment of federal financial participation on amounts prohibited by the statute. State Medicaid agencies must report quarterly on the source of provider related donations received by the State or unit of local government, and health care related taxes collected. Failure to collect the funding data on a quarterly basis may result in Federal funds not being returned promptly and properly to the Federal Government; *Form Number:* CMS–R–148 (OMB#: 0938–0618); *Frequency:* Quarterly and as needed; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 50; *Total Annual Responses:* 40; *Total Annual Hours:* 3,200.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/regulations/pra/*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: February 11, 2005.

**Michelle Shortt,**

*Acting Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 05–3127 Filed 2–17–05; 8:45 am]

BILLING CODE 4120–03–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Nonprescription Drugs Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee:* Nonprescription Drugs Advisory Committee.

*General Function of the Committee:* To provide advice and recommendations to the agency on FDA's regulatory issues.

*Date and Time:* The meeting will be held on March 23, 2005, from 8 a.m. to 5:30 p.m.

*Location:* Hilton Washington DC North, The Ballrooms, 620 Perry Pkwy., Gaithersburg, MD.

*Contact Person:* Shalini Jain, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery: 5630 Fishers Lane, rm. 1093) Rockville, MD 20857, 301–827–7001, FAX: 301–827–6801, e-mail: *jains@cder.fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512541. Please call the Information Line for up-to-date information on this meeting.

*Agenda:* On March 23, 2005, the committee will discuss the microbiologic surrogate endpoints used

to demonstrate the effectiveness of antiseptic products used in health care settings. The discussion will also focus on related public health issues, trial design, and statistical issues. The background material will become available no later than the day before the meeting and will be posted under the Nonprescription Drugs Advisory Committee (NDAC) on FDA's Web site at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*. (Click on the year 2005 and scroll down to NDAC).

*Procedure:* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by March 16, 2005. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on March 23, 2005. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before March 16, 2005 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact LaNise Giles, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 10, 2005.

**Sheila Dearybury Walcoff,**

*Associate Commissioner for External Relations.*

[FR Doc. 05–3115 Filed 2–17–05; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Vaccines and Related Biological Products Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee*: Vaccines and Related Biological Products Advisory Committee.

*General Function of the Committee*: To provide advice and recommendations to the agency on FDA's regulatory issues.

*Date and Time*: The meeting will be held on March 15, 2005, from 8:30 a.m. to approximately 5:40 p.m.

*Location*: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD.

*Contact Person*: Christine Walsh or Denise Royster, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512391. Please call the Information Line for up-to-date information on this meeting.

*Agenda*: The committee will review safety and immunogenicity for two Tetanus Toxoid, Reduced Diptheria Toxoid and Acellular Pertussis Vaccine, Absorbed (Tdap) vaccines. In the morning the committee will review safety and immunogenicity data for a Tdap vaccine manufactured by GlaxoSmithKline Biologicals. In the afternoon the committee will review safety and immunogenicity data for a Tdap vaccine manufactured by Aventis Pasteur Ltd.

*Procedure*: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by March 8, 2005. Oral presentations from the public will be scheduled between approximately 11:10 a.m. and 11:40 a.m., and approximately 4:10 p.m. and 4:40 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before March 8, 2005, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Christine Walsh or Denise Royster at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 10, 2005.

**Sheila Dearybury Walcoff,**

*Associate Commissioner for External Relations.*

[FR Doc. 05–3180 Filed 2–17–05; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 2005D–0043]**

### Blood Pressure Measurement Devices (Sphygmomanometers)—Accuracy; Draft Revised Compliance Policy Guide; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft revised guidance for FDA staff and industry entitled ''Compliance Policy Guide (CPG) Sec. 310.210 Blood Pressure Measurement Devices (Sphygmomanometers)—Accuracy (CPG 7124.23).'' This draft CPG provides guidance concerning accuracy and exhaust rate criteria for sphygmomanometers. This draft guidance is being issued for public comment only and will not be implemented until a final CPG is announced in the **Federal Register**.

**DATES:** Submit written or electronic comments on the draft guidance by May 19, 2005.

**ADDRESSES:** Submit written requests for single copies of the draft guidance to the Division of Compliance Policy (HFC–230), Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or FAX your request to 240–632–6861. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section

for electronic access to the draft guidance.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey B. Governale, Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 240–632–6851.

**SUPPLEMENTARY INFORMATION:**

## I. Background

In 1992 and 1994, the Association for the Advancement of Medical Instrumentation (AAMI) issued two revised standards that were approved by the American National Standards Institute (ANSI) namely, ''ANSI/AAMI SP9–1994 American National Standard Non-Automated Sphygmomanometers'' and ''ANSI/AAMI SP10–1992 American National Standard for Electronic or Automated Sphygmomanometers.''

As amended by the FDA Modernization Act of 1997 (FDAMA), section 514(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360d(c)) allows FDA to recognize consensus standards, established by international and national standard development organizations, for use in satisfying portions of device premarket review submissions or other requirements. FDA now recognizes the complete standards ANSI/AAMI SP9–1994 and ANSI/AAMI SP10–1992 for the purpose of premarket clearance (63 FR 55617, October 16, 1998; 67 FR 1774, January 14, 2002). To be consistent with current industry practice, FDA intends to use the accuracy and exhaust rate criteria identified in these recognized consensus standards as guidance for testing, surveillance, and compliance purposes, as well as for premarket clearance. Therefore, this draft revised guidance reflects the accuracy and exhaust rate criteria in the currently recognized revisions of these two voluntary standards.

## II. Significance of Guidance

This draft 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.

In accordance with FDA's good guidance practices regulation (21 CFR 10.115), this draft document is considered a level 1 guidance. This draft guidance is being issued for public comment only and is not in effect at this time. Only after a notice of availability is published in the **Federal Register** for the final document will the agency implement the guidance.

## III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The agency will review all comments, but in issuing final guidance, need not specifically address each comment. If appropriate, the agency will make changes to the guidance in response to comments. The draft guidance and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

## IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance at *http://www.fda.gov/ora/compliance_ref/revisions.htm*.

Dated: February 10, 2005.

**John Marzilli,**

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 05–3116 Filed 2–17–05; 8:45 am]

BILLING CODE 4160–01–S

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 2005D–0047]**

### Draft Guidance for Industry: Considerations for Plasmid Deoxyribonucleic Acid Vaccines for Infectious Disease Indications; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Industry: Considerations for Plasmid DNA Vaccines for Infectious Disease Indications'' dated February 2005. The draft guidance document is intended to assist manufacturers and/or sponsors in the development and testing of deoxyribonucleic acid (DNA) vaccines to prevent infectious diseases. The draft guidance, when finalized, will update and replace the guidance document entitled ''Points to Consider on Plasmid DNA Vaccines for Preventive Infectious Disease Indications'' dated December 1996.

**DATES:** Submit written or electronic comments on the draft guidance by May 19, 2005, to ensure their adequate consideration in preparation of the final guidance. General comments on agency guidance documents are welcome at any time.

**ADDRESSES:** Submit written requests for single copies of the draft guidance to 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. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

**FOR FURTHER INFORMATION CONTACT:** Joseph L. Okrasinski, Jr., Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft document entitled ''Guidance for Industry: Considerations for Plasmid DNA Vaccines for Infectious Disease Indications'' dated February 2005. The draft guidance is intended to assist manufacturers and/or sponsors in the development and testing of DNA vaccines to prevent infectious diseases. The document describes the manufacturing information that should be submitted to CBER for a new DNA vaccine product for clinical study under an investigational new drug application (IND). Plasmid DNA products intended for non-infectious therapeutic indications are not addressed in the draft guidance. The draft guidance, when finalized, will update and replace the guidance document entitled ''Points to Consider on Plasmid DNA Vaccines for Preventive Infectious Disease Indications'' dated December 1996.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent 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 requirement of the applicable statutes and regulations.

## II. Comments

The draft guidance is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the draft guidance. Submit written or electronic comments to ensure adequate consideration in preparation of the final 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 the brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

## III. The Paperwork Reduction Act of 1995

This guidance contains 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 collection(s) of information mentioned in the guidance regarding the submission of manufacturer's information in an IND was approved under OMB control number 0910–0014.

## IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/cber/guidelines.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: February 8, 2005.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 05–3106 Filed 2–17–05; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 2005N–0049]**

## Report on the Performance of Drug and Biologics Firms in Conducting Postmarketing Commitment Studies; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA) is required, under the Food and Drug Administration Modernization Act of 1997 (Modernization Act), to report annually in the **Federal Register** on the status of postmarketing study commitments made by sponsors of approved drug and biological products. This is the agency's report on the status of the studies sponsors have agreed to or are required to conduct.

**FOR FURTHER INFORMATION CONTACT:** Beth Duvall-Miller, Center for Drug Evaluation and Research (HFD–20), Food and Drug Administration, 5515 Security Lane, Rockville, MD 20852, 301–594–3937; or Robert Yetter, Center for Biologics Evaluation and Research (HFM–25), Food and Drug Administration, 1400 Rockville Pike, Rockville, MD 20852, 301–827–0373.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Section 130(a) of the Modernization Act (Public Law 105–115) amended the Federal Food, Drug, and Cosmetic Act (the act) by adding a new provision requiring reports of certain postmarketing studies (section 506B of the act (21 U.S.C. 356b)) for human drug and biological products. Section 506B of the act provides FDA with additional authority to monitor the progress of a postmarketing study commitment that an applicant has been required or has agreed to conduct by requiring the applicant to submit a report annually providing information on the status of the postmarketing study commitment. This report must also include reasons, if any, for failure to complete the commitment.

In the **Federal Register** of December 1, 1999 (64 FR 67207), FDA published a proposed rule providing a framework for the content and format of the annual progress report. The proposed rule also clarified the scope of the reporting requirement and the timing for submission of the annual progress reports. The final rule, published in the **Federal Register** of October 30, 2000 (65 FR 64607), modified annual report requirements for new drug applications (NDAs) and abbreviated new drug applications (ANDAs) by revising § 314.81(b)(2)(vii) (21 CFR 314.81(b)(2)(vii)). The rule also created a new annual reporting requirement for biologics license applications (BLAs) by establishing § 601.70 (21 CFR 601.70). These regulations became effective on April 30, 2001. The regulations apply only to human drug and biological products. They do not apply to animal drug or to biological products that also meet the definition of a medical device.

Sections 314.81(b)(2)(vii) and 601.70 apply to postmarketing commitments made on or before enactment of the Modernization Act (November 21, 1997) as well as those made after that date. Sections 314.81(b)(2)(vii) and 601.70 require applicants of approved drug and biological products to submit annually a report on the status of each clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology study that is required by FDA (e.g., accelerated approval clinical benefit studies) or that they have committed to conduct either at the time of approval or after approval of their NDA, ANDA, or BLA. The status of other types of postmarketing commitments (e.g., those concerning chemistry, manufacturing, production controls, and studies conducted on an applicant's own initiative) are not required to be reported under §§ 314.81(b)(2)(vii) and 601.70, and are not addressed in this report. It should be noted, however, that applicants are required to report to FDA on these commitments made for NDAs and ANDAs under § 314.81(b)(2)(viii).

According to the regulations, once a postmarketing study commitment has been made, an applicant must report on the progress of the commitment on the anniversary of the product's approval until the postmarketing study commitment is completed or terminated, and FDA determines that the postmarketing study commitment has been fulfilled or that the postmarketing study commitment is either no longer feasible or would no longer provide useful information. The annual progress report must include a description of the postmarketing study commitment, a schedule for completing the study commitment, and a characterization of the current status of the study commitment. The report must also provide an explanation of the postmarketing study commitment's status by describing briefly the postmarketing study commitment's progress. A postmarketing study commitment schedule is expected to

include the actual or projected dates for the following items: (1) Submission of the study protocol to FDA; (2) completion of patient accrual or initiation of an animal study; (3) completion of the study; and (4) submission of the final study report to FDA. The postmarketing study commitment status must be described in the annual report according to the following definitions:

- Pending: The study has not been initiated, but does not meet the criterion for delayed;
- Ongoing: The study is proceeding according to or ahead of the original schedule;
- Delayed: The study is behind the original schedule;
- Terminated: The study was ended before completion, but a final study report has not been submitted to FDA; or
- Submitted: The study has been completed or terminated, and a final study report has been submitted to FDA.

Databases containing information on postmarketing study commitments are maintained at the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER). Information in this report covers any postmarketing study commitment that was made, in writing, at the time of approval or after approval of an application or a supplement to an application, including those required (e.g., to demonstrate clinical benefit of a product following accelerated approval) and those agreed to with the applicant. Information summarized in this report includes the following items: (1) The number of applicants with open (uncompleted) postmarketing commitments; (2) the number of open postmarketing commitments; (3) the status of open postmarketing commitments as reported in § 314.81(b)(2)(vii) or § 601.70 annual reports; (4) the status of concluded postmarketing studies as determined by FDA; and (5) the number of applications with open postmarketing commitments for which sponsors did not submit an annual report within 60 days of the anniversary date of U.S. approval.

Additional information about postmarketing study commitments made by sponsors to CDER and CBER are provided on FDA's Web site at *http://www.fda.gov/cder*. Like this notice, the site does not list postmarketing study commitments containing proprietary information. It is FDA policy not to post information on the Web site until it has been reviewed for accuracy. The numbers published in this notice cannot be compared with the numbers resulting from searches of the Web site. This notice incorporates totals for all postmarketing study commitments in FDA databases, including those undergoing review for accuracy. The report in this notice is updated annually while the Web site is updated quarterly (in April, July, October, and January).

## II. Summary of Information From Postmarketing Study Progress Reports

This report summarizes the status of postmarketing commitments as of September 30, 2004. If a commitment did not have a schedule or a postmarketing progress report was not received, the commitment is categorized according to the most recent information available to the agency.

Data in table 1 of this document are numerical summaries generated from FDA databases. The data are broken out according to application type (NDAs/ANDAs or BLAs).

TABLE 1.—SUMMARY OF POSTMARKETING STUDY COMMITMENTS (NUMBERS AS OF SEPTEMBER 30, 2004)

| | NDAs/ANDAs (% of Total) | BLAs[1] (% of Total) |
|---|---|---|
| Applicants with Open Postmarketing Commitments | 54 | 46 |
| Number of Open Postmarketing Commitments | 1,191 | 288 |
| Status of Open Postmarketing Commitments | | |
| • Pending | 812 (68%) | 69 (24%) |
| • Ongoing | 219 (18%) | 114 (40%) |
| • Delayed | 15 (1%) | 37 (13%) |
| • Terminated | 2 (<1%) | 1 (<1%) |
| • Submitted | 143 (12%) | 67 (23%) |
| Concluded Studies (October 1, 2003, through September 30, 2004) | 157 | 62 |
| • Commitment Met | 114 (73%) | 45 (73%) |
| • Commitment Not Met | 0 | 0 |
| • Study No Longer Needed or Feasible | 43 (27%) | 17 (27%) |
| Applications with Open Postmarketing Commitments with Annual Reports Due but Not Submitted within 60 Days of the Anniversary Date of U.S. Approval | 18 (16%) | 51 (66%) |

[1] On October 1, 2003, FDA completed a consolidation of certain products formerly regulated by CBER into CDER. The previous association of BLA reviews only with CBER is no longer valid; BLAs are now received by both CBER and CDER. Fiscal year statistics for CDER BLA postmarketing study commitments will continue to be counted under BLA totals in this table.

Dated: February 10, 2005.

**Jeffrey Shuren,**

*Associate Commissioner for Policy.*

[FR Doc. 05–3221 Filed 2–17–05; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 2005D–0057]**

### Reviewer Guidance on Conducting a Clinical Safety Review of a New Product Application and Preparing a Report on the Review; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a reviewer guidance entitled ''Conducting a Clinical Safety Review of a New Product Application and Preparing a Report on the Review.'' The guidance is intended to provide an annotated outline of the safety component of a clinical review of a new drug or biologic product application and guidance on how to conduct and organize the safety review. The guidance is also intended to provide standardization and consistency in the format, content, and quality of safety reviews. This reviewer guidance has been developed as part of the agency's good review practices initiative.

**DATES:** General comments on agency guidance documents are welcome at any time.

**ADDRESSES:** 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. 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 draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Robert Temple, Center for Drug Evaluation and Research (HFD–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–6758.

**SUPPLEMENTARY INFORMATION:** This good review practice (GRP) guidance is intended to assist reviewers conducting clinical safety reviews as part of the new drug application (NDA) and biologics license application (BLA) review process. The guidance provides standardization and consistency in the format and content of safety reviews and will help ensure that critical presentations and analyses are not inadvertently omitted. The standardized structure of this guidance will enable subsequent reviewers and other readers to readily locate specific safety information. This guidance is entirely compatible with the clinical review template, which has been developed in the Center for Drug Evaluation and Research for use by application reviewers. The guidance is structured as an annotated outline to corrolate exactly with the section headings of the review template, providing the pertinent guidance under each heading. The commentary and suggestions under each section of the guidance, together with appended examples, provide suggested analyses, methods of presentations, and discussion of special cases and potential difficulties.

In 1996, FDA announced the availability of the draft version of this guidance. A number of comments were received, and the agency considered them carefully as it finalized the guidance. The changes that were made to the guidance were intended primarily to make it consistent with the template reviewers are using to evaluate marketing applications. Some minor clarifying changes also were made.

This level 1 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 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 statute and regulations.

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.

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: February 10, 2005.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 05–3181 Filed 2–17–05; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### New Methodology and Increase in Low Income Levels for Various Health Professions and Nursing Training and Assistance Programs

**AGENCY:** Health Resources and Services Administration (HRSA), HHS.

**ACTION:** Notice.

**SUMMARY:** HRSA uses ''low-income'' levels to determine whether an individual is from an economically disadvantaged background in making eligibility and funding determinations for participants in various health professions and nursing grant and cooperative agreement programs authorized by Titles III, VII and VIII of the Public Health Service (PHS) Act. In the past, an individual's economically disadvantaged background status, as a basis for participation in certain programs, was based on the income level of the individual's parents. However, many potential program participants are well above the age of majority. Accordingly, questions have been raised by potential program participants and program officials regarding the feasibility and fairness in determining economically disadvantaged status based solely on the parent's income. This notice updates the low-income levels published by HRSA on August 5, 2003 (68 FR 46199–46200), and changes the methodology used to determine low income for use in these programs beginning in Fiscal Year (FY) 2005.

**SUPPLEMENTARY INFORMATION:** HRSA publishes low-income levels of families (68 FR 46199–46200, 8/5/03) for the use of various health professions training and assistance programs funded under Titles III, VII, and VIII of the PHS Act in making eligibility and funding determinations for participants in the programs. HRSA establishes these low-income levels based on the poverty guidelines that HHS publishes annually in the **Federal Register** (68 FR 7336, 2/13/2004). HHS determines the poverty guidelines based on the poverty

thresholds established by the U.S. Census Bureau, adjusted annually for changes in the Consumer Price Index.

For FY 2005, HRSA has determined that:

- ''Low-income level'' as applied to a family is one with an annual income that is below 200 percent of HHS's poverty guidelines, as indicated in the table below, and
- A family is a group of two or more individuals related by birth, marriage, or adoption who live together or an individual who is not living with any relatives.

FY 2005 LOW INCOME LEVELS

| Persons in family [1] | Income level [2] |
|---|---|
| 1 | $18,620 |
| 2 | 24,980 |
| 3 | 31,340 |
| 4 | 37,700 |
| 5 | 44,060 |
| 6 | 50,420 |
| 7 | 56,780 |
| 8 | 63,140 |

[1] Includes only dependents reported on Federal Income tax forms for calendar year 2003.
[2] Adjusted gross income for calendar year 2003.

*New Methodology:* Beginning in FY 2005, various programs in HRSA will use a new methodology in the application of low-income levels. Depending on the legislative intent of the program, the programmatic purpose of the low income level, as well as the age and circumstances of the average participant, each program will either apply the low-income levels to the family of the individual participant or to the family of the parents of the individual participant. Each program will announce the rationale and choice of methodology for determining low income levels in their program guidance.

Dated: February 11, 2005.

**Elizabeth M. Duke,**

*Administrator.*

[FR Doc. 05–3175 Filed 2–17–05; 8:45 am]

BILLING CODE 4165–15–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### National Vaccine Injury Compensation Program; List of Petitions Received

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Health Resources and Services Administration (HRSA) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (''the Program''), as required by Section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

**FOR FURTHER INFORMATION CONTACT:** For information about requirements for filing petitions, and the Program in general, contact the Clerk, United States Court of Federal Claims, 717 Madison Place, NW., Washington, DC 20005, (202) 219–9657. For information on HRSA's role in the Program, contact the Acting Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 11C–26, Rockville, MD 20857; (301) 443–6593.

**SUPPLEMENTARY INFORMATION:** The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at Section 2114 of the PHS Act or as set forth at 42 CFR 100.3, as applicable. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a list of petitions received by HRSA on April 1, 2004, through June 30, 2004.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

(a) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Table but which was caused by'' one of the vaccines referred to in the Table, or

(b) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Acting Director, Division of Vaccine Injury Compensation Program, Healthcare Systems Bureau, 5600 Fishers Lane, Room 11C–26, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

**List of Petitions**

1. Jennifer and Mark Chung on behalf of Gabrielle Chung
Houston, Texas

Court of Federal Claims Number 04–0545V
2. Victor Pavlovic on behalf of Vito Pavlovic
Houston, Texas
Court of Federal Claims Number 04–0546V
3. Angela and Mauricio Bendahan on behalf of Benjamin Bendahan
Coalport, Pennsylvania
Court of Federal Claims Number 04–0548V
4. Bruce Hall on behalf of Jack Hall
Houston, Texas
Court of Federal Claims Number 04–0549V
5. Bruce Hall on behalf of James Hall
Houston, Texas
Court of Federal Claims Number 04–0550V
6. Mary and John McCarthy on behalf of Sean McCarthy
Vienna, Virginia
Court of Federal Claims Number 04–0552V
7. Brilliant and Lulyete Sherifi on behalf of Belgusa Sherifi
Pleasantville, New Jersey
Court of Federal Claims Number 04–0554V
8. Cheryl and Brian Hicks on behalf of Meagan Rose Hicks
Houston, Texas
Court of Federal Claims Number 04–0558V
9. Alizabeth and Sultan Haddad on behalf of Yazan Sultan Haddad
West Hills, California
Court of Federal Claims Number 04–0559V
10. Nancy and Charles Volz on behalf of Cara Anne Volz
Sandusky, Ohio
Court of Federal Claims Number 04–0560V
11. Crista and Jason Wyatt on behalf of Charles Thomas Wyatt
Houston, Texas
Court of Federal Claims Number 04–0561V
12. Audrey Cummings on behalf of Herbert Jerome Savage
Toledo, Ohio
Court of Federal Claims Number 04–0563V
13. Kathy and Michael Mason on behalf of Joshua Thomas Mason
Springfield, Ohio
Court of Federal Claims Number 04–0564V
14. Kathleen and Brian O'Keefe on behalf of Brian Michael O'Keefe
Houston, Texas
Court of Federal Claims Number 04–0565V
15. Colleen and Paul Theis on behalf of Zachary Paul Theis
Coon Rapids, Minnesota
Court of Federal Claims Number 04–0566V
16. Susan and Ronald Fox on behalf of Joshua Peter Fox
Montgomery, Ohio
Court of Federal Claims Number 04–0567V
17. Ladesha Webb on behalf of Da'Shaun Quontez Gray
Lexington, Kentucky
Court of Federal Claims Number 04–0568V
18. Sherry Amaral on behalf of Avery Lopez
Gormley, Illinois
Court of Federal Claims Number 04–0569V
19. Kevin O'Gara on behalf of Samuel O'Gara
N. Dartmouth, Massachusetts
Court of Federal Claims Number 04–0570V
20. Catherine and Keith Cloutier on behalf of Kaitlyn Cloutier
Southbridge, Massachusetts
Court of Federal Claims Number 04–0571V
21. Marjorie and Jared Hansen on behalf of William Hansen
Salt Lake City, Utah
Court of Federal Claims Number 04–0572V
22. Sherry Amaral on behalf of Jareb Lopez
Gormley, Illinois
Court of Federal Claims Number 04–0573V
23. Joy Packa on behalf of Hunter Packa
Aurora, Minnesota
Court of Federal Claims Number 04–0574V
24. Marjorie and Jared Hansen on behalf of Jacob Hansen
Salt Lake City, Utah
Court of Federal Claims Number 04–0575V
25. Michelle and Laney White on behalf of Chandler McDavid White
Lexington, Mississippi
Court of Federal Claims Number 04–0578V
26. Carmencita and John Byrd on behalf of Jabari Rashad Byrd
Lexington, Mississippi
Court of Federal Claims Number 04–0579V
27. Lori and James Harper on behalf of Stefanie Rose Harper
St. Paul, Minnesota
Court of Federal Claims Number 04–0582V
28. Tracey and Charles Hayes on behalf of Thaddeus Isura Hayes
Stockton, California
Court of Federal Claims Number 04–0583V
29. Wendy and Andrew Hagen on behalf of Alexander Harold Hagen
Waconia, Minnesota
Court of Federal Claims Number 04–0584V
30. Anna and George Harding on behalf of Genevieve Abigael Harding
Burneville, Minnesota
Court of Federal Claims Number 04–0585V
31. Lolisa Hampton on behalf of Brandon Dante Hampton
Holland, Michigan
Court of Federal Claims Number 04–0586V
32. Alfreda Armstrong on behalf of Wister Armstrong
Due West, South Carolina
Court of Federal Claims Number 04–0587V
33. Romeo Ramirez on behalf of Alejandro Ramirez
Decatur, Texas
Court of Federal Claims Number 04–0588V
34. Jaime Liendo on behalf of James Raf Liendo
Decatur, Texas
Court of Federal Claims Number 04–0589V
35. Jessica Fuentes on behalf of Jeremy Fuentes
Decatur, Texas
Court of Federal Claims Number 04–0590V
36. Anabel and James Segovia on behalf of James Segovia, Jr.
Decatur, Texas
Court of Federal Claims Number 04–0591V
37. Gloria Branstrom on behalf of Eric Peter Branstrom
Decatur, Texas
Court of Federal Claims Number 04–0592V
38. Gloria Branstrom on behalf of Celeste Ann Branstrom
Decatur, Texas
Court of Federal Claims Number 04–0593V
39. Jessica Navarro on behalf of Jorge Alberto Rodriguez
Decatur, Texas
Court of Federal Claims Number 04–0594V
40. Maria Leonor Guzman on behalf of Francisco Javier Guzman
Decatur, Texas
Court of Federal Claims Number 04–0595V
41. Cynthia Rivera on behalf of Santiago Jesus Rivera
Decatur, Texas
Court of Federal Claims Number 04–0596V
42. Cynthia Rivera on behalf of Amador Jesus Rivera
Decatur, Texas
Court of Federal Claims Number 04–0597V
43. Angelina Ruiz on behalf of Eluid Ruiz
Decatur, Texas
Court of Federal Claims Number 04–0598V

44. Joann and Patrick Kelly on behalf of David Patrick Kelly
Ridley Park, Pennsylvania
Court of Federal Claims Number 04–0599V
45. Yvonne and Timothy Jackson on behalf of Jayda Monay Jackson
East Hampton, New York
Court of Federal Claims Number 04–0600V
46. Louvenia McCarter on behalf of De'Vin De'Vonate Johnson
Chicago, Illinois
Court of Federal Claims Number 04–0601V
47. Jacob Horne on behalf of Sean Horne
Denver, Colorado
Court of Federal Claims Number 04–0602V
48. Dena and David Isbell on behalf of Jesse David Isbell
Houston, Texas
Court of Federal Claims Number 04–0603V
49. Ruth and Charles Hult on behalf of Joshua Robert Hult
Houston, Texas
Court of Federal Claims Number 04–0604V
50. Kenneth Hobbs
North Verum, Indiana
Court of Federal Claims Number 04–0607V
51. Leisa and Forrest Littleton on behalf of Cody Nicholas Littleton
Ashland, Kentucky
Court of Federal Claims Number 04–0611V
52. Julie and Thomas Kraus on behalf of Troy Richard Kraus
Cape May, New Jersey
Court of Federal Claims Number 04–0612V
53. Bridget and Wayde Kent on behalf of Alexander Preston Kent
Lewisville, Texas
Court of Federal Claims Number 04–0613V
54. Yvonne and Michael Johnson on behalf of Lauren Valerie Johnson
Houston, Texas
Court of Federal Claims Number 04–0614V
55. Charlotte and Christopher Warn on behalf of Cleo Warn
Salinas, California
Court of Federal Claims Number 04–0615V
56. Tresa Lynn Wade on behalf of Thomas Paul Wade
Charleston, West Virginia
Court of Federal Claims Number 04–0616V
57. Evelyn and James Kanitz on behalf of Brandi Kanitz
Houston, Texas
Court of Federal Claims Number 04–0617V
58. Valeri and Steven Lira on behalf of Ian Alonzo Lira
Houston, Texas
Court of Federal Claims Number 04–0618V
59. Michelle and Trevor Leathers on behalf of Trevor Anthony Leathers
Austin, Texas
Court of Federal Claims Number 04–0619V
60. Peggy and Quintin Johnson on behalf of Caleb Adam Johnson
Detroit, Michigan
Court of Federal Claims Number 04–0620V
61. Evelyn and James Kanitz on behalf of Melinda Rae Kanitz
Houston, Texas
Court of Federal Claims Number 04–0621V
62. Julie and Jacques Krustriz on behalf of Jacques Michael Krustriz, II
Waconia City, Minnesota
Court of Federal Claims Number 04–0622V
63. Stephanie and Joseph Krist on behalf of Jonathan Austin Krist
San Antonio, Texas
Court of Federal Claims Number 04–0623V
64. Angela Lynn Villalovos on behalf of Andre Kioneau Nathan D'Angelo Villalovos
Denver, Colorado
Court of Federal Claims Number 04–0624V
65. Donette and Marcus White on behalf of Dayveon Marcus White
Edenton, North Carolina
Court of Federal Claims Number 04–0625V
66. Laura Brown and Cary Wright on behalf of Halie Erin Wright
San Antonio, Texas
Court of Federal Claims Number 04–0626V
67. Laura and Stephen Whatley on behalf of Chad Dean Whatley
Lewisville, Texas
Court of Federal Claims Number 04–0627V
68. Mary Lee and Patrick Wright on behalf of Logan Patrick Wright
El Cajon, California
Court of Federal Claims Number 04–0628V
69. Carmen and Kevin Wright on behalf of Jacob Norman Wright
Baxter, Minnesota
Court of Federal Claims Number 04–0629V
70. Marilyn and Orlando Webster on behalf of Jaleesa Renee Webster
Manassas, Virginia
Court of Federal Claims Number 04–0630
71. George Kadar on behalf of Zsuzsanna Meszaros, Deceased
Irvine, California
Court of Federal Claims Number 04–0631V
72. Mary Hisel on behalf of Zachary Hisel
Boston, Massachusetts
Court of Federal Claims Number 04–0637V
73. Henrietta Boota on behalf of Zachary Boota
Boston, Massachusetts
Court of Federal Claims Number 04–0638V
74. Sandy Bond on behalf of Andre Bond
Boston, Massachusetts
Court of Federal Claims Number 04–0639V
75. Melinda Chandler on behalf of Jacob Chandler
Boston, Massachusetts
Court of Federal Claims Number 04–0640V
76. Susan Kippenberger on behalf of John Patrick Kippenberger
Boston, Massachusetts
Court of Federal Claims Number 04–0641V
77. Brenda and Peter Leahy on behalf of Aidan Leahy
Sarasota, Florida
Court of Federal Claims Number 04–0642V
78. Alma Plascenia on behalf of Jose Ernesto Andrade
Dallas, Texas
Court of Federal Claims Number 04–0645V
79. Leona and Ernest Wehrle on behalf of Lyndsi Nichole Wehrle
Charleston, West Virginia
Court of Federal Claims Number 04–0646V
80. Kathy and Dean Binek on behalf of Spencer Kenneth Binek
Waconia, Minnesota
Court of Federal Claims Number 04–0647V
81. Veronica and Douglas Birk on behalf of Alexander Douglas Birk
Houston, Texas
Court of Federal Claims Number 04–0648V
82. Juanita and Lars Benson on behalf of Lance Raven Benson
Houston, Texas
Court of Federal Claims Number 04–0649V
83. Holli Ferguson on behalf of Brian Ferguson
Portland, Oregon
Court of Federal Claims Number 04–0650V
84. Barbara Dunham on behalf of Joshua Dunham
Portland, Oregon
Court of Federal Claims Number 04–0651V
85. Ana Meckes on behalf of Elliott Meckes
Portland, Oregon
Court of Federal Claims Number 04–0652V

86. Dawn and Brian Cheevis on behalf of William Cheevis
Houston, Texas
Court of Federal Claims Number 04–0657V
87. Gloria and Michael Schindlar on behalf of Michael Schindlar
Houston, Texas
Court of Federal Claims Number 04–0658V
88. Frances and Bernard Phillips on behalf of Wesley Phillips
Houston, Texas
Court of Federal Claims Number 04–0659V
89. Sharon Muse on behalf of Shamara Grant-Muse
New Orleans, Louisiana
Court of Federal Claims Number 04–0660V
90. Joanne and Tommy Benasco on behalf of Anthony Benasco
New Orleans, Louisiana
Court of Federal Claims Number 04–0661V
91. Tammy and Frank Melito on behalf of Anthony Melito
Boston, Massachusetts
Court of Federal Claims Number 04–0662V
92. Maria Thatcher on behalf of Michael David Thatcher
Decatur, Texas
Court of Federal Claims Number 04–0663V
93. Norma and Armando Gomez on behalf of Ismael Gomez
Decatur, Texas
Court of Federal Claims Number 04–0664V
94. Dolores Garza on behalf of Alexandria Garza
Decatur, Texas
Court of Federal Claims Number 04–0665V
95. Margaret Campbell
St. Paul, Minnesota
Court of Federal Claims Number 04–0666V
96. Karen Edwards on behalf of Porter Edwards, III
New Orleans, Louisiana
Court of Federal Claims Number 04–0667V
97. Michelle Scarbrough on behalf of Tyler Scarbrough
New Orleans, Louisiana
Court of Federal Claims Number 04–0668V
98. Ivory Ross on behalf of Lavar Ross
New Orleans, Louisiana
Court of Federal Claims Number 04–0669V
99. Jennifer Pepin on behalf of Melissa Pepin
New Orleans, Louisiana
Court of Federal Claims Number 04–0670V
100. Karen Eader on behalf of James Charles Eader
New Orleans, Louisiana
Court of Federal Claims Number 04–0671V
101. Greta Davis on behalf of Patrick Davis, Jr.
New Orleans, Louisiana
Court of Federal Claims Number 04–0672V
102. Denise Robateau on behalf of Ebony Robateau
New Orleans, Louisiana
Court of Federal Claims Number 04–0673V
103. Patrick Helmstetter on behalf of Frank Helmstetter
New Orleans, Louisiana
Court of Federal Claims Number 04–0674V
104. Angele McKnight on behalf of Scott McKnight
New Orleans, Louisiana
Court of Federal Claims Number 04–0675V
105. Lisa Vargas on behalf of Gina Vargas
Boston, Massachusetts
Court of Federal Claims Number 04–0676V
106. Stephanie Buckley on behalf of Daniel Pitts
Boston, Massachusetts
Court of Federal Claims Number 04–0677V
107. Marla Jordan on behalf of Markhal Jordan
Boston, Massachusetts
Court of Federal Claims Number 04–0678V
108. Lisa Vargas on behalf of Ramiro Vargas
Boston, Massachusetts
Court of Federal Claims Number 04–0679V
109. Lisa Vargas on behalf of Alejandra Vargas
Boston, Massachusetts
Court of Federal Claims Number 04–0680V
110. Rita Weintraub
Falls Church, Virginia
Court of Federal Claims Number 04–0684V
111. Kristy Browland on behalf of Bryce Ladue
Boston, Massachusetts
Court of Federal Claims Number 04–0685V
112. Lisa Grover on behalf of Lindsey Grover
Boston, Massachusetts
Court of Federal Claims Number 04–0686V
113. Lori and Sam Eriksen on behalf of Hannah Marie Eriksen
Memphis, Tennessee
Court of Federal Claims Number 04–0687V
114. Hope and Donald Leclerc on behalf of Donald Leclerc
Manchester, New Hampshire
Court of Federal Claims Number 04–0688V
115. Cheryl and John Schmidt on behalf of Carter Schmidt
Houston, Texas
Court of Federal Claims Number 04–0689V
116. Al Matlosz on behalf of James Matlosz
Houston, Texas
Court of Federal Claims Number 04–0690V
117. Louise and Roger Scholl on behalf of Andrea Scholl
Forsyth, Georgia
Court of Federal Claims Number 04–0691V
118. Jana and Barry Bandera on behalf of Caroline Bandera
Austin, Texas
Court of Federal Claims Number 04–0692V
119. Billie and Michael Schueman on behalf of Cheyenne Schriver
Hobbs, New Mexico
Court of Federal Claims Number 04–0693V
120. Shari Farber on behalf of Cameron Harris
Fremont, Nebraska
Court of Federal Claims Number 04–0695V
121. Pamela and Leslie Chojnacki on behalf of Joshua Leonard Chojnacki
Houston, Texas
Court of Federal Claims Number 04–0696V
122. Laura and Joseph Bell on behalf of Joseph Herbert Bell
Hudson, New Hampshire
Court of Federal Claims Number 04–0697V
123. Eileen and Richard Cook on behalf of Michael Alexander Cook
Merrillville, Indiana
Court of Federal Claims Number 04–0698V
124. Cynthia Griffin on behalf of Benjamin Lewis Griffin
Richmond, Kentucky
Court of Federal Claims Number 04–0699V
125. Kathlyn and Michael Polensek behalf of Andrew Joseph Polensek
Cleveland, Ohio
Court of Federal Claims Number 04–0700V
126. Martha Ann Rodriguez on behalf of David Michael Rodriguez
San Antonio, Texas
Court of Federal Claims Number 04–0701V
127. Rene Luzzi-Leconte on behalf of Nicholas Leconte
Houston, Texas
Court of Federal Claims Number 04–0702V
128. Diane and Stephen Blalock on behalf of Andrew John Blalock

Tacoma, Washington
Court of Federal Claims Number 04–0703V
129. Rachael Clark on behalf of Ronny Cesar Vargas
Paterson, New Jersey
Court of Federal Claims Number 04–0704V
130. Marie Lee and Karl Jacoby on behalf of Jason Dean Jacoby Lee
Providence, Rhode Island
Court of Federal Claims Number 04–0705V
131. Lucy and Bill Szymanski on behalf of Christopher Elvis Szymanski
Long Beach, New York
Court of Federal Claims Number 04–0706V
132. Jane and Wallace Sparks on behalf of Logan Sparks
Portland, Oregon
Court of Federal Claims Number 04–0708V
133. Rita and Allan Cheskiewicz on behalf of Allan James Cheskiewicz
Haverton, Pennsylvania
Court of Federal Claims Number 04–0712V
134. Lorie Katz on behalf of Loris Katz
Las Vegas, Nevada
Court of Federal Claims Number 04–0714V
135. Gail Rockwood on behalf of Calvin Jenkins
New Orleans, Louisiana
Court of Federal Claims Number 04–0716V
136. Marla Macaluso on behalf of Frank Macaluso
New Orleans, Louisiana
Court of Federal Claims Number 04–0719V
137. Demetericus Thurmond on behalf of Nathaniel Thurmond
New Orleans, Louisiana
Court of Federal Claims Number 04–0720V
138. William Wolfe on behalf of Caleb Wolfe
New Orleans, Louisiana
Court of Federal Claims Number 04–0721V
139. Koulor Duet on behalf of Tristan Duet
New Orleans, Louisiana
Court of Federal Claims Number 04–0722V
140. Jeanenne Phillips on behalf of Susan Phillips
New Orleans, Louisiana
Court of Federal Claims Number 04–0723V
141. Chantell Henderson on behalf of Kendrick Williams
New Orleans, Louisiana
Court of Federal Claims Number 04–0724V
142. Jennifer and Marc Dowdell on behalf of Parker Dowdell
Somers Point, New Jersey
Court of Federal Claims Number 04–0725V
143. Robin and Richard Butler on behalf of Hope Christine Butler
Jacksonville, Florida
Court of Federal Claims Number 04–0726V
144. Robin and Richard Butler on behalf of Faith Renee Butler
Jacksonville, Florida
Court of Federal Claims Number 04–0727V
145. Robin and Richard Butler on behalf of Emily Grace Butler
Jacksonville, Florida
Court of Federal Claims Number 04–0728V
146. Shannon and Bob Gougeon on behalf of Travis Gougeon
Houston, Texas
Court of Federal Claims Number 04–0729V
147. Michael Bittner on behalf of Samuel Bittner
Houston, Texas
Court of Federal Claims Number 04–0730V
148. Michael Bittner on behalf of Deanna Bittner
Houston, Texas
Court of Federal Claims Number 04–0731V
149. Carla and Frank Jenkins on behalf of Frank Jenkins, Jr.
Jacksonville, Florida
Court of Federal Claims Number 04–0732V
150. Cindy and Joseph Winder on behalf of Joseph Quentin Winder
Jacksonville, Florida
Court of Federal Claims Number 04–0733V
151. Mark Quintal on behalf of Alex Quintal
North Dartmouth, Massachusetts
Court of Federal Claims Number 04–0734V
152. Lora Nelson on behalf of Steffany Nelson
Fayetteville, Arizona
Court of Federal Claims Number 04–0735V
153. Honey and Robert Rinicella on behalf of Victor Samuel Rinicella
Atlanta, Georgia
Court of Federal Claims Number 04–0736V
154. Honey and Robert Rinicella on behalf of Vincent Anthony Rinicella
Atlanta, Geogia
Court of Federal Claims Number 04–0737V
155. Rosetta and Aron Belton on behalf of Brandon Belton
Augora, California
Court of Federal Claims Number 04–0738V
156. Carol and Jose Acevedo on behalf of David Acevedo
Dallas, Texas
Court of Federal Claims Number 04–0739V
157. Carol and Jose Acevedo on behalf of Kaila Acevedo
Dallas, Texas
Court of Federal Claims Number 04–0740V
158. Cassandra and Christopher Gorton on behalf of Kelsey Gorton
Sarasota, Florida
Court of Federal Claims Number 04–0741V
159. Heather Issac Merrill on behalf of Alexander Merrill
Somers Point, New Jersey
Court of Federal Claims Number 04–0743V
160. Barbara and John Bonar on behalf of Alexandra Elizabeth Bonar
Covington, Kentucky
Court of Federal Claims Number 04–0744V
161. Terri Bennick on behalf of Connor Bennick
Portland, Oregon
Court of Federal Claims Number 04–0746V
162. Kara and Eric Konecke on behalf of Jacqueline Konecke
Philadelphia, Pennsylvania
Court of Federal Claims Number 04–0749V
163. Cammie and Shane Spitler on behalf of Natalie Leeann Spitler
Vinita, Oklahoma
Court of Federal Claims Number 04–0751V
164. Michelle and Kevin Steffl on behalf of Alex Jordan Steffl
Houston, Texas
Court of Federal Claims Number 04–0752V
165. Juanetha Purnell on behalf of Chajuan Jonta Purnell
Selma, Alabama
Court of Federal Claims Number 04–0753V
166. Terresa and Benjamin York on behalf of Nashoba Lee York
Houston, Texas
Court of Federal Claims Number 04–0754V
167. Pam and Mike Williams on behalf of Cordell James Williams
Houston, Texas
Court of Federal Claims Number 04–0755V
168. Beverly and Jerry Wilkes on behalf of Shane Anthony Wilkes
Houston, Texas
Court of Federal Claims Number 04–0756V
169. Cheryl and Alfred Taylor on behalf of Aaron Raymon Taylor
Longview, Pennsylvania
Court of Federal Claims Number 04–0757V
170. Melissa Montano on behalf of Trysten Smith

Pueblo, Colorado
Court of Federal Claims Number 04–0758V
171. Jared Zevetchin on behalf of Jared Austin Zevetchin
Teaneck, New York
Court of Federal Claims Number 04–0759V
172. Natisha and Kenneth Reyna on behalf of Anthony Kino Reyna
Houston, Texas
Court of Federal Claims Number 04–0760V
173. Crystal and Martin Radel on behalf of Joseph Martin Radel
Seattle, Washington
Court of Federal Claims Number 04–0761V
174. Michelle Mabe and Walter Spencer on behalf of Dylan Justice Spencer
Encinatas, California
Court of Federal Claims Number 04–0762V
175. Chiquita and Maurice Allison on behalf of Kaleb Allison
Houston, Texas
Court of Federal Claims Number 04–0764V
176. Natalie Franklin on behalf of Jacob Crane
Houston, Texas
Court of Federal Claims Number 04–0765V
177. Jerry Leo Moore, II on behalf of Jerry Leo Moore, III
Boston, Massachusetts
Court of Federal Claims Number 04–0766V
178. Constance Hains on behalf of Kyle Hains
Boston, Massachusetts
Court of Federal Claims Number 04–0767V
179. Kevin Goode on behalf of Robert Goode
Boston, Massachusetts
Court of Federal Claims Number 04–0768V
180. Kevin Goode on behalf of Richard Goode
Boston, Massachusetts
Court of Federal Claims Number 04–0769V
181. Jessica Whitt on behalf of Benjamin George
Newark, New Jersey
Court of Federal Claims Number 04–0770V
182. Sandra Lewis on behalf of Justin Cease
Boston, Massachusetts
Court of Federal Claims Number 04–0773V
183. Shireen Burki-Liebl on behalf of Joseph Liebl
Boston, Massachusetts
Court of Federal Claims Number 04–0774V
184. Shireen Burki-Liebl on behalf of Vern Liebl
Boston, Massachusetts
Court of Federal Claims Number 04–0775V
185. Denise Carol Welch on behalf of Quinten Levi Braxton
Robbinsdale, Minnesota
Court of Federal Claims Number 04–0776V
186. Ericka Webb on behalf of Branden Tyrece Webb
Houston, Texas
Court of Federal Claims Number 04–0777V
187. Ladawn Twinette Davis Hall on behalf of Bria Khalia Brown
Baltimore, Maryland
Court of Federal Claims Number 04–0778V
188. Christine Elaine Blevins-Harker on behalf of Edward Wayne Blevins
Baltimore, Maryland
Court of Federal Claims Number 04–0779V
189. April Weaver on behalf of Jamie Lee Burcham
Durham, North Carolina
Court of Federal Claims Number 04–0780V
190. Karey Shepherd on behalf of Kennedy Lynn Shepherd
Jacksonville, Florida
Court of Federal Claims Number 04–0784V
191. Amber Mitchell on behalf of Carson Brown
Flint, Michigan
Court of Federal Claims Number 04–0785V
192. Charlotte Coleman on behalf of Autris Coleman
Vienna, Virginia
Court of Federal Claims Number 04–0787V
193. Holly Hardesty on behalf of Madison Hardesty
Boston, Massachusetts
Court of Federal Claims Number 04–0788V
194. Deborah Nadaner on behalf of Abigail Nadaner
Boston, Massachusetts
Court of Federal Claims Number 04–0789V
195. Karen and David Beauvais on behalf of Joshua Beauvais
Birmingham, Alabama
Court of Federal Claims Number 04–0792V
196. Ebony Jackson and Lawrence Edwards on behalf of King Edwards
Houston, Texas
Court of Federal Claims Number 04–0797V
197. Yvette Powell on behalf of Devon King
Houston, Texas
Court of Federal Claims Number 04–0798V
198. Tracye and Lance Randolph on behalf of Scout Randolph
Houston, Texas
Court of Federal Claims Number 04–0799V
199. Karen and David Orlando on behalf of Andrew Orlando
Lake Success, New York
Court of Federal Claims Number 04–0803V
200. Harriette Vega on behalf of Bonnell Kimbouri
Boston, Massachusetts
Court of Federal Claims Number 04–0808V
201. Connie Thorup on behalf of Alexander Tippets
Boston, Massachusetts
Court of Federal Claims Number 04–0809V
202. Nina Hicks on behalf of Dustin Hicks
Boston, Massachusetts
Court of Federal Claims Number 04–0810V
203. Michelle Williams on behalf of David Williams
Boston, Massachusetts
Court of Federal Claims Number 04–0811V
204. Christine Wise on behalf of Jacob Scott Bindis
Massillon, Ohio
Court of Federal Claims Number 04–0813V
205. Yolanda and Albert Bracamonte on behalf of Albert Gabriel Bracamonte, III
Bonita, California
Court of Federal Claims Number 04–0814V
206. Rachel and Peter Boney on behalf of Benjamin Philip Boney
St. Louis Park, Minnesota
Court of Federal Claims Number 04–0815V
207. Jaylene and Curtis Charrier on behalf of William Keith Charrier
Baton Rouge, Louisiana
Court of Federal Claims Number 04–0816V
208. Jorge and Belkys Cairo on behalf of Jake Michael Cairo
Pembroke Pines, Florida
Court of Federal Claims Number 04–0817V
209. Ruth Linares on behalf of Javier Alberto Chuquimia
Houston, Texas
Court of Federal Claims Number 04–0818V
210. Carol and Russell Brown on behalf of Joseph Alan Brown
Olympia, Washington
Court of Federal Claims Number 04–0819V
211. Sharon and Carl Bond on behalf of Carlicia Antrice Bond
Clarksdale, Mississippi
Court of Federal Claims Number 04–0820V

212. Ruth and Curt Peterson on behalf of Blair Maria Peterson
Bellevue, Washington
Court of Federal Claims Number 04–0821V
213. Gail and Jesse Romines on behalf of Wesley Dale Romines
Los Angeles, California
Court of Federal Claims Number 04–0822V
214. Shaneathia Johnson on behalf of Justin Deshawn Hunt
Grove Hill, Alabama
Court of Federal Claims Number 04–0823V
215. Rosa and Jesus Velasquez on behalf of Jesus Elan Velasquez
Pearland, Texas
Court of Federal Claims Number 04–0824V
216. Patricia and Martin Peru on behalf of Martin Guillermo Peru
Mesa, Arizona
Court of Federal Claims Number 04–0825V
217. Kimberly Putnam and Michael Lamonica on behalf of Michael Lamonica
West Islip, New York
Court of Federal Claims Number 04–0826V
218. Tina Church on behalf of Edward Clayton Church
Seattle, Washington
Court of Federal Claims Number 04–0827V
219. Angela and Craig Cottrell on behalf of Kishla Reanne Cottrell
Lafayette, Indiana
Court of Federal Claims Number 04–0828V
220. Travis Smith on behalf of Patrick Smith
Somers Point, New Jersey
Court of Federal Claims Number 04–0832V
221. Ammie and Andres Herrera on behalf of Anderson Herrera
Bala Cynwyd, Pennsylvania
Court of Federal Claims Number 04–0834V
222. Anita and John Trayling on behalf of Xeidler Walter Trayling
Houston, Texas
Court of Federal Claims Number 04–0838V
223. Yvonne and Charles Reed on behalf of Jacob Luis Reed
Conroe, Texas
Court of Federal Claims Number 04–0839V
224. Carey and Carl Morgan on behalf of Cole Everett Morgan
Jeffersonville, Indiana
Court of Federal Claims Number 04–0840V
225. Carolyn and Keith Marshall on behalf of Keith Alfred Marshall
Brooklyn, New York
Court of Federal Claims Number 04–0841V
226. Yolanda and Darick Harper on behalf of Ra'Jon Harper
San Jose, California
Court of Federal Claims Number 04–0842V
227. Sylvia and David Seward on behalf of Randy William Seward
Antioch, California
Court of Federal Claims Number 04–0843V
228. Rosa and Brian Campbell on behalf of Keenan Matthew Campbell
Houston, Texas
Court of Federal Claims Number 04–0844V
229. Vickie and Brian Snook on behalf of John Austin Snook
Houston, Texas
Court of Federal Claims Number 04–0845V
230. Patricia Faillo and Paul Ivery on behalf of Anthony James Ivery
Houston, Texas
Court of Federal Claims Number 04–0846V
231. Christina and John Rushing on behalf of Matthew Steven Rushing
Covina, California
Court of Federal Claims Number 04–0847V
232. Paige and Steve Hodges on behalf of Samuel Luke Hodges
Houston, Texas
Court of Federal Claims Number 04–0848V
233. Carey and Carl Morgan on behalf of Cole Christopher Morgan
Jeffersonville, Indiana
Court of Federal Claims Number 04–0849V
234. Donna Owen on behalf of Jon Renard Owen
Hopkinsville, Kentucky
Court of Federal Claims Number 04–0850V
235. Jennifer and Jason Morrison on behalf of Jenna Katherine Morrison
Littleton, Colorado
Court of Federal Claims Number 04–0851V
236. Neisha Richard on behalf of Joseph Richard
Boston, Massachusetts
Court of Federal Claims Number 04–0852V
237. Sally Medina on behalf of Josephina Marin
Boston, Massachusetts
Court of Federal Claims Number 04–0853V
238. Melissa Abdullah-Musa on behalf of Jasir Abdullah-Musa
Boston, Massachusetts
Court of Federal Claims Number 04–0854V
239. Michalean and Michael McGraw on behalf of Michael James McGraw, II
Grand Rapids, Michigan
Court of Federal Claims Number 04–0857V
240. Angelina and Juan Rios on behalf of Jesus Antonio Rios
Kansas City, Missouri
Court of Federal Claims Number 04–0858V
241. Sheila Lawton on behalf of Del Jose Anderson, II
Compton, California
Court of Federal Claims Number 04–0859V
242. Shannon Dunbar and Allan Walker on behalf of Nicklaus Clark Walker
Houston, Texas
Court of Federal Claims Number 04–0860V
243. Daryl and Evelyn Pannell on behalf of Terrance Pannell
Cleveland, Ohio
Court of Federal Claims Number 04–0861V
244. Johanne and Kenneth Grizzle on behalf of Rebecca Marie Grizzle
Winter Haven, Florida
Court of Federal Claims Number 04–0862V
245. Nancy Christopher on behalf of Kayla Karina Christopher
Laramie, Wyoming
Court of Federal Claims Number 04–0863V
246. Donna Owen of Joshua Randall Owen
Hopkinsville, Kentucky
Court of Federal Claims Number 04–0864V
247. Yolanda and Darick Harper on behalf of Da'Jon Harper
San Jose, California
Court of Federal Claims Number 04–0865V
248. Julia Howard on behalf of Jonathan Michael Howard
Houston, Texas
Court of Federal Claims Number 04–0866V
249. Rene and Ken Murphy on behalf of Andrew James Murphy
Sonoma, California
Court of Federal Claims Number 04–0867V
250. Vonda Hill on behalf of Kalen Wesley Maldon
Richmond, California
Court of Federal Claims Number 04–0868V
251. Tammy and Kevin Bruce on behalf of Joshua Lee Bruce
Houston, Texas
Court of Federal Claims Number 04–0869V
252. Jose Grajales and Sidelia Mora on behalf of Andy Grajales Mora
Hillister, Georgia
Court of Federal Claims Number 04–0870V
253. Anna Bell Marrs on behalf of Cameron Brandon Marrs

Marywood, Illinois
Court of Federal Claims Number 04–0871V
254. Irene and John Finley on behalf of Irene Finley
Alexandria, Louisiana
Court of Federal Claims Number 04–0874V
255. Kristen and Bradley Troyer on behalf of Jacob Troyer
Miami, Florida
Court of Federal Claims Number 04–0875V
256. Mary Carol Roesser on behalf of Williams Roesser
Miami, Florida
Court of Federal Claims Number 04–0876V
257. Kellye Hudson-Lyons on behalf of Hunter Sebastian Lyons
Jacksonville, Florida
Court of Federal Claims Number 04–0877V
258. Sherril and Eric Cherry on behalf of Rajon Demetrius Cherry
Jacksonville, Florida
Court of Federal Claims Number 04–0878V
259. Laura Hollandsworth on behalf of Corry Hollandsworth
Portland, Oregon
Court of Federal Claims Number 04–0881V
260. Lee Orr on behalf of Malik Orr
Portland, Oregon
Court of Federal Claims Number 04–0882V
261. Sandra and Anthony Proctor on behalf of Nicholas Mark Wayne Brown
Huntington, West Virginia
Court of Federal Claims Number 04–0885V
262. Damaris Davis on behalf of Chandler Sequan-Jamal Davis
Lallisbury, North Carolina
Court of Federal Claims Number 04–0886V
263. Karen and Mark Hardison on behalf of Peter James Hardison
Phoenix, Arizona
Court of Federal Claims Number 04–0887V
264. Dina and Israel Lara on behalf of Israel Lara, Jr.
Houston, Texas
Court of Federal Claims Number 04–0888V
265. Lucinda and Roger Notsch on behalf of Joseph Robert Notsch
Houston, Texas
Court of Federal Claims Number 04–0889V
266. Maria and Leroy Battaglio on behalf of Gunner Lee Battaglio
Mobile, Alabama
Court of Federal Claims Number 04–0890V
267. Marjorie Gutierrez on behalf of Kayden Anne Vargas
Houston, Texas
Court of Federal Claims Number 04–0891V
268. Tina Powers on behalf of Jonathan Scott Powers
Lancaster, Wisconsin
Court of Federal Claims Number 04–0892V
269. Tracy and Bobby Singelton on behalf of Jamal Magic Singelton
Fridley, Minnesota
Court of Federal Claims Number 04–0893V
270. Traci Houser on behalf of Ruben Anthony Gutierrez
Houston, Texas
Court of Federal Claims Number 04–0894V
271. Yoshiko and Michael Garrison on behalf of Ichiro Michael Garrison
Houston, Texas
Court of Federal Claims Number 04–0895V
272. Susan and John Emery on behalf of John Jay Emery
Everett, Washington
Court of Federal Claims Number 04–0896V
273. Angela Banks on behalf of Parker Banks
Orofino, Idaho
Court of Federal Claims Number 04–0897V
274. Carolyn and Trent Sargent on behalf of Trent Stephen Sargent
Houston, Texas
Court of Federal Claims Number 04–0898V
275. Marsha and Gonzalo Vasquez on behalf of Anthony Gonzalo Vasquez
Mission Hills, California
Court of Federal Claims Number 04–0899V
276. Michelle and Colin Campbell on behalf of Savannah Georgia Campbell
Isleton, California
Court of Federal Claims Number 04–0900V
277. Cynthia and Christopher Sibley on behalf of Jacklyn Sibley
Houston, Texas
Court of Federal Claims Number 04–0905V
278. Mary and Kurt Graham on behalf of John Graham
Smyrna, Georgia
Court of Federal Claims Number 04–0912V
279. Kay Tingle and Wendell Coleman on behalf of Samantha Marie Thomas
Philadelphia, Pennsylvania
Court of Federal Claims Number 04–0913V
280. Susan and Brian Fletcher on behalf of Patrick Lee Fletcher
Plano, Texas
Court of Federal Claims Number 04–0914V
281. Rosie and Fester Walton on behalf of Dont'e Louis Walton
Flint, Michigan
Court of Federal Claims Number 04–0915V
282. Lori and Drake Bachend on behalf of Joshua Ed Bachend
Schuykill Haven, Pennsylvania
Court of Federal Claims Number 04–0916V
283. Martha and Juan Carreno on behalf of Charles Michael Carreno
Anaheim, California
Court of Federal Claims Number 04–0917V
284. Trauma Fontaine Newell on behalf of Alanis Dior Newell
South Orange, New Jersey
Court of Federal Claims Number 04–0918V
285. Sherri and Gregory Kessler on behalf of Gregory Stone Kessler
Blaine, Minnesota
Court of Federal Claims Number 04–0919V
286. Francine Russo and Jaime Mendoza on behalf of Jaime Anthony Mendoza
Yuba City, California
Court of Federal Claims Number 04–0920V
287. Liza Milliman on behalf of Hunter Kizzire
Sandstone, Minnesota
Court of Federal Claims Number 04–0921V
288. Brenda Wadsworth on behalf of Kendall Riley Wadsworth
West Blocton, Alabama
Court of Federal Claims Number 04–0922V
289. Jeanne and Julius Fontelera on behalf of Justin Fontelera
Chicago, Illinois
Court of Federal Claims Number 04–0924V
290. Karen McGuire on behalf of Danny McGuire, III
Chicago, Illinois
Court of Federal Claims Number 04–0925V
291. Melissa and Sumei Gomez on behalf of Emanuel Gomez
Houston, Texas
Court of Federal Claims Number 04–0926V
292. Marilyn Edge on behalf of Jaelen Edge
Houston, Texas
Court of Federal Claims Number 04–0927V
293. Jennifer and Gary Carroll on behalf of Cassidy Carroll
Houston, Texas
Court of Federal Claims Number 04–0928V
294. Kathy and Fernando Galeano on behalf of Daniel Galeano
Van Nuys, California
Court of Federal Claims Number 04–0930V
295. Kristi and Robert Shinsato on behalf of Aaron Shinsato

Van Nuys, California
Court of Federal Claims Number 04–0931V
296. Kristi and Robert Shinsato on behalf of Matthew Shinsato
Van Nuys, California
Court of Federal Claims Number 04–0932V
297. Lorie Shelley on behalf of Jared Shelley
Van Nuys, California
Court of Federal Claims Number 04–0933V
298. Carolyn and John Doherty on behalf of Erica Rose Doherty
Van Nuys, California
Court of Federal Claims Number 04–0934V
299. Debra Billingslea on behalf of Allen Billingslea
Dallas, Texas
Court of Federal Claims Number 04–0935V
300. Rachel Talty on behalf of Samuel Talty
Chicago, Illinois
Court of Federal Claims Number 04–0937V
301. Richard Farretta on behalf of David Farretta
Boston, Massachusetts
Court of Federal Claims Number 04–0942V
302. Maya Gilmer on behalf of Jadon Hayden
Boston, Massachusetts
Court of Federal Claims Number 04–0943V
303. Danny Kuratli on behalf of Maxwell Kuratli
Boston, Massachusets
Court of Federal Claims Number 04–0944V
304. Jolene Lewis on behalf of Makinzie Lewis
Boston, Massachusetts
Court of Federal Claims Number 04–0945V
305. Peggy Hartman on behalf of Kade Hartman
Boston, Massachusetts
Court of Federal Claims Number 04–0946V
306. Susan Ridenour on behalf of Hanna Ridenour
Boston, Massachusetts
Court of Federal Claims Number 04–0947V
307. Douglas Carolino on behalf of Jasmine-Kay Carolino
Boston, Massachusetts
Court of Federal Claims Number 04–0948V
308. Melissa and Alan Lafave on behalf of Blake Lafave
Philadelphia, Pennsylvania
Court of Federal Claims Number 04–0952V
309. Katherine Andrews on behalf of Olivia Grace Sanderson Goff
Nashville, Tennessee
Court of Federal Claims Number 04–0956V
310. Peggy and Charlie Burnette on behalf of Savion Rasheed Burnette
Durham, North Carolina
Court of Federal Claims Number 04–0957V
311. Diann and Marc Kroeger on behalf of Luke Marcus Jon Kroeger
Waconia, Minnesota
Court of Federal Claims Number 04–0958V
312. Angelina and Juan Rios on behalf of Juan Enrique Rios
Kansas City, Missouri
Court of Federal Claims Number 04–0959V
313. Lisa and Danny Madden on behalf of James Arthur Madden
Portsmouth, Ohio
Court of Federal Claims Number 04–0960V
314. Kim Conley on behalf of Madison Conley
Powell, Ohio
Court of Federal Claims Number 04–0961V
315. Angela and Brandon Bowman on behalf of Braeden Dale Bowman
St. Marys, Ohio
Court of Federal Claims Number 04–0962V
316. Michelle and Dennis Bellaire on behalf of Alec Reece Bellaire
St. Joseph, Michigan
Court of Federal Claims Number 04–0963V
317. Tanisha and John Arrington on behalf of Jason Alexander Arrington
Flint, Michigan
Court of Federal Claims Number 04–0964V
318. Joyce and John Diedrich on behalf of Riley Austin Diedrich
Houston, Texas
Court of Federal Claims Number 04–0965V
319. Correy McManus on behalf of Niyla McManus, Deceased
Dunn, North Carolina
Court of Federal Claims Number 04–0966V
320. Joseph Kowalski
Mount Kisco, New York
Court of Federal Claims Number 04–0967V
321. Angela Smith on behalf of Russell Alan Wilharm, Jr.
Jacksonville, Florida
Court of Federal Claims Number 04–0969V
322. Karen and Casey Gulkin on behalf of Timber Ty-Andrew Gulkin
Greeley, Colorado
Court of Federal Claims Number 04–0971V
323. A. Lindsey Hewatt on behalf of Charles William Hewatt, III
Atlanta, Georgia
Court of Federal Claims Number 04–0975V
324. Michelle and Robert Lombardi on behalf of Alexander Robert Lombardi
Madison, Ohio
Court of Federal Claims Number 04–0976V
325. Susan Sawyer on behalf of Dylan Sawyer
Houston, Texas
Court of Federal Claims Number 04–0977V
326. Melanie Glock on behalf of Maisie Glock
Houston, Texas
Court of Federal Claims Number 04–0978V
327. Marisha Taylor on behalf of Lake Taylor
Houston, Texas
Court of Federal Claims Number 04–0979V
328. Tanya and Brian Haaseth on behalf of Alexander Haaseth
Houston, Texas
Court of Federal Claims Number 04–0980V
329. Diane and Mark Marton on behalf of Mark Marton
Houston, Texas
Court of Federal Claims Number 04–0981V
330. Carrie and Kenneth Sandt on behalf of Kenneth Sandt, Jr.
Houston, Texas
Court of Federal Claims Number 04–0982V
331. Deborah Whitmer on behalf of Eric Whitmer
Boston, Massachusetts
Court of Federal Claims Number 04(0991V
332. Leigh Eworonsky on behalf of Andrew Eworonsky
Boston, Massachusetts
Court of Federal Claims Number 04–0992V
333. Jennifer Barsamian on behalf of Zachary Barsamian
Boston, Massachusetts
Court of Federal Claims Number 04–0993V
334. Nora and Bobby Gore on behalf of David Michael Gore
Charleston, West Virginia
Court of Federal Claims Number 04–0994V
335. Laura Mersburgh on behalf of Elijah Mersburgh
Honolulu, Hawaii
Court of Federal Claims Number 04–0997V
336. Pamela and Brian Braden on behalf of Nicholas Braden
Minneapolis, Minnesota
Court of Federal Claims Number 04–0998V
337. Nathan Yorgason on behalf of Whitney Yorgason

Harlowton, Colorado
Court of Federal Claims Number 04–1005V
338. Rosemary and Jimmy Ayala on behalf of Jimmy Ayala, Jr.
Philadelphia, Pennsylvania
Court of Federal Claims Number 04–1007V
339. Francine Jiminez and Albert Williams on behalf of Alsay Leday Williams
Anaheim, California
Court of Federal Claims Number 04–1008V
340. Quiana Ferguson on behalf of Christopher Eugene Ferguson
Dayton, Ohio
Court of Federal Claims Number 04–1009V
341. Sonya Tolentino on behalf of Nanea Tolentino, Deceased
Kealakekua, Hawaii
Court of Federal Claims Number 04–1014V
342. Kimberly Dixon on behalf of Karl Coleman
New Orleans, Louisiana
Court of Federal Claims Number 04–1022V
343. Terri and Oscar Finley on behalf of Donovan Finley
New Orleans, Louisiana
Court of Federal Claims Number 04–1023V
344. Jacqueline and Steven Gilbert on behalf of Taylor Gilbert
New Orleans, Louisiana
Court of Federal Claims Number 04–1024V
345. Sabrina and Clarence Toussaint on behalf of Allen Toussaint
New Orleans, Louisiana
Court of Federal Claims Number 04–1025V
346. Lauren and David Mason on behalf of Sage Mason
Limestone, Texas
Court of Federal Claims Number 04–1027V
347. Kathleen and Neil Doherty on behalf of Connor Doherty
Woodburn, Massachusetts
Court of Federal Claims Number 04–1033V
348. Brenda and Ronald Knable on behalf of Paul Knable
Chicago, Illinois
Court of Federal Claims Number 04–1034V
349. Thomas Bell on behalf of Annmarie Bell
Suffolk, Virginia
Court of Federal Claims Number 04–1038V
350. Carla and Kevin Long on behalf of Colin James Long
Vancouver, Washington
Court of Federal Claims Number 04–1039V
351. Jennifer and Gary Stone on behalf of Amelia Stone
Oshkosh, Wisconsin
Court of Federal Claims Number 04–1041V
352. Michele Siciliano on behalf of August Siciliano
Ligonier, Pennsylvania
Court of Federal Claims Number 04–1054V
353. Ingrid Bianco on behalf of Greta Bianco
Somers Point, New Jersey
Court of Federal Claims Number 04–1059V
354. Lonnie Vestal on behalf of Dakota Vestal
Tyler, Texas
Court of Federal Claims Number 04–1063V
355. Amy Schlosser on behalf of Daniel Joseph Schlosser
Tyler, Texas
Court of Federal Claims Number 04–1064V
356. Cheryl Thompson on behalf of Aaron Thompson
Tyler, Texas
Court of Federal Claims Number 04–1065V
357. Theresa and Dale Conkel on behalf of Mark Conkel
Richardson, Texas
Court of Federal Claims Number 04–1072V
358. Sonia and Hector Rosado on behalf of Hector Rosado
Miami, Florida
Court of Federal Claims Number 04–1076V
359. Heather Hamilton on behalf of Logan Hamilton, Deceased
Edmund, Oklahoma
Court of Federal Claims Number 04–1077V
360. Lori Quast on behalf of Steven Quast
Mattoon, Illinois
Court of Federal Claims Number 04–1078V
361. Teresa and Steven Myers on behalf of Audrey Myers
Charlotte, North Carolina
Court of Federal Claims Number 04–1079V
362. Katie Jaynes on behalf of Marcus Cetell
Somers Point, New Jersey
Court of Federal Claims Number 04–1080V
363. Bruce Stearns
Saint Croix Falls, Wisconsin
Court of Federal Claims Number 04–1082V
364. Cathleen and John Akers on behalf of John Henry Akers
Houston, Texas
Court of Federal Claims Number 04–1083V
365. Kelly and Josef Blake on behalf of Allisha Ray Blake
Charleston, West Virginia
Court of Federal Claims Number 04–1084V
366. Tina Cockrell on behalf of Mark Andrew Carwell
Mount Vernon, Ohio
Court of Federal Claims Number 04–1085V

Dated: February 11, 2005.

**Elizabeth M. Duke,**

*Administrator.*

[FR Doc. 05–3176 Filed 2–17–05; 8:45 am]

BILLING CODE 4165–15–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel, Metabolomics for Early Cancer Detection.

*Date:* March 22, 2005.

*Time:* 1 p.m. to 4 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* Thomas M. Vollberg, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 7142, Bethesda, MD 20892, (301) 594–9582, *volbert@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contract Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and

Diagnosis Research, 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3156 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Center for Complementary and Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Center for Complementary and Alternative Medicine Special Emphasis Panel Training and Education.

*Date:* March 7–8, 2005.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

*Contact Person:* Laurie Friedman Donze, PhD, Scientific Review Administrator, National Center for Complement. & Alt. Medicine, National Institutes of Health, 6707 Democracy Blvd. Suite 401, Bethesda, MD 20892, (301) 402–1030, *donzel2@mail.nih.gov.*

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3169 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel Comprehensive International Program of Research on AIDS (CIPRA).

*Date:* March 8–9, 2005.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Eugene R. Baizman, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, (301) 402–1464. *eb237e@nih.gov.*

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel Food Allergy Research Consortium and Statistical Center.

*Date:* March 14, 2005.

*Time:* 11:30 a.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817. (Telephone conference call.)

*Contact Person:* Gregory P. Jarosik, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301-496–0695. *gjarosik@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS.)

Dated: February 11, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3153 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, ZAA1 HH (31) PAR–03–133 Rapid Response to College Drinking Problems—U18 Applications.

*Date:* March 4, 2005.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

*Contact Person:* Jeffrey I. Toward, PhD, Scientific Review Administrator, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, Extramural Project Review Branch, OEA, 5635 Fishers Lane, Room 3033, Bethesda, MD 20892–9304. (301) 435–5337. *jtoward@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS.)

Dated: February 11, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3154 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to he public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Initial Review Group Biomedical Research Review Subcommittee

*Date:* March 3–4, 2005.

*Time:* 3 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Office of Scientific Affairs, National Institute on Alcohol Abuse & Alcoholism, 5635 Fishers Lane, Bethesda, MD 20892–9304, (301) 443–2861, *skandasa@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS).

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3157 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; Noice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel National Latino and Asian American Study Cooperative Agreements.

*Date:* March 7, 2005.

*Time:* 8 a.m. to 6 p.m.

*Agenda:* To review and evaluate cooperative agreement applications.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Mary E. Farmer, MD, MPH, Scientific Review Administrator, Neuroscience Center, 6001 Executive Boulevard, Room 7191, Bethesda, MD 20892–9643, (301) 443–9869, MFARMER@NIH.GOV.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel ITV Conflicts.

*Date:* March 8, 2005.

*Time:* 1 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9608, (301) 443–7861, *dsommers@mail.nih.gov*.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, Translational Research and Career Awards in Mental Health.

*Date:* March 8, 2005.

*Time:* 1 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* Bettina D. Acuna, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9608, Bethesda, MD 20892–9608, (301) 443–1178, *acunab@mail.nih.gov*.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, Psychostimulants.

*Date:* March 9, 2005.

*Time:* 9 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Summerfield Suites by Wyndham, 200 Skidmore Boulevard, Gaithersburg, MD 20877.

*Contact Person:* Yong Yao, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892–9606, 301–443–6102, *yyao@mail.nih.gov*.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel Conte Centers for Schizophrenia.

*Date:* March 10–11, 2005.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Summerfield Suites by Wyndham, 200 Skidmore Boulevard, Gaithersburg, MD 20877.

*Contact Person:* Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@mail.nih.gov*.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel Conte Centers for Neuroscience Research.

*Date:* March 10–11, 2005.

*Time:* 9 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

*Contact Person:* Bettina D. Acuna, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9608, Bethesda, MD 20892–9608, 301–443–1178, *acunab@mail.nih.gov*.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel HIV Medication Adherence.

*Date:* March 11, 2005.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

*Contact Person:* Fred Altman, PhD, Scientific Review Administrator, National Institute of Mental Health, Neuroscience Center, 6001 Executive Blvd., Room 6220, MSC 9621, Bethesda, MD 20892–9621, 301–443–8962, *faltman@mail.nih.gov*.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel Center Application Review.

*Date:* March 14, 2005.
*Time:* 8:30 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.
*Contact Person:* Christopher S. Sarampote, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9608, Bethesda, MD 20892–9608, 301–443–1959, *csarampo@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS).

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3158 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of General Medical Sciences Special Emphasis Panel Small Scale Centers for the Protein Structure Initiative.
*Date:* March 14–15, 2005.
*Time:* 8 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.
*Contact Person:* C. Craig Hyde, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Building 45, Room 3AN18, Bethesda, MD 20892, 301–435–3825. *ch2v@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS).

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3159 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of General Medical Sciences Special Emphasis Panel Anesthesiology Program Project Grant Applications.
*Date:* February 28, 2005.
*Time:* 2 p.m. to 4 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, 3AN18, Bethesda, MD 20892, (Telephone Conference Call).
*Contact Person:* Carole H. Latker, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–18, Bethesda, MD 20892, (301) 594–2848, *latkerc@nigms.nih.gov*.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.
(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support, 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS).

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3160 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to he public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Initial Review Group Developmental Biology Subcommittee.
*Date:* March 10–11, 2005.
*Time:* 8 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Hotel Washington, Pennsylvania Ave. at 15 Street, NW., Washington, DC 20004.
*Contact Person:* Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 496–1485, *changn@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3161 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee, Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Minority Programs Review Committee, MBRS Review Subcommittee B.

*Date:* March 14–15, 2005.

*Time:* 8:30 a.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

*Contact Person:* N. Kent Peters, PhD, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 18ANK, Bethesda, MD 20892, (301) 594–2408, *petersn@nigms.nigms.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS).

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3162 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Initial Review Group, Obstetrics and Maternal-Fetal Biology Subcommittee.

*Date:* March 14, 2005.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

*Contact Person:* Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Bldg Rm 5B01, Rockville, MD 20852, (301) 435–6889, *bhatnagg@maila.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3163 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel Adaptive Mucosal Immunity in Acute Intestinal Injury.

*Date:* March 3, 2005.

*Time:* 10 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* Kishena C. Wadhwani, PhD, MPH, Scientific Review Administrator, Division of Scientific Review, 9000 Rockville Pike, MSC 7510, 6100 Building, Room 5B01, Bethesda, MD 20892–7510, (301) 496–1485, *wadhwank@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3164 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose

confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Child Health and Human Development Special Emphasis Panel, Differential Hormonal Regulation of Spinothalamic Cells.

*Date:* March 10, 2005.

*Time:* 10 a.m. to 11:30 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20851, (Telephone Conference Call).

*Contact Person:* Jon M. Ranhand, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, (301) 435–6884, *ranhandj@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3165 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Initial Review Group, Reproduction, Andrology, and Gynecology Subcommittee.

*Date:* March 15–16, 2005.

*Time:* 3 p.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

*Contact Person:* Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892. (301) 435–6884. *ranhandj@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3166 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Clinical Nutrition Research Units.

*Date:* March 9–11, 2005.

*Time:* 8 a.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Four Points by Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Michele L. Barnard, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8898, *barnardm@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS).

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3167 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive And Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to he public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel Liver Failure.

*Date:* March 25, 2005.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

*Contact Person:* Barbara A. Woynarowska, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892, (301) 402–7172, *woynarowskab@niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS).

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3168 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center For Scientific Review; Amended Notice of Meeting

Notice is hereby given on a change in the meeting of the Center for Scientific Review Special Emphasis Panel, February 24, 2005, 8 a.m. to February 25, 2005, 5 p.m., Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD, 20814 which was published in the **Federal Register** on January 31, 2005, 70 FR 4880.

The starting time of the meeting has been changed to 7:30 p.m. on February 24, 2005. The meeting dates and location remain the same. The meeting is closed to the public.

Dated: February 11, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3151 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, February 25, 2005, 8:30 a.m. to February 25, 2005, 5 p.m., George Washington University Inn, 824 New Hampshire Ave,, NW., Washington, DC 20037 which was published in the **Federal Register** on January 31, 2005, 70 FR 4880.

The meeting will be held at One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20067.

The meeting times and date remain the same. The meeting is closed to the public.

Dated: February 11, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3152 Filed 2–17–05; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Mutation and Signal Transduction.
*Date:* February 25, 2005.
*Time:* 3:30 p.m. to 5:30 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Hungyi Shau, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–435–1720, *shauhung@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Bacterial Diseases, Food Safety and General Microbiology.
*Date:* March 7–8, 2005.
*Time:* 8 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Latham Hotel, 3000 M Street, NW., Washington, DC 20007.
*Contact Person:* Marian Wachtel, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3208, MSC 7858, Bethesda, MD 20892, 301–435–1148, *wachtelm@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Vision SBIR BDCN IRG.
*Date:* March 7, 2005.
*Time:* 1 p.m. to 3 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Christine A. Livingston, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, (301) 435–1172, *livingsc@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Vision SBIR BDCN IRG.
*Date:* March 7, 2005.
*Time:* 3 p.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Christine A. Livingston, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, (301) 435–1172; *livingsc@csr.nih.gov*.

*Name of Committee:* Genes, Genomes, and Genetics Integrated Review Group, Molecular Genetics A Study Section.
*Date:* March 10–11, 2005.
*Time:* 8 a.m. to 4 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Wyndham City Center Hotel, 1143 New Hampshire Ave., NW., Washington, DC 20037.
*Contact Person:* Michael M. Sveda, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, 301–435–3565; *svedam@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Microscopic Imaging Study Section.
*Date:* March 10–11, 2005.
*Time:* 8 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
*Contact Person:* Sally Ann Amero, PhD., Scientific Review Administrator, Center for Science Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7826, Bethesda, MD 20892, 301–435–1159 *ameros@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, ZRG1 BCHI 01Q: Biomedical Computing and Health Informatics: Quorum.
*Date:* March 10–11, 2005.
*Time:* 8 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
*Contact Person:* Bill Bunnag, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892, (301) 435–1177 *bunnagb@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Infectious Diseases and Microbiology.
*Date:* March 10–11, 2005.
*Time:* 8 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

*Contact Person:* Alexander D. Politis, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150; *politisa@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Pharmacology and Diagnostics for Neuropsychiatric Disorders.

*Date:* March 10–11, 2005.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

*Contact Person:* Jerome R. Wujek, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 435–2507; *wujekjer@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Biodata Management and Analysis.

*Date:* March 10–11, 2005.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select, 480 King Street, Alexandria, VA 22314.

*Contact Person:* Marc Rigas, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7826, Bethesda, MD 20892, 301–402–1074; *rigasm@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Acute Neurodegeneration.

*Date:* March 10–11, 2005.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

*Contact Person:* Seetha Bhagavan, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3022D, MSC 7846, Bethesda, MD 20892, (301) 435–1211; *bhagavas@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Chemical and Bioanalytical Sciences.

*Date:* March 10–11, 2005.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

*Contact Person:* David R. Jollie, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722, *jollieda@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Chemistry/Biophysics SBIR/STTR Panel.

*Date:* March 10–11, 2005.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

*Contact Person:* Vonda K. Smith, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7806, Bethesda, MD 20892, 301–435–1789; *smithvo@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Myofibrillar Proteins in Striated Muscles.

*Date:* March 10, 2005.

*Time:* 1 p.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Rajiv Kumar, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892, (301) 435–1212, *kumarra@csr.nih.gov*..

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Tissue Factor-factor VIIA Signaling and Molecular Mechanisms of Fibrinolysis.

*Date:* March 10, 2005.

*Time:* 2 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Robert T. Su, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892, (301) 435–1195. *sur@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Leishmania,

*Date:* March 10, 2005.

*Time:* 3 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Fouad A. El-Zaatari, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20814–9692, (301) 435–1149; *elzaataf@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Endocrinology, Metabolism, Nutrition, and Reproductive Science.

*Date:* March 10–11, 2005.

*Time:* 7 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Krish Krishnan, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Vascular Bioengineering Partnership.

*Date:* March 11, 2005.

*Time:* 8 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

*Contact Person:* Ai-Ping Zoe, PhD., MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, (301) 435–1777. *zouai@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Small Business Occupational Health.

*Date:* March 11, 2005.

*Time:* 9 a.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select, 480 King Street, Alexandria, VA 22314.

*Contact Person:* Charles N. Rafferty, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7816, Bethesda, MD 20892, 301–435–3562; *raffertc@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Reproduction, Nutrition, and Metabolism.

*Date:* March 11, 2005.

*Time:* 11 a.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Michael Knecht, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046; *knechtm@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.393, National Institutes of Health, HHS).

Dated: February 10, 2005.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 05–3155 Filed 2–17–05; 8:45 am]

**BILLING CODE 4140–01–M**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Agency Information Collection Activities Under Emergency Review by the Office of Management and Budget

The Substance Abuse and Mental Health Services Administration (SAMHSA) has submitted the following request (see below) for emergency OMB review under the Paperwork Reduction Act (44 U.S.C. Chapter 35). OMB

approval has been requested by February 28, 2005. A copy of the information collection plans may be obtained by calling the SAMHSA Reports Clearance Officer on (240) 276–1243.

*Title:* Core Measures for the Center for Substance Abuse Prevention.

*OMB Number:* 0930–0230.

*Frequency:* Semi-annually.

*Affected public:* Non-Profit Institutions.

**Proposed Project: Core Measures for the Center for Substance Abuse Prevention—Reinstatement Without Change**

The mission of SAMHSA's Center for Substance Abuse Prevention (CSAP) is to decrease substance use and abuse and related problems among the American public by bridging the gap between research and practice. CSAP accomplishes this through field-testing scientifically defensible programs; disseminating comprehensive, culturally appropriate prevention strategies, policies, and systems; and capacity building for states and community-based providers. Data are collected from CSAP grants and contracts where participant outcomes are assessed pre- and post-intervention. The analysis of these data help determine whether progress is being made in achieving CSAP's mission. The primary purpose of the proposed data activity is to promote the use among CSAP grantees and contractors of measures recommended by CSAP as a result of extensive examination and recommendations, using consistent criteria, by panels of experts. The use of consistent measurement for specified constructs across CSAP funded projects will improve CSAP's Performance and Results Act (GPRA) and address goals and objectives outlined in the Office of National Drug Control Policy's Performance Measures of Effectiveness. It is important to emphasize that CSAP is not requiring the use of these measures if (1) The program does not already plan to target change in the specified construct(s) and/or (2) the measure is not valid for the program's targeted population. The Core Measures are only to be used if appropriate to the program's target population and consistent with the outcome(s) selected by the program. Consequently, no additional burden on the target population is estimated because the program is not being asked to collect data above and beyond what would already have been planned.

The annual burden estimated is that for the grantees to extract the necessary data from their files and provide it to CSAP's data coordinating center. The table below summarizes the maximum estimated time, *i.e.*, if all programs used all of the Core Measures—which is unlikely.

The following table is the estimated hour burden:

ESTIMATES OF ANNUALIZED HOUR BURDEN

[FY05]

| CSAP program | Number of grantees | Responses/ grantee | Hours/ response | Total hours |
|---|---|---|---|---|
| Knowledge Development: | | | | |
| Club drugs methamphetamine | 22 | 2 | 3 | 132 |
| Fetal alcohol | 6 | 2 | 3 | 36 |
| Workplace | 13 | 2 | 3 | 78 |
| Targeted Capacity Enhancement: | | | | |
| HIV/Targeted Capacity | 45 | 2 | 3 | 270 |
| SPF Sig | 21 | 2 | 3 | 126 |
| FY 05 Total | 106 | | | 642 |

An emergency 6 month approval is being requested because SAMHSA needs this data collection to continue. There are no substantive changes. The agency will seek a regular clearance within six months.

Written comments and recommendations concerning the proposed information collection should be sent within 5 days of this notice to: John Kraemer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: February 14, 2005.

**Anna Marsh,**

*Executive Officer, SAMHSA.*

[FR Doc. 05–3136 Filed 2–17–05; 8:45 am]

BILLING CODE 4162–20–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[USCG–2005–20338]**

### Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Numbers: 1625–0067 and 1625–0068

**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 two Information Collection Requests (ICRs). The ICRs comprise (1) 1625–0067, Claims Under the Oil Pollution Act of 1990, and (2) 1625–0068 State Access to The Oil Spill Liability Trust Fund For Removal Costs Under the Oil Pollution Act of 1990. 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 April 19, 2005.

**ADDRESSES:** To make sure that your comments and related material do not enter the docket [USCG–2005–20338] 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.

(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 ICRs 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: Ms Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

**FOR FURTHER INFORMATION CONTACT:** Ms. Barbara Davis, Office of Information Management, telephone 202–267–2326, fax 202–267–4814 for questions on these documents; or Ms. Andrea M. Jenkins, Program Manager, Docket Operations, 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 Policy'' below.

*Submitting comments:* If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG–2005–20338], 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:* Claims Under the Oil Pollution Act of 1990.

*OMB Control Number:* 1625–0067.

*Summary:* The Coast Guard will use the information collected under this information collection request to (1) determine whether oil-spill-related claims submitted to the Oil Spill Liability Trust Fund are compensable and, (2) if they are, to ensure proper compensation for the claimant.

*Need:* If the requested information is not collected, the Coast Guard will be unable to comply with the provisions of OPA [33 U.S.C. 2708, 2713 and 2714] to ensure the making of fair and reasonable payments to claimants of fully substantiated claims and to protect the interest of the Federal Government.

*Respondents:* Claimants and responsible parties of oil spills.

*Frequency:* On occasion.

*Burden Estimate:* The estimated burden has been increased from 13,722 hours to 14,800 hours a year.

2. *Title:* State Access to the Oil Spill Liability Trust Fund for Removal Costs Under the Oil Pollution Act of 1990.

*OMB Control Number:* 1625–0068.

*Summary:* The Coast Guard will use information provided by the State to the Coast Guard National Pollution Funds Center to determine whether expenditures submitted by the state to the Oil Spill Liability Trust Fund are compensable and, if they are, to ensure payment of the correct amount of funding from the Fund.

*Need:* Under the authority of 33 U.S.C. 2712, Coast Guard has promulgated regulations detailing the manner in which to obligate the Fund. To ensure fair and reasonable payments to States and to protect the interests of the Federal Government, States must fully substantiate all expenditures that they submit and must follow the procedures for presentation of those expenditures to the Fund.

*Respondents:* State Governments.

*Frequency:* On occasion.

*Burden Estimate:* The estimated burden remains the same, 3 hours a year.

Dated: February 11, 2005.

**Nathaniel S. Heiner,**

*Acting, Assistant Commandant for Command, Control, Communications, Computers and, Information Technology.*

[FR Doc. 05–3118 Filed 2–17–05; 8:45 am]

BILLING CODE 4910–15–P

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[USCG–2004–19591]**

### Collection of Information Under Review by Office of Management and Budget (OMB): 1625–0005, 1625–0020, 1625–0029, 1625–0031, 1625–0085 and 1625–0096

**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 six Information Collection Reports (ICRs)—(1) 1625–0005, Application and Permit to Handle Hazardous Material; (2) 1625–0020, Security Zones, Regulated Navigation Areas, and Safety Zones; (3) 1625–0029, Self-propelled Liquefied Gas Vessels; (4) 1625–0031, Plan Approval and Records for Electrical Engineering Regulations—Title 46 CFR Subchapter J; (5) 1625–0085, Streamlined Inspection Program; and (6) 1625–0096, Report of Oil or Hazardous Substance Discharge, and Report of Suspicious Maritime Activity—abstracted below, to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (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 March 21, 2005.

**ADDRESSES:** To make sure that your comments and related material do not

reach the docket [USCG–2004–19591] or OIRA 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 (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. (b) By mail to OIRA, 725 17th St., NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard.

(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) 395–6566, 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 Web site on which you can post your comments.

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: Ms. Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is (202) 267–2326.

**FOR FURTHER INFORMATION CONTACT:** Ms. Barbara Davis, Office of Information Management, telephone (202) 267–2326 or fax (202) 267–4814, for questions on these documents; or Ms. Andrea M. Jenkins, Program Manager, Docket Operations, (202) 366–0271, for questions on the docket.

**SUPPLEMENTARY INFORMATION:** The Coast Guard invites comments on the proposed collections of information to determine whether the collections are 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 collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collections; and (4) ways to minimize the burden of collections 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 Information Collection Reports (ICRs) addressed. Comments to DMS must contain the docket number of this request, [USCG 2004–19591]. For your comments to OIRA to be considered, it is best if OIRA receives them on or before the March 21, 2005.

*Public participation and request for comments:* We encourage you to participate in this request for comments 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 their Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

*Submitting comments:* If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG–2004–19591], indicate the specific section of this document or the ICR 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.

The Coast Guard and OIRA 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*.

**Previous Request for Comments**

This request provides a 30-day comment period required by OIRA. The Coast Guard has already published the 60-day notice required by 44 U.S.C. 3506(c)(2) (69 FR 67153, November 16, 2004). That notice elicited no comments.

**Information Collection Request**

1. *Title:* Application and Permit to Handle Hazardous Materials.
*OMB Control Number:* 1625–0005.
*Type of Request:* Extension.
*Affected Public:* Shipping agents and terminal operators that handle hazardous materials.
*Forms:* CG–4260.
*Abstract:* The information sought here ensures the safe handling of explosives and other hazardous materials around ports and aboard vessels.
*Burden Estimates:* The estimated burden is 145 hours a year.

2. *Title:* Security Zones, Regulated Navigation Areas, and Safety Zones.
*OMB Control Number:* 1625–0020.
*Type of Request:* Extension.
*Affected Public:* Federal, State, and local government agencies, vessels and facilities.
*Forms:* None.
*Abstract:* The Coast Guard collects this information only when someone seeks a security zone, regulated navigation area, or safety zone. It uses the information to assess the need to establish one of these areas.
*Burden Estimates:* The estimated burden is 194 hours a year.

3. *Title:* Self-propelled Liquefied Gas Vessels.
*OMB Control Number:* 1625–0029.
*Type of Request:* Extension.
*Affected Public:* Owners and operators of self-propelled vessels carrying liquefied gas.
*Forms:* CG–4355, CG–5148.
*Abstract:* We need the information sought here to ensure compliance with our rules for the design and operation of liquefied gas carriers.
*Burden Estimates:* The estimated burden is 5,416 hours a year.

4. *Title:* Plan Approval and Records for Electrical Engineering Regulations—Title 46 CFR Subchapter J.

*OMB Control Number:* 1625–0031.

*Type of Request:* Extension.

*Affected Public:* Owners, operators, and builders of vessels.

*Forms:* None.

*Abstract:* The information sought here is needed to ensure compliance with our rules on electrical engineering for the design and construction of U.S. flag commercial vessels.

*Burden Estimates:* The estimated burden is 1,151 hours a year.

5. *Title:* Streamlined Inspection Program.

*OMB Control Number:* 1625–0085.

*Type of Request:* Extension.

*Affected Public:* Owners and operators of vessels.

*Forms:* None.

*Abstract:* The Coast Guard established an optional Streamlined Inspection Program (SIP) to provide owners and operators of U.S. vessels an alternative method of complying with inspection requirements of the Coast Guard.

*Burden Estimates:* The estimated burden is 2,138 hours a year.

6. *Title:* Report of Oil or Hazardous Substance Discharge; and Report of Suspicious Maritime Activity.

*OMB Control Number:* 1625–0096.

*Type of Request:* Revision of currently approved collection.

*Affected Public:* Persons-in-charge of a vessel or an onshore or offshore facility; owners or operators of vessels or facilities required to have security plans; and the public.

*Forms:* None.

*Abstract:* Any discharge of oil or a hazardous substance must be reported to the National Response Center (NRC) so that the pre-designated on-scene coordinator can be informed and appropriate spill mitigation action carried out. The NRC also receives suspicious maritime activity reports from the public and disseminates the info to appropriate entities.

*Burden Estimates:* The estimated burden is 9,105 hours a year.

Dated: February 11, 2005.

**Nathaniel S. Heiner,**

*Acting, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.*

[FR Doc. 05–3119 Filed 2–17–05; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

**[USCG–2005–20400]**

## Towing Safety Advisory Committee

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of meetings.

**SUMMARY:** The Towing Safety Advisory Committee (TSAC) and its working groups will meet as required to discuss various issues relating to shallow-draft inland and coastal waterway navigation and towing safety. All meetings will be open to the public.

**DATES:** TSAC will meet on Wednesday, March 16, 2005, from 8 a.m. to 2 p.m. Working groups will meet on the previous day, Tuesday, March 15, 2005, from 8:30 a.m. to 3:30 p.m. These meetings may close early if all business is finished. Written material for and requests to make oral presentations at the meetings should reach the Coast Guard on or before March 2, 2005. Requests to have a copy of your material distributed to each member of the Committee or working groups prior to the meetings should reach the Coast Guard on or before March 2, 2005.

**ADDRESSES:** TSAC will meet in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. The working groups will first meet in the same room and then, if necessary, move to separate spaces designated at that time. Send written material and requests to make oral presentations to Mr. Gerald P. Miante, Commandant (G–MSO–1), U.S. Coast Guard Headquarters, G–MSO–1, Room 1210, 2100 Second Street, SW., Washington, DC 20593–0001. This notice and related documents are available on the Internet at *http://dms.dot.gov* under the docket number USCG–2005–20400.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gerald P. Miante, Assistant Executive Director, telephone 202–267–0214, fax 202–267–4570, or e-mail at: *gmiante@comdt.uscg.mil.*

**SUPPLEMENTARY INFORMATION:** Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2 (Pub. L. 92–463, 86 Stat. 770, as amended).

### Agenda of Committee Meeting

The agenda includes the following items:

(1) Status Report of the Crew Alertness Working Group.

(2) Status Report of the Towing Vessel Regulatory Review Working Group.

(3) Status Report of the Maritime Security Working Group.

(4) Status Report of the Commercial/Recreational Boating Interface Working Group.

(5) Status Report of the Towing Vessel Designated Examiner Recordkeeping Working Group.

(6) Status Report of the Mariner Deaths during Nighttime Barge Fleeting Operations Working Group.

(7) Status Report of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW) Implementation Working Group.

(8) Status Report of the Towing Vessel Inspection Working Group.

(9) Presentation on ''America's Waterway Watch-Maritime Homeland Security Outreach Program''.

(10) Presentation (update) on the Crew Endurance Management System (CEMS).

### Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. Members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Assistant Executive Director no later than March 2, 2005. Written material for distribution at a meeting should reach the Coast Guard no later than March 2, 2005. If you would like a copy of your material distributed to each member of the Committee or Working Groups in advance of a meeting, please submit 20 copies to the Assistant Executive Director no later than March 2, 2005. You may also submit this material electronically to the e-mail address in **FOR FURTHER INFORMATION CONTACT**, no later than March 2, 2005.

### Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Assistant Executive Director as soon as possible.

Dated: February 14, 2005.

**D.L. Scott,**

*Captain, U.S. Coast Guard, Acting Director of Standards, Marine Safety, Security and Environmental Protection.*

[FR Doc. 05–3108 Filed 2–17–05; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### Agency Information Collection Activities: Proposed Collection; Comment Request

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revision of an information collection. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the need to continue collecting information from individuals and States in order to provide and/or administer disaster assistance through the Federal Assistance to Individuals and Households Program (IHP).

**SUPPLEMENTARY INFORMATION:** Section 206(a) of the Disaster Mitigation Act of 2000 (DMA 2000) consolidated into one section of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the ''Temporary Housing Assistance'' and the ''Individual and Family Grant Programs'' into a single program called ''Federal Assistance to Individuals and Households'' (IHP). To implement this consolidation, intended to streamline the provision of assistance to disaster victims, FEMA published rule 44 CFR part 206 which became effective on September 30, 2002. Under this rule applicants are able to request approval of late registrations, request continued assistance, and appeal program decisions. Similarly, States can partner with FEMA for delivery of disaster assistance under the ''Other Needs'' provision of the IHP through Administrative Option Agreements and Administration Plans addressing the level of managerial and resource support necessary.

**Collection of Information**

*Title:* Federal Assistance to Individuals and Households Program (IHP).

*Type of Information Collection:* Revision of a currently approved collection.

*OMB Number:* 1660–0061.

*Form Numbers:* None.

*Abstract:* The Federal Assistance to Individual and Household Program (IHP) enhances applicants' ability to request approval of late applications, request continued assistance, and appeal program decisions. Similarly, it allows States to partner with FEMA for delivery of disaster assistance under the ''Other Needs'' provision of the IHP through Administrative Option Agreements and Administration Plans addressing the level of managerial and resource support necessary.

*Affected Public:* Individuals and households; State, local or tribal governments.

*Estimated Total Annual Burden Hours:* 29,716 hours.

ANNUAL BURDEN HOURS

| Project/activity (survey, form(s), focus group, etc.) | Number of respondents (A) | Frequency of responses (B) | Burden hours per respondent (C) | Annual responses (AxB) | Total annual burden hours (AxBxC) |
|---|---|---|---|---|---|
| Individuals: | | | | | |
| Request for Approval of Late Registration | 8,000 | 1 | .75 hr. (45 min) | 8,000 | 6,000 |
| Request for Continued Assistance | 2,000 | 1 | .50 hr. (30 min) | 2,000 | 1,000 |
| Appeal of Program Decision (to include review and use of supplemental guidance. | 30,000 | 1 | .75 hr. (45 min) | 30,000 | 22,500 |
| States: | | | | | |
| Review of Administrative Option Agreement for the Other Needs provision of IHP. | 56 | 1 | 3.0 hrs | 56 | 168 |
| Development of State Administrative Plan for the Other Needs provision of IHP. | 16 | 1 | 3.0 hrs | 16 | 48 |
| Total | 40,072 | 1 | 40,072 | | 29,716 |

*Estimated Cost:* $173,354.00

*Comments:* Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

**ADDRESSES:** Interested persons should submit written comments to Muriel B. Anderson, Chief, Records Management Section, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, 500 C Street, SW., Room 316, Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** Contact Berl Jones, Chief, Individual Assistance Program Management Section at (202) 646–3943 for additional information. You may contact Ms. Anderson for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections@dhs.gov*.

Dated: February 11, 2005.

**George S. Trotter,**

*Acting Branch Chief, Information Resources Management Branch, Information Technology Services Division.*

[FR Doc. 05–3132 Filed 2–17–05; 8:45 am]

BILLING CODE 9110–10–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### Agency Information Collection Activities: Proposed Collection; Comment Request

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed continuing information collection. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the proposed collection of information.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP) plays a critical role in FEMA's mission for reducing flood losses. Through the NFIP, communities must adopt and enforce floodplain management ordinances to reduce future flood losses. In exchange, FEMA's NFIP makes federally backed flood insurance available to property owners in these participating communities. According to the Flood Disaster Protection Act of 1973, Congress Findings and Declaration of Purpose, Section 2(a)(6), Congress finds that it is in the public interest for persons already living in flood prone areas to have an opportunity to purchase flood insurance and access to more adequate limits of coverage, so that they will be indemnified for their losses in the event of future flood disasters. In accordance with this finding, FEMA attempts to fulfill the requirement of The Flood Disaster Protection Act of 1973 by educating and assisting potential flood insurance purchasers and agents who voluntarily contact the National Flood Insurance Program Call Center.

**Collection of Information**

*Title:* National Flood Insurance Program Call Center and Agent Referral Enrollment Program.

*Type of Information Collection:* Revision of a currently approved collection.

*OMB Number:* 1660–0059.

*Form Numbers:* FF 81–95.

*Abstract:* The National Flood Insurance Program Call Center and Agent Referral Enrollment Program are part of the overall FloodSmart marketing campaign aimed at increasing the number of net policies by 5 percent annually. The center's main objectives are: (1) To respond to consumers seeking information on the flood insurance program (including finding an insurance agent), (2) to provide a mechanism for insurance agents interested in selling flood insurance to voluntarily enroll in the agent referral program, and (3) to facilitate the purchasing process by connecting buyers and sellers together.

*Affected Public:* Individuals or Households, and Business or Other For-Profit.

*Estimated Total Annual Burden Hours:* 3,750 hours.

| | No. of respondents (A) | Frequency of response (B) | Hours per response (C) | Annual burden hours (AxBxC) |
|---|---|---|---|---|
| Callers To The Call Center | 69,000 | 1 | .05 | 3,450 |
| Agent Referral Enrollment Form—FEMA Form 81–95 | 3,000 | 1 | .07 | 210 |
| Outbound Calls To Agents | 1,200 | 1 | .05 | 60 |
| Outbound Calls To Consumers | 600 | 1 | .05 | 30 |
| Total | 73,800 | 1 | ..... | 3,750 |

*Estimated Cost:* $ 3,960.00.

*Comments:* Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

**ADDRESSES:** Interested persons should submit written comments to Muriel B. Anderson, Chief, Records Management, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, 500 C Street, SW., Room 316, Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** Contact Carolyn Goss, Program Analyst, Mitigation Division, Risk Communication Branch, 202–646–3468 for additional information. You may contact Ms. Anderson for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections@dhs.gov.*

Dated: January 25, 2005.

**Edward W. Kernan,**

*Division Director, Information Resources Management Division, Information Technology Services Directorate.*

[FR Doc. 05–3133 Filed 2–17–05; 8:45 am]

BILLING CODE 6178–01ndash;P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[FEMA–1577–DR]**

### California; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, Emergency

Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA–1577–DR), dated February 4, 2005, and related determinations.

**EFFECTIVE DATE:** February 4, 2005.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated February 4, 2005, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of California, resulting from severe storms, flooding, debris flows, and mudslides on December 27, 2004, through January 11, 2005, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas; and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and the Other Needs Assistance under Section 408 of the Stafford Act will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, David Fukutomi, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

Los Angeles and Ventura Counties for Individual Assistance.

Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties for Public Assistance.

Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties in the State of California are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**Michael D. Brown,**

*Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.*

[FR Doc. 05–3131 Filed 2–17–05; 8:45 am]

BILLING CODE 9110–10–P

## DEPARTMENT OF HOMELAND SECURITY

## Federal Emergency Management Agency

**[FEMA–1579–DR]**

## Kansas; Major Disaster and Related Determinations

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

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA–1579–DR), dated February 8, 2005, and related determinations.

**EFFECTIVE DATE:** February 8, 2005.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated February 8, 2005, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Kansas, resulting from severe winter storms, heavy rains, and flooding on January 4–6, 2005, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Kansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas; Hazard Mitigation throughout the State; and any other forms of assistance under the Stafford Act you may deem appropriate. Direct Federal Assistance is authorized, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, Thomas J. Costello, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Kansas to have been affected adversely by this declared major disaster:

Anderson, Atchison, Barber, Butler, Chase, Chautauqua, Clark, Coffey, Comanche, Cowley, Crawford, Douglas, Elk, Franklin, Greenwood, Harper, Harvey, Jefferson, Kingman, Lyon, Marion, Morris, Osage, Pratt, Reno, Rice, Sedgwick, Shawnee, Sumner, Wabaunsee, Woodson, and Wyandotte Counties for Public Assistance.

All counties within the State of Kansas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households

Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**Michael D. Brown,**

*Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.*

[FR Doc. 05–3129 Filed 2–17–05; 8:45 am]

BILLING CODE 9110–10–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[FEMA–1578–DR]**

### Kentucky; Major Disaster and Related Determinations

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

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–1578–DR), dated February 8, 2005, and related determinations.

**EFFECTIVE DATE:** February 8, 2005.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated February 8, 2005, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky resulting from a severe winter storm and record snow on December 21–23, 2004, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide all categories of Public Assistance in the designated areas; emergency assistance (Public Assistance Category B, emergency protective measures for a period of 48 hours in those areas designated for snow removal assistance); Hazard Mitigation throughout the Commonwealth; and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, Jesse Munoz, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Kentucky to have been affected adversely by this declared major disaster:

Ballard, Bracken, Breckinridge, Caldwell, Carlisle, Crittenden, Franklin, Fulton, Grant, Grayson, Hancock, Harrison, Hart, Hickman, Hopkins, Larue, Livingston, Lyon, McLean, Muhlenberg, Nelson, Owen, Pendleton, Robertson, Shelby, Union, and Webster Counties for Public Assistance.

Ballard, Breckinridge, Caldwell, Carlisle, Crittenden, Fulton, Hancock, Hickman, Hopkins, Livingston, McLean, Muhlenberg, Union, and Webster Counties for emergency protective measures (Category B) under the Public Assistance program for a period of 48 hours.

All counties within the Commonwealth of Kentucky are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**Michael D. Brown,**

*Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.*

[FR Doc. 05–3130 Filed 2–17–05; 8:45 am]

BILLING CODE 9110–10–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### Colorado: Filing of Plats of Survey

February 9, 2005.

**SUMMARY:** The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., February 10, 2005. All inquiries should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

The field notes of the remonumentation of certain corners in Township 2 North, Range 43 West, Sixth Principal Meridian, Group 750, Colorado, was accepted October 18, 2004.

The Plat, representing the dependent resurveys and surveys in section 34, Township 36 North, Range 7 West, New Mexico Principal Meridian, Group 1401, Colorado, was accepted October 20, 2004.

The plat (in 2 sheets), of the entire record, representing the dependent resurvey and survey, in Township 22 South, Range 71 West, Sixth Principal Meridian, Group 1275, Colorado, was accepted November 5, 2004.

The Plat, representing the dependent resurveys and surveys in Township 2 South, Range 80 West, Sixth Principal Meridian, Group 1402, Colorado, was accepted November 15, 2004.

The Plat, representing the dependent resurveys and surveys in Township 1 North, Range 80 West, Sixth Principal Meridian, Group 1402, Colorado, was accepted November 15, 2004.

The Plat, representing the dependent resurvey in Township 8 South, Range 76 West, Sixth Principal Meridian, Group 1409, Colorado, was accepted December 9, 2004.

The Supplemental Plat, creating new lots 86 and 87, in section 30, Township 1 North, Range 71 West, Sixth Principal Meridian, Colorado, was accepted December 27, 2004.

These plats and remonumentation notes were requested by the Bureau of Land Management for administrative and management purposes.

The Supplemental Plat, creating lot 1 in section 30, Township 3 South, Range 74 West, Sixth Principal Meridian, Colorado, was accepted November 30, 2004.

The Plat (in 6 sheets), representing the segregation of mineral surveys in section 30, Township 1 North, Range 71 West, Sixth Principal Meridian, Group 1008, Colorado, was accepted December 21, 2004.

These plats were requested by the U. S. Forest Service, to facilitate a land exchange, and for administrative and management purposes.

**Randall M. Zanon,**

*Chief Cadastral Surveyor for Colorado.*

[FR Doc. 05–3149 Filed 2–17–05; 8:45 am]

BILLING CODE 4310–JB–P

## DEPARTMENT OF JUSTICE

### Office of Community Oriented Policing Services FY 2005 Community Policing Discretionary Grants

**AGENCY:** Office of Community Oriented Policing Services, Department of Justice.

**ACTION:** Notice of availability of the Finding of No Significant Impact and the Environmental Assessment.

**SUMMARY:** The Environmental Assessment, which is available to the public, concludes that the methamphetamine investigation and clandestine laboratory closure activities of the Methamphetamine Initiative will not have significant impact on the quality of the human environment given adherence to all applicable laws and regulations.

**ADDRESSES:** For copies of the Environmental Assessment, please contact: COPS Grants Administration Division, 1100 Vermont Avenue, NW., Washington, DC 20530; phone: (202) 616–3031 or 1–800–431–6770.

**FOR FURTHER INFORMATION CONTACT:** The U.S. Department of Justice Response Center, 1–800–421–6770 and ask to speak with your Grant Program Specialist.

**SUPPLEMENTARY INFORMATION:** In Fiscal Year 2003, the COPS Office prepared an Environmental Assessment for its methamphetamine law enforcement programs, with specific application for the Methamphetamine Initiative. This Environmental Assessment was prepared as required by the Council on Environmental Quality's regulations (40 CFR parts 1500 through 1508), implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et al.*) The Environmental Assessment is current and accurate, since the underlying science on which it was based has not changed. The Methamphetamine Initiative addresses a broad array of law enforcement initiatives pertaining to the investigation of methamphetamine trafficking in many heavily impacted areas of the country. For the purposes of this program, funded items may include training of law enforcement officers in methamphetamine-related issues; collection and maintenance of intelligence and information relative to methamphetamine trafficking and traffickers; investigation, arrest and prosecution of producers, traffickers and users of methamphetamine; interdiction and removal of laboratories, finished products, and precursor chemicals and other elements necessary to produce methamphetamine; transportation and storage of finished products, and precursor chemicals, and other elements necessary to produce methamphetamine; and preventive efforts to reduce the spread and use of methamphetamine. Individual projects will reflect a concentration on program areas consistent with Congressional appropriations.

Among the many challenges faced by law enforcement agencies in the Methamphetamine Initiative will be discovery, interdiction, and dismantling of clandestine drug laboratories. These lab sites, as well as other methamphetamine crime venues must be comprehensively dealt with in compliance with a variety of health, safety and environmental laws and regulations. The COPS Office requires that recipients, when encountering illegal drug laboratories, use grant funds to effect the proper removal and disposal of hazardous materials located at those laboratories and directly associated sites in accordance with all applicable laws and regulations.

### Overview

*Environmental Assessment*

The COPS Office will award grants to State and local criminal justice agencies for the FY 2005 COPS Methamphetamine Initiative. The Environmental Assessment concludes that the funding of this program will not have a significant impact on the quality of the human environment given adherence to all applicable laws and regulations. Therefore, an Environmental Impact Statement will not be prepared for the funding of this program.

Dated: January 26, 2005.

**Carl R. Peed,**

*Director, Office of Community Oriented Policing Services.*

[FR Doc. 05–3150 Filed 2–17–05; 8:45 am]

BILLING CODE 4410–AT–M

## DEPARTMENT OF JUSTICE

### Foreign Claims Settlement Commission

**[F.C.S.C. Meeting Notice No. 1–05]**

### Sunshine Act; Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of Commission business and other matters specified, as follows:

**DATE AND TIME:** Wednesday, March 2, 2005, at 10 a.m.

**SUBJECT MATTER:** (1) Issuance of Proposed Decisions in claims against Albania; (2) Oral hearing on objection to the Commission's Proposed Decision in the Claim of Selahedin Velaj, Claim No. ALB–328.

**STATUS:** Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6988.

Dated in Washington, DC on February 16, 2005.

**Mauricio J. Tamargo,**

*Chairman.*

[FR Doc. 05–3388 Filed 2–16–05; 3:13 pm]

BILLING CODE 4410–01–P

## DEPARTMENT OF LABOR

### Employment Standards Administration; Wage and Hour Division

### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits

have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

## Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

*Volume I*

Massachusetts
MA030001 (Jun. 13, 2003)
MA030002 (Jun. 13, 2003)
MA030003 (Jun. 13, 2003)
MA030004 (Jun. 13, 2003)
MA030007 (Jun. 13, 2003)
MA030009 (Jun. 13, 2003)
MA030010 (Jun. 13, 2003)
MA030017 (Jun. 13, 2003)
MA030018 (Jun. 13, 2003)
MA030019 (Jun. 13, 2003)
MA030020 (Jun. 13, 2003)
MA030021 (Jun. 13, 2003)

New Jersey
NJ030001 (Jun. 13, 2003)
NJ030002 (Jun. 13, 2003)
NJ030009 (Jun. 13, 2003)

Vermont
VT030001 (Jun. 13, 2003)
VT030007 (Jun. 13, 2003)
VT030042 (Jun. 13, 2003)

*Volume II*

Maryland
MD030002 (Jun. 13, 2003)
MD030043 (Jun. 13, 2003)
MD030056 (Jun. 13, 2003)

Virginia
VA030009 (Jun. 13, 2003)
VA030022 (Jun. 13, 2003)
VA030025 (Jun. 13, 2003)
VA030079 (Jun. 13, 2003)

West Virginia
WV030001 (Jun. 13, 2003)
WV030002 (Jun. 13, 2003)
WV030003 (Jun. 13, 2003)
WV030006 (Jun. 13, 2003)
WV030010 (Jun. 13, 2003)

*Volume III*

Alabama
AL030008 (Jun. 13, 2003)

North Carolina
NC030055 (Jun. 13, 2003)

South Carolina
SC030023 (Jun. 13, 2003)

*Volume IV*

Illinois
IL030001 (Jun. 13, 2003)
IL030002 (Jun. 13, 2003)
IL030008 (Jun. 13, 2003)
IL030011 (Jun. 13, 2003)
IL030016 (Jun. 13, 2003)
IL030018 (Jun. 13, 2003)
IL030019 (Jun. 13, 2003)
IL030024 (Jun. 13, 2003)
IL030027 (Jun. 13, 2003)
IL030032 (Jun. 13, 2003)
IL030037 (Jun. 13, 2003)
IL030045 (Jun. 13, 2003)
IL030046 (Jun. 13, 2003)
IL030051 (Jun. 13, 2003)
IL030054 (Jun. 13, 2003)
IL030056 (Jun. 13, 2003)

*Volume V*

None

*Volume VI*

Alaska
AK030001 (Jun. 13, 2003)
AK030006 (Jun. 13, 2003)

Idaho
ID030002 (Jun. 13, 2003)
ID030003 (Jun. 13, 2003)
ID030015 (Jun. 13, 2003)

Oregon
OR030002 (Jun. 13, 2003)

Washington
WA030001 (Jun. 13, 2003)
WA030002 (Jun. 13, 2003)
WA030003 (Jun. 13, 2003)
WA030007 (Jun. 13, 2003)
WA030008 (Jun. 13, 2003)

*Volume VII*

Hawaii
HI030001 (Jun. 13, 2003)

Nevada
NV030001 (Jun. 13, 2003)
NV030005 (Jun. 13, 2003)
NV030008 (Jun. 13, 2003)
NV030009 (Jun. 13, 2003)

## General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office Web site at *http://www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help Desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed in Washington, DC this 10th day of February, 2005.

**John Frank,**

*Acting Chief, Branch of Construction Wage Determinations.*

[FR Doc. 05–2913 Filed 2–17–05; 8:45 am]

BILLING CODE 4510–27–M

## NATIONAL AERONAUTICS AND SPACE ADMINSTRATION

**[Notice 05–030]**

### NASA Aeronautical Technologies Strategic Roadmap Committee; Meeting.

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Aeronautical Technologies Strategic Roadmap Committee.

**DATES:** Monday, March 7, 2005, 8 a.m. to 5 p.m., Tuesday, March 8, 2005, 8 a.m. to 5 p.m. Central Standard Time.

**ADDRESSES:** Hyatt Regency on Chicago Riverwalk, 151 East Wacker Drive, Chicago, Illinois.

**FOR FURTHER INFORMATION CONTACT:** Yuri Gawdiak, 202–358–1853.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the meeting room. Attendees will be requested to sign a register.

The agenda for the meeting is as follows:

—Current NASA and Joint Planning and Development Office Program Briefings
—Discussion of Solicited White Papers (NASA RFI 11/02/04; *http://fellowship.hq.nasa.gov/apio/rfi.pdf*).
—Committee Inquiries and Observations
—NASA Unique Aeronautical Goals & Metrics Review
—Current Road Map Reviews

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: February 14, 2005.

**P. Diane Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 05–3223 Filed 2–17–05; 8:45 am]

BILLING CODE 7510–13–P

## NATIONAL AERONAUTICS AND SPACE ADMINSTRATION

**[Notice (05–028)]**

### NASA Earth Science and Applications From Space Strategic Roadmap Committee; Meeting

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Earth Science and Applications from Space Strategic Roadmap Committee.

**DATES:** Wednesday, March 16, 2005, 8:30 a.m. to 5 p.m., Thursday, March 17, 2005, 8:30 a.m. to 5 p.m. eastern standard time.

**ADDRESSES:** Inn and Conference Center, University of Maryland, 3501 University Boulevard East, Adelphi, Maryland 20783.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gordon Johnston, 202–358–4685.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the meeting room. Attendees will be requested to sign a register.

The agenda for the meeting is as follows:

—Identification of joint interests with Sun-Solar System Connection Roadmap effort.
—Subcommittee reports (Explorations, Continuous Awareness, and Maintaining Perspective).
—Discussion of stages and pathways framework.
—Discussion of NASA activities mapped to objectives/stages/pathway framework.
—Discussion of key program milestones, options, and decision points.
—Subcommittee assignments for development of draft roadmap document.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: February 11, 2005.

**P. Diane Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 05–3094 Filed 2–17–05; 8:45 am]

BILLING CODE 7510–13–P

## NATIONAL AERONAUTICS AND SPACE ADMINSTRATION

**[Notice (05–027)]**

### NASA Sun-Solar System Connection Strategic Roadmap Committee; Meeting

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Sun-Solar System Connection Strategic Roadmap Committee.

**DATES:** Tuesday, March 15, 2005, 8:30 a.m. to 5 p.m., Wednesday, March 16, 2005, 8:30 a.m. to 5 p.m. eastern standard time.

**ADDRESSES:** Inn and Conference Center, University of Maryland, 3501 University Boulevard East, Adelphi, Maryland 20783.

**FOR FURTHER INFORMATION CONTACT:** Dr. Barbara Giles, 202–358–1762.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the meeting room. Attendees will be requested to sign a register.

The agenda for the meeting is as follows:

—Sun-Earth Systems Program Update.
—Reports on Sun-Solar System Connection Roadmap foundation work.
—Identification of joint interests with Earth Science Roadmap effort.
—Prioritization of science objectives and missions under study.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: February 10, 2005.

**P. Diane Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 05–3109 Filed 2–17–05; 8:45 am]

BILLING CODE 7510–13–P

## NATIONAL AERONAUTICS AND SPACE ADMINSTRATION

**[Notice (05–029)]**

### NASA Universe Exploration Strategic Roadmap Committee; Meeting

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Universe Exploration Strategic Roadmap Committee.

**DATES:** Tuesday, March 15, 2005, 8:30 a.m. to 5 p.m., Wednesday, March 16, 2005, 8:30 a.m. to 5 p.m. eastern standard time.

**ADDRESSES:** Greenbelt Marriott Hotel, 6400 Ivy Lane, Greenbelt, Maryland 20770.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael Salamon, 202–358–0441.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the meeting room. Attendees will be requested to sign a register.

The agenda for the meeting is as follows:

—Discussion of Capability Roadmaps.
—Presentation of Vision Missions, Origins Probes.
—Discussion of solicited white papers.
—Report by Task Force on Cosmic Microwave Background Research.
—Report by Dark Energy Task Force.
—Identification of joint interests with other Strategic Roadmaps.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: February 14, 2005.

**P. Diane Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 05–3110 Filed 2–17–05; 8:45 am]

BILLING CODE 7510–13–P

## NATIONAL CREDIT UNION ADMINISTRATION

### Agency Information Collection Activities: Submission to OMB for Extension of a Currently Approved Collection; Comment Request

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Request for comment.

**SUMMARY:** The NCUA is submitting the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). This information collection is published to obtain comments from the public.

**DATES:** Comments will be accepted until April 19, 2005.

**ADDRESSES:** Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov*.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

**SUPPLEMENTARY INFORMATION:** Proposal for the following collection of information:

*Title:* 12 U.S.C. 1771—Conversion from Federal to State Credit Union and from State to Federal Credit Union and 12 U.S.C. 1781—Insurance of Member Accounts—Eligibility.

*OMB Number:* 3133–0116.

*Form Number:* NCUA 9600, NCUA 4401, NCUA 4221, NCUA 4505, & NCUA 4506.

*Type of Review:* Extension of a currently approved collection.

*Description:* The forms constitute the application for an approval of credit union conversions from federal to State charter and from State to federal charter. In addition, forms in the package contain the application and approval for federal insurance of member accounts in credit unions.

*Respondents:* Credit unions seeking to convert from federal to State charter and from State to federal charter and non-federally insured State chartered credit unions seeking federal share insurance.

*Estimated No. of Respondents/Record keepers:* 50.

*Estimated Burden Hours Per Response:* 4 hours.

*Frequency of Response:* Other. As credit unions seek approval to convert charter or federal share insurance.

*Estimated Total Annual Burden Hours:* 200 hours.

*Estimated Total Annual Cost:* 0.

By the National Credit Union Administration Board on February 11, 2005.

**Mary Rupp,**

*Secretary of the Board.*

[FR Doc. 05–3137 Filed 2–17–05; 8:45 am]

BILLING CODE 7535–01–P

## NATIONAL CREDIT UNION ADMINISTRATION

### Agency Information Collection Activities: Submission to OMB for Extension of a Currently Approved Collection; Comment Request

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Request for comment.

**SUMMARY:** The NCUA is submitting the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). This information collection is published to obtain comments from the public.

**DATES:** Comments will be accepted until April 19, 2005.

**ADDRESSES:** Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov*.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

**SUPPLEMENTARY INFORMATION:** Proposal for the following collection of information:

*Title:* HMDA Requirements under 12 U.S.C. 2801–2810 and Regulation C 12 CFR part 203.

*OMB Number:* 3133–0166.

*Form Number:* None.

*Type of Review:* Extension of a currently approved collection.

*Description:* The collection of this data is required under the Home Mortgage Disclosure Act. The data collection is intended to provide the public with loan data that can be used (1) to help determine whether financial institutions are serving the housing needs of their communities; (Reg C 203.1(b)(1)(ii), (2) to assist public officials in distributing public-sector

investments so as to attract private investment to areas where it is needed; Reg CC 203.1(b)(1)(iii), and (3) to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statues. Reg C 203.1(b)(2).

*Respondents:* Credit unions.

*Estimated No. of Respondents/Record keepers:* 1,996.

*Estimated Burden Hours Per Response:* 41.46 hours.

*Frequency of Response:* Record-keeping, third party disclosure and reporting annually.

*Estimated Total Annual Burden Hours:* 82,765 hours.

*Estimated Total Annual Cost:* 0.

By the National Credit Union Administration Board on February 11, 2005.

**Mary Rupp,**

*Secretary of the Board.*

[FR Doc. 05–3138 Filed 2–17–05; 8:45 am]

BILLING CODE 7535–01–P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of February 21, 2005:

A Closed Meeting will be held on Thursday, February 24, 2005 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Glassman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Thursday, February 24, 2005, will be:

Formal orders of investigations;

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature; and a Litigation matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: February 15, 2005.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 05–3291 Filed 2–16–05; 11:13 am]

BILLING CODE 8010–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–51201; File No. SR–Amex–2005–18]**

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the American Stock Exchange LLC Relating to the Retroactive Suspension of Transaction Fees in Connection With the iShares® COMEX Gold Trust

February 14, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 7, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to apply retroactively a suspension of Amex transaction charges for specialist, registered trader, broker-dealer and customer orders for the iShares COMEX Gold Trust (the ''Gold Trust'') from January 28, 2005 through January 31, 2005. The text of the proposed rule change is available on Amex's Web site: *http://www.amex.com*, at the Amex's Office of the Secretary, and the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of and basis for the proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item III below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Amex proposed, in a companion filing (SR–Amex–2005–14), to suspend transaction charges in the Gold Trust through February 28, 2005 for specialist, registered trader, broker-dealer and customer orders.[3] The Gold Trust commenced trading on the Exchange on January 28, 2005; however, the filing to suspend transaction charges for specialists, registered traders, broker-dealers and customers was not filed with the Commission until February 1, 2005. As such, market participants were charged according to the existing fee schedule for trust issued receipts (''TIRs'') from January 28, 2005 through January 31, 2005.

Under the current fee schedule, off-floor orders (*i.e.*, customer and broker-dealer) are charged $.0060 per share ($0.60 per 100 shares), capped at $100 per trade (16,667 shares). Orders entered electronically into the Amex Order File (''System Orders'') from off the Floor for up to 5,099 shares are not assessed a transaction charge. This provision, however, does not apply to System Orders of a member or member organization trading as an agent for the account of a non-member competing market maker. System Orders over 5,099 shares currently are subject to a $.0060 per share transaction charge, capped at $100 per trade. Specialists are charged $0.0033 ($0.33 per 100 shares), capped at $300 per trade (90,909 shares). Registered traders are charged $0.0036 ($0.36 per 100 shares), capped at $300 per trade (83,333 shares).

Under the proposed rule change, the Exchange is suspending all transaction charges in the Gold Trust for specialist, registered trader, broker-dealer and

[3] *See* Securities Exchange Act Release No. 51185 (February 10, 2005) (File No. SR–Amex–2005–14). This proposal was filed pursuant to Section 19(b)(3)(A) of the Act and was effective upon filing.

customer orders from January 28, 2005 through January 31, 2005, which is consistent with the companion filing to suspend transaction charges generally through February 28, 2005 and benefits all market participants.[4] The Exchange believes a retroactive suspension of fees for the Gold Trust is appropriate to enhance the competitiveness of executions on the Amex. The Exchange will reassess the fee suspension as appropriate and will file a proposed rule change for any modification to the fee suspension with the Commission pursuant to Section 19(b)(3)(A) of the Act.[5]

The Exchange is amending the Equities Fee Schedule and Exchange Traded Funds and Trust Issued Receipts Fee Schedules to indicate that transaction charges have been suspended from January 28, 2005 through February 28, 2005 for the Gold Trust. In addition, the Exchange Equity Fee Schedule and Exchange Traded Funds Schedule and Trust Issued Receipts Fee Schedule is being amended to refer to the retroactive suspension of transaction charges for certain Exchange Traded Funds and the application of customer transaction charges in connection with the Gold Trust (Symbol: OEF) previously filed with the Commission.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act[7] in general, and furthers the objectives of Section 6(b)(4) of the Act[8] in particular, in that it is intended to assure the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received by the Exchange with respect to the proposed rule change.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml*; or
- Send an e-mail to *rule-comments@sec.gov*. Please include SR–Amex–2005–18 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 SR–Amex–2005–18. 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 at *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 on the Exchange's Web site at *http://www.amex.com* and 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 SR–Amex–2005–18 and should be submitted on or before March 11, 2005.

## IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Amex requests that the proposed rule change be given expedited review and accelerated effectiveness pursuant to Section 19(b)(2) of the Act. After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5) of the Act.[9] The Commission has previously approved the suspension of transaction charges for specialist, registered trader, broker-dealer and customer orders.[10] Accordingly, the Commission finds that the retroactive suspension of transaction fees is consistent with the Act and will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities, and, in general, protect investors and the public interest consistent with Section 6(b)(5) of the Act.[11]

The Exchange has requested and the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** as the proposal does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. The Exchange states that the retroactive suspension for the Gold Trust transaction fees will benefit all market participants and enhance the competitiveness of executions on the Amex. In Amex's companion filing, Amex originally sought to implement a suspension of transaction charges for all market participants as of the commencement of trading of the Gold Trust on the Exchange on January 28, 2005 through February 28, 2005. Furthermore the Commission notes that the suspension of transaction fees in Amex's companion filing have been approved for similar products.[12]

[4] *See supra* note 3.

[5] 15 U.S.C. 78s(b)(3)(A).

[6] *See* Securities Exchange Act Release Nos. 46384 (August 20, 2002), 67 FR 55048 (August 27, 2002) (suspension of transaction charges for SHY, IEF, TLT and LQD); and 47668 (April 11, 2003), 68 FR 19241 (April 18, 2003) (OEF transaction charges).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(b)(5).

[10] *See supra* note 6.

[11] In approving the proposed rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] See Securities Exchange Act Release Nos. 49025 (January 6, 2004), 69 FR 2018 (January 13, 2004) (retroactive application of a monthly options transaction fee cap for specialists and registered options traders); and 49019 (January 5, 2004) 69 FR 2023 (January 13, 2004) (cap monthly options

Accordingly, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act,[13] to approve the proposal, on an accelerated basis.

## V. Conclusion

*Therefore it is ordered,* pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–Amex–2005–18) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5–667 Filed 2–17–05; 8:45 am]

BILLING CODE 8010–01–P

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–51192; File No. SR–CHX–2005–02]**

## Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Membership Dues and Fees

February 11, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 3, 2005, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I and II below, which items have been prepared by the CHX. On February 10, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.[3] On February 11, 2005, the Exchange filed Amendment No. 2 to the proposed rule change.[4] The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act[5] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend its membership dues and fees schedule (''Fee Schedule'') to: (i) Provide for a technology charge relating to retention of electronic communications associated with an inactive mailbox, (ii) modify the Exchange's transaction fee cap provision to exclude certain floor broker orders, and (iii) clarify a provision relating to specialist fixed fees. The text of the proposed rule change is below. Additions are *italicized;* deletions are [bracketed].

* * * * *

MEMBERSHIP DUES AND FEES

A. Membership Dues and Transfer Fees—No change to text.
B. Self-Regulatory Organization Fee—No change to text.
C. Registration Fees—No change to text.
D. Specialist Assignment Fees—No change to text.
E. Specialist Fixed Fees

Except in the case of *Tape B* Exemption Eligible Securities (as defined above in Section D), which shall be exempt from assessment of fixed fees, specialists will be assigned a fixed fee per assigned stock on a monthly basis, to be calculated as follows:

* * * * *

F. Transaction and Order Processing Fees
1. SEC Transaction Fees—No change to text.
2. NASD Fees on Cleared Transactions—No change to text.
3. Order Processing Fees Odd Lots—No change to text. Open Limit Orders—No change to text.

The above order processing fees shall not apply to transactions in NASDAQ/NMS Securities, or to transactions in the stocks comprising the Standard & Poor's 500 Stock Price Index executed through MAX. [These order processing fees also shall not apply, through June 30, 2001, to any transaction that takes place during the E-Session.]

4. Transaction Fees. Transaction fees will be assessed on the executions of the following round-lot orders:
a–i.—No change to text.
j. The transaction fees set forth in Sections F.4(d), (e) and (f), *other than transaction fees for orders that are not routed to a floor broker via MAX,* shall be subject to the following monthly maximums:
(i)–(iv) No change to text.
k–l.—No change to text.
5. Floor Broker as Principal Fees—No change to text.
G. Space Charges—No change to text.
H. Equipment, Information Services and Technology Charges

* * * * *

Retention of electronic communications: $25 per month, per *active* mailbox; *$20 per month, per inactive mailbox*; $200 per disk for offline optical disk storage (5.2 GB), if requested; $300 per disk for offline optical disk storage (9.1 GB), if requested.

I. Clearing Support Fees—No change to text.

* * * * *

### 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 CHX 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

The Exchange proposes to amend the Fee Schedule to: (i) Provide for a technology charge relating to retention of electronic communications associated with an inactive mailbox, (ii) modify the Exchange's transaction fee cap provision to exclude certain floor broker orders, and (iii) clarify a provision relating to specialist fixed fees.

*Technology Charges:* The Fee Schedule currently contains a provision establishing a technology charge for the retention of electronic communications. Many of the Exchange's members seek to retain electronic communications associated with inactive mailboxes, in order to satisfy their record retention obligations. Accordingly, the Exchange believes that it is appropriate to amend its Fee Schedule to impose a $20 per month retention charge per inactive mailbox.[6]

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transactions fees incurred by specialists and registered options traders in any single options class).

[13] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced the original rule filing in its entirety. In Amendment No. 1, CHX clarified the distinction between active and inactive mailboxes under the ''Technology Charges'' discussion and clarified the effect of the recent amendment (File No. CHX–2004–22) discussed in the ''Specialist Fixed Fee'' section.

[4] Amendment No. 2 replaced Amendment No. 1 in its entirety. In Amendment No. 2, CHX made technical changes to the proposed rule change.

[5] 15 U.S.C. 78s(b)(3)(A).

[6] An active mailbox becomes inactive as a matter of course when the user notifies the Exchange's

Continued

*Transaction Fee Cap:* The Fee Schedule provides for a cap on transaction fees associated with certain market maker and floor broker agency executions. The cap is available to order-sending firms that execute a specified number of orders on the Exchange per day. The Exchange is amending the Fee Schedule to clarify that this transaction fee cap is not applicable to orders that are routed to a CHX floor broker by means other than the Exchange's automated MAX® system. The Exchange believes that this limitation of the fee cap is amply warranted, because a CHX floor broker may be required to expend considerably more time and effort to execute an agency order that is received telephonically, physically, or through means other than the MAX system.

*Specialist Fixed Fee:* Section E of The Fee Schedule was recently amended, in the case of fixed fees for firms trading NASDAQ/NM Securities, to eliminate fixed fee calculations that are contingent upon the definition of ''Exemption Eligible Security'' that is set forth in Section D of the Fee Schedule.[7] Accordingly, the Exchange is further modifying Section E to clarify that the exception for Exemption Eligible Securities now applies only to Tape B issues (*i.e.*, issues that are listed on a stock exchange other than the New York Stock Exchange).

Finally, the Exchange is amending Section F of the Fee Schedule to eliminate an obsolete reference to transactions that take place ''during the E-Session.'' The Exchange terminated its E-Session program several years ago, rendering this reference obsolete.

2. Statutory Basis

The CHX believes that the proposed rule change is consistent with Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(4) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges 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 any inappropriate burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to section 19(b)(3)(A) of the Act[10] and subparagraph (f)(2) of Rule 19b–4 thereunder.[11] At any time within 60 days of the filing of such 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 purpose of the Act.[12]

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–CHX–2005–02 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–CHX–2005–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change 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 CHX. 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–CHX–2005–02 and should be submitted on or before March 11, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5–661 Filed 2–17–05; 8:45 am]

BILLING CODE 8010–01–P

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–51197; File No. SR–NASD–2005–003]**

## Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change To Amend Rule 4350(n) and IM–4350–7 To Conform the Time Frame for the Disclosure of a Waiver to a Company's Code of Conduct to the Time Frame Required for Similar Disclosure by the Commission's Form 8–K

February 14, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 12, 2005, the National Association of

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Information Services department that they are terminating their CHX e-mail account. This may occur when the user leaves the CHX floor or establishes an alternative e-mail account. All users are required to submit such documentation when they terminate their CHX e-mail account. An account may only become active again if a written request is submitted to the CHX Information Services department, together with the user's written acknowledgement of CHX policies and procedures relating to the use of electronic mail.

[7] *See* Securities Exchange Act Release No. 34–50616 (November 1, 2004), 69 FR 64608 (November 5, 2004) (SR–CHX–2004–22). This rule change instituted a pro-rata fee calculation, and eliminated a volume-driven definition, in the case of Nasdaq/NM securities. Accordingly, the definition of Exemption Eligible Securities for Nasdaq/NM securities is no longer applicable when calculating the fixed fee for Nasdaq/NM specialists.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] For purposes of calculating the 60-day abrogation period, the Commission considers the proposal to have been filed on February 11, 2005, the date the CHX filed Amendment No. 2. *See* Rule 19b–4(f)(6).

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

## I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to modify Rule 4350 and related interpretative material to conform the time frame for the disclosure of a waiver to a company's code of conduct to the time frame required for similar disclosure by the Commission's Form 8–K. Nasdaq will implement the proposed rule change immediately upon approval by the Commission. The text of the proposed rule change is available on Nasdaq's Web site (*http://www.nasdaq.com*), at the principal office of the NASD, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

NASD Rule 4350(n) requires each Nasdaq-listed issuer to adopt a code of conduct applicable to all directors, officers and employees of the issuer. This rule also requires that any waivers of the code for directors or executive officers must be approved by the issuer's board of directors and that issuers (other than foreign private issuers) must disclose such waivers in a Form 8–K within five business days.

Similarly, Item 406 of Regulations S–K and S–B[3] require an issuer to disclose whether the issuer has adopted a code of ethics that applies to its principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. The Commission also requires an issuer to disclose waivers of the code that are granted to those individuals. Recent amendments to Form 8–K shorten the time frame for this disclosure from five business days to four business days.[4]

To conform with these Commission changes, Nasdaq proposes to modify the existing five business-day period for disclosure in its rules to instead require such disclosure within four business days of the granting of a waiver to the code of conduct to any executive officer or director.[5]

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[6] in general and with Section 15A(b)(6) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change is consistent with these requirements in that it is designed to enhance the disclosure required by issuers and align that disclosure with the time frames required by the Commission for similar disclosures, thereby reducing confusion among issuers and investors.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2005–003 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–NASD–2005–003. 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

[3] 17 CFR 229.406(a) and 228.406(a).

[4] Securities Act Release No. 8400 (March 16, 2004), 69 FR 15594 (March 25, 2004). These amendments were effective August 23, 2004.

[5] Foreign private issuers will continue to be permitted to make such disclosure either on the issuer's next Form 20–F or 40–F, or on a Form 6–K, consistent with the Commission's requirements. *See* Securities Act Release No. 8177, 68 FR 5110 (Jan. 31, 2003) (adopting new Item 16B to Form 20–F and paragraph (9) to General Instruction B of Form 40–F regarding disclosure by foreign private issuers of waivers to the code of conduct). *See also* Securities Exchange Act Release No. 50573 (Oct. 20, 2004), 69 FR 62493 (Oct. 26, 2004) (adopting conforming changes to NASD Rule 4350(n) and IM–4350–7).

[6] 15 U.S.C. 78o–3.

[7] 15 U.S.C. 78o–3(b)(6).

public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASD–2005–003 and should be submitted on or before March 11, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5–666 Filed 2–17–05; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–51195; File No. SR–PCX–2005–12]**

## 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

February 11, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by PCX. PCX submitted Amendment No. 1 to the proposal on February 11, 2005.[3] The Exchange filed this proposal pursuant to Section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(2) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX proposes to amend its Schedule of Fees and Charges in order to modify the fee that applies to each OTP Holder that access the Exchange's server capacity to use the Actant quoting software employed in PCX Plus, and to amend the provisions for the handling of options on the QQQQ under the Exchange's marketing fee program. The text of the proposed rule change is available on PCX's Web site (*http://www.pacificex.com*), at PCX's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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, as amended. The text of these statements may be examined at the places specified in Item IV below. PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Actant Quoting Software

The purpose of this proposed rule change is to modify the fee for those OTP Holders that wish to access the Exchange's server capacity to use the Actant quoting software employed in PCX Plus. Actant is a third-party vendor with whom the Exchange has contracted to provide quoting software to be employed in PCX Plus. Since, according to PCX, it would be prohibitively expensive for small OTP Holders to purchase their own servers, the Exchange will create a server bank from which each OTP Holder could lease capacity. This would facilitate participation on PCX Plus by smaller OTP Holders that might not have the expertise, capital, or staff to acquire and maintain the servers needed to support the quoting software. The Exchange currently charges $100 per month to each OTP Holder who accesses the Exchange's server capacity in order to use the Actant software.

The Exchange is proposing to modify the current fee from $100 per month for each OTP Holder who accesses the Exchange's server capacity in order to use the Actant software to $100 per month for each ten option issues an OTP Holder quotes through the Exchange's server capacity to use the Actant quoting software. The Exchange notes that it will not prorate the fee should an OTP Holder quote less than its full allotment of ten options issues. For purposes of billing, the Exchange will round up to the next multiple of ten to determine an OTP Holder's fee for a particular month. Under the proposed fee structure, an OTP Holder quoting 8 issues during a month would be charged $100, an OTP Holder quoting 32 issues would be charged $400 a month, and an OTP Holder quoting 115 issues would be charged $1,200 a month. The Exchange represents that the change is necessary because the costs associated with providing the server bank to use Actant software are directly related to the number of issues being quoted, not the number of users.

QQQQ

The Exchange is proposing to amend its Schedule of Fees and Charges in order to modify the provisions for the handling of options on QQQQ under the Exchange's marketing fee program. The Exchange is currently imposing a $1.00 per contract marketing fee for the QQQQ options. The Exchange makes the funds available to Lead Market Makers (''LMMs'') for their use in attracting orders. The Exchange does not retain any of the money collected as marketing fees. Any fees collected that are not used by the LMMs are rebated to the market makers. In addition, the Exchange currently incurs a Royalty Fee of $0.10 for every QQQQ option traded at PCX. At this time the Exchange is absorbing 100% of the cost for the Royalty Fee. To help offset some of the costs incurred by the Exchange without adding additional costs to PCX Market Makers, the Exchange proposes to impose a $0.95 per contract marketing fee for the QQQQ options and a $0.05 per contract Royalty Fee for QQQQ options. Under this proposal, the Exchange will retain the $0.05 per contract Royalty Fee for QQQQ options as a means to help pay for the $0.10 Royalty Fee incurred on each QQQQ

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange clarified that it will round up to the next multiple of ten to determine an OTP Holder's fee to access the Actant quoting software for a particular month should an OTP Holder quote less than its full allotment of ten options issues. The Exchange also clarified that it proposes to impose a $0.95 per contract marketing fee for the Nasdaq-100 Tracking Stock (''QQQQ'') options, a $0.05 per contract Royalty Fee for QQQQ options, and will retain the $0.05 per contract Royalty Fee for QQQQ options as a means to help pay for the $0.10 Royalty Fee incurred by the Exchange on each QQQQ options traded at PCX.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(2).

options traded at PCX. In addition, the Exchange is proposing to exclude trades of QQQQ from the existing cap on marketing fees. This change is necessary to help the Exchange remain competitive in its trading of QQQQ options.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act,[6] in general, and furthers the objectives of section 6(b)(4) of the Act,[7] in particular, in that it provides for the equitable allocation of dues, fees, and other charges among its members.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change, as amended, will impose any 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, as amended, were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change, as amended, has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and subparagraph (f)(2) of Rule 19b–4 thereunder,[9] because it is concerned solely with the administration of the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[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, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2005–12 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2005–12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the 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–2005–12 and should be submitted on or before March 11, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5–660 Filed 2–17–05; 8:45 am]

BILLING CODE 8010–01–P

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] *See* 15 U.S.C. 78s(b)(3)(C). For purposes of calculating the 60-day abrogation period, the Commission considers the period to commence on February 11, 2005, the date PCX filed Amendment No. 1.

[11] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

**DATES:** Submit comments on or before April 19, 2005.

**ADDRESSES:** Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Louis Cupp, New Markets Policy Analyst, Office of Investment Division, Small Business Administration, 409 3rd Street SW., Suite 6300, Wash., DC 20416

**FOR FURTHER INFORMATION CONTACT:** Louis Cupp, New Markets Policy Analyst, 202–619–0511, *louis.cupp@sba.gov*, Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.sba.*

**SUPPLEMENTARY INFORMATION:**

*Title:* ''New Markets Venture Capital (NMVC) Program Application Funding and Reporting.''

*Description of Respondents:* Program Applications and participants; SSBIC receiving grants under the NMVC program.

*Form No's:* SF'S 269, 270, 272, 424 SBA Forms 34, 159, 468, 1031, 2184, 2185, 2207–2211, 2219.

*Annual Responses:* 1,131.

*Annual Burden:* 13,925.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

[FR Doc. 05–3222 Filed 2–17–05; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration # 10024]**

### Hawaii Disaster # HI–00001 Disaster Declaration

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential Public Assistance declaration of a major disaster for the State of Hawaii (FEMA–1575–DR), dated February 1, 2005.

**INCIDENT:** Severe storms and flash flooding.

**INCIDENT PERIOD:** October 30, 2004.

**DATES:** *Effective Date:* February 1, 2005.

**PHYSICAL LOAN APPLICATION DEADLINE DATE:** April 4, 2005.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 4, P.O. Box 419004, Sacramento, CA 95841.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on February 1, 2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Honolulu.

The Interest Rates are:

| | Percent |
|---|---|
| Other (Including Non-Profit Organizations) with Credit Available Elsewhere | 4.750 |
| Businesses and Non-Profit Organizations without Credit Available Elsewhere | 4.000 |

The number assigned to this disaster for physical damage is 100246.

(Catalog of Federal Domestic Assistance Numbers 59008)

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 05–3101 Filed 2–17–05; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration # 10023]**

### Utah Disaster # UT–00002 Disaster Declaration

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential Public Assistance declaration of a major disaster for the State of Utah (FEMA—1576—DR ), dated February 1, 2005.

**INCIDENT:** Severe storms and flooding.

**INCIDENT PERIOD:** January 8, 2005, through January 12, 2005.

**DATES:** *Effective Date:* February 1, 2005.

**PHYSICAL LOAN APPLICATION DEADLINE DATE:** April 4, 2005.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 1, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on February 1, 2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Kane, Washington.

The Interest Rates are:

| | Percent |
|---|---|
| Other (Including Non-Profit Organizations) with Credit Available Elsewhere | 4.750 |
| Businesses and Non-Profit Organizations without Credit Available Elsewhere | 4.000 |

The number assigned to this disaster for physical damage is 100236.

(Catalog of Federal Domestic Assistance Numbers 59008)

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 05–3103 Filed 2–17–05; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration # 10022]**

### West Virginia Disaster # WV–00002 Disaster Declaration

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential Public Assistance declaration of a major disaster for the State of West Virginia (FEMA–1574–DR), dated February 1, 2005.

**INCIDENT:** Severe storms, flooding, and landslides.

**INCIDENT PERIOD:** January 4, 2005, and continuing.

**DATES:** *Effective Date:* February 1, 2005.

**PHYSICAL LOAN APPLICATION DEADLINE DATE:** April 4, 2005.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 1, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on February 1, 2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Brook, Hancock, Marshall, Ohio, Tyler, Wetzel.

The Interest Rates are:

| | Percent |
|---|---|
| Other (Including Non-Profit Organizations) with Credit Available Elsewhere | 4.750 |
| Businesses and Non-Profit Organizations without Credit Available Elsewhere | 4.000 |

The number assigned to this disaster for physical damage is 100226.

(Catalog of Federal Domestic Assistance Numbers 59008)

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 05–3102 Filed 2–17–05; 8:45 am]

BILLING CODE 8025–01–P

## SOCIAL SECURITY ADMINISTRATION

### Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Internal Revenue Service (IRS))—Match Number 1305

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a new computer matching program, expected to begin April 1, 2005.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct with the IRS.

**DATES:** SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of

Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefax to (410) 965–8582 or writing to the Associate Commissioner, Office of Income Security Programs, 760 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

**SUPPLEMENTARY INFORMATION:**

## A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records.

It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

## B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: February 8, 2005.

**Martin H. Gerry,**

*Deputy Commissioner for Disability and Income Security Programs.*

## Notice of Computer Matching Program, Social Security Administration (SSA) With Internal Revenue Service (IRS)

### *A. Participating Agencies*

SSA and IRS.

### *B. Purpose of the Matching Program*

The purpose of this matching program is to establish conditions under which IRS agrees to disclose to SSA certain tax return information necessary to verify an individual's self-certification of eligibility for prescription drug subsidy assistance under the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA). Pursuant to section 1860D–14 of title I of the MMA (42 U.S.C. 1395w–114), SSA will determine whether the individual is an individual described in section 1860D–14(a) (*i.e.* an individual with income up to 150 percent of the Federal poverty guidelines).

### *C. Authority for Conducting the Matching Program*

Section 6103(1)(7) of the Internal Revenue Code (26 U.S.C. 6103(1)(7)) authorizes the IRS to disclose return information with respect to unearned income to Federal, State, and local agencies administering certain benefit programs under the Social Security Act.

Section 1860d–14 of title I of the MMA requires the Commissioner of SSA to verify the eligibility of an individual who seeks to be considered as an individual eligible for the prescription drug subsidy under the MMA and who self-certifies his/her income, resources and family size.

### *D. Categories of Records and Individuals Covered by the Matching Program*

SSA will provide the IRS with identifying information with respect to applicants for, and recipients of, the Medicare Part D Prescription Drug Subsidy from the Medicare Part D and Part D Subsidy File system of records, SSA/ORSIS 60–0321, as published at 69 FR 248 (December 28, 2004). IRS will extract tax return information with respect to unearned income from the Information Returns Master File (IRMF), Treasury/IRS 22.061, as published at 66 FR 63797 (December 10, 2001), using the same extract as the Disclosure of Information to Federal, State and local Agencies (DIFSLA) program. SSA will maintain return information provided by the IRS through this match in the Medicare Part D and Part D Subsidy File system of records.

### *E. Inclusive Dates of the Matching Program*

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 05–3096 Filed 2–17–05; 8:45 am]

BILLING CODE 4191–02–P

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## SOCIAL SECURITY ADMINISTRATION

## Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement (HHS/ACF/OCSE)) Match Number 1306

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a new computer matching program.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a new computer matching program that SSA will conduct with HHS/ACF/OCSE.

**DATES:** SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Government Reform and Oversight of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefax to (410) 965–8582 or writing to the Associate Commissioner for Income Security Programs, 245 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Associate Commissioner for Income Security Programs as shown above.

**SUPPLEMENTARY INFORMATION:**

## A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy

Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal Government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State or local government records.

It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

## B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: January 25, 2005.

**Martin H. Gerry,**

*Deputy Commissioner for Disability and Income Security Programs.*

### Notice of Computer Matching Program, Social Security Administration (SSA) with the Health and Human Services (HHS)/ Administration for Children and Families (ACF)/Office of Child Support Enforcement (OCSE)

#### A. PARTICIPATING AGENCIES:

SSA and OCSE.

#### B. PURPOSE OF THE MATCHING PROGRAM:

The purpose of this matching agreement is to establish the conditions, terms and safeguards under which OCSE agrees to disclose quarterly wage and unemployment insurance data from their National Directory of New Hires database to SSA. This disclosure will provide SSA with information necessary to verify an individual's self-certification of eligibility for prescription drug subsidy assistance under the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA).

#### C. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:

The legal authority for SSA to conduct this matching activity is contained in section 1860D–14 (42 U.S.C. 1395w–114) of the Act.

#### D. CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCHING PROGRAM:

1. Specified Data Elements Used in the Match.

a. On the basis of certain identifying information as provided by SSA to OCSE, OCSE and SSA will conduct a computerized comparison of the quarterly wage payment and unemployment insurance benefit information in the National Directory of New Hires (NDNH) maintained by OCSE in its Location and Collection (LCS) system of records.

b. SSA will match this data against the Medicare database.

2. Systems of Records.

The OCSE will provide SSA with electronic files containing quarterly wage and unemployment insurance data from its system of records, the Location and Collection System (ACF/OCSE, 09–90–0074). Pursuant to U.S.C. 552a(b)(3), OCSE will established routine use to disclose the subject information.

SSA will match the OCSE information with electronic files from its system of records, the Medicare Part D and Part D Subsidy File (60–0321), which is currently being developed to support the Medicare Part D subsidy computer matches.

#### E. INCLUSIVE DATES OF THE MATCHING PROGRAM:

The matching program will become effective upon signing of the agreement by all parties to the agreement and approval of the agreement by the Data Integrity Boards of the respective agencies, but no sooner than 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 05–3097 Filed 2–17–05; 8:45 am]

BILLING CODE 4191–02–P

## SOCIAL SECURITY ADMINISTRATION

### Privacy Act of 1974 as Amended; Computer Matching Program (SSA/ Office of Personnel Management (OPM))—Match Number 1307

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a new computer matching program.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a new computer matching program that SSA will conduct with OPM.

**DATES:** SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Government Reform and Oversight of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefax to (410) 965–8582 or writing to the Associate Commissioner for Income Security Programs, 245 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Associate Commissioner for Income Security Programs as shown above.

**SUPPLEMENTARY INFORMATION:**

## A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State or local government records.

It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

### B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: January 25, 2005.

**Martin H. Gerry,**

*Deputy Commissioner for Disability and Income Security Programs.*

### Notice of Computer Matching Program, Social Security Administration (SSA) With the Office of Personnel Management (OPM)

#### A. PARTICIPATING AGENCIES:

SSA and OPM.

#### B. PURPOSE OF THE MATCHING PROGRAM:

The purpose of this matching program is to establish the conditions, terms and safeguards under which OPM agrees to the disclosure of civil service benefit and payment data to SSA. This disclosure will provide SSA with information necessary to verify an individual's self-certification of eligibility for prescription drug subsidy assistance under the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA). The disclosure will also enable SSA to implement a Medicare outreach program mandated by section 1144 of title XI of the Social Security Act. Information disclosed by OPM will enable SSA to identify individuals to determine their eligibility for Medicare Savings Programs, Medicare transitional assistance prescription drug cards and subsidized Medicare prescription drug coverage and enable SSA, in turn, to identify these individuals to the States.

#### C. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:

The legal authority for SSA to conduct this matching activity is contained in section 1860D–14 (42 U.S.C. 1395w–114) and section 1144 (42 U.S.C. 1320b–14) of the Social Security Act.

#### D. CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCHING PROGRAM:

1. Specified Data Elements Used in the Match.

a. OPM will electronically furnish SSA with the following civil service benefit and payment data: name, Social Security number, civil service claim number, and amount of current gross civil service benefits.

b. SSA will match this file against the Medicare database.

2. Systems of Records.

OPM will provide SSA with a finder file containing civil service benefit and payment data from the OPM System of Records published as OPM/Central-1 (Civil Service and Insurance Records), on October 8, 1999 (64 FR 54930), as amended on May 3, 2000 (65 FR 25775). Pursuant to 5 U.S.C. 552a(b)(3), OPM has established routine uses to disclose the subject information.

SSA will match the OPM information with the electronic data from the following system of records: SSA SOR 60–0321, which is currently being developed to support the Medicare Part D subsidy computer matches.

#### E. INCLUSIVE DATES OF THE MATCHING PROGRAM:

The matching program will become effective upon signing of the agreement by all parties to the agreement and approval of the agreement by the Data Integrity Boards of the respective agencies, but no sooner than 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 05–3098 Filed 2–17–05; 8:45 am]

BILLING CODE 4191–02–P

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## SOCIAL SECURITY ADMINISTRATION

### Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Bureau of the Public Debt (BPD))—Match 1304

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a new computer matching program.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct with the BPD.

**DATES:** SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefax to (410) 965–8582 or writing to the Associate Commissioner, Office of Income Security Programs, 760 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Associate Commissioner for Income Security Programs as shown above.

**SUPPLEMENTARY INFORMATION:**

### A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records.

It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

**B. SSA Computer Matches Subject to the Privacy Act**

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: January 25, 2005.

**Martin H. Gerry,**

*Deputy Commissioner for Disability and Income Security Programs.*

Notice of Computer Matching Program, Social Security Administration (SSA) with the Bureau of the Public Debt (BPD)

**A. PARTICIPATING AGENCIES:**

SSA and BPD.

**B. PURPOSE OF THE MATCHING PROGRAM:**

The purpose of this matching program is to establish conditions under which BPD agrees to disclose to SSA ownership of savings securities to verify an individual's self-certification of eligibility for prescription drug subsidy assistance under the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA).

**C. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:**

The legal authority for SSA to conduct this matching activity is contained in section 1860D–14 (42 U.S.C. 1395w–114) of the Social Security Act.

**D. CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCHING PROGRAM:**

SSA will provide the BPD with a finder file containing Social Security Numbers (SSNs) extracted from the Medicare database as specified in this Agreement from the Medicare file of Part D subsidy eligibles, SSA/ORSIS 09–60–0090, as published at 66 FR 11080 (Feb. 21, 2001) and amended at 69 FR 11693 (Mar. 11, 2004). BPD will match the SSNs on the finder file with the SSNs on its savings-type securities—Series E, EE, and I—registration systems. These records are included under the systems of records Treasury/BPD.002, United States Savings Type Securities, and Treasury/BPD.008, Retail Treasury Securities Access Application, last published on May 22, 2001, at 66 FR 28225 and 28235, respectively. SSA will then match BPD data with electronic data from the following system of records: 60–0321 which is being developed to support the Medicare Part D subsidy computer matches.

**E. INCLUSIVE DATES OF THE MATCHING PROGRAM:**

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 05–3099 Filed 2–17–05; 8:45 am]

BILLING CODE 4190–02–P

## SOCIAL SECURITY ADMINISTRATION

### Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Railroad Retirement Board (RRB))—Match Number 1308

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a new computer matching program.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a new computer matching program that SSA will conduct with RRB.

**DATES:** SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Government Reform and Oversight of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefax to (410) 965–8582 or writing to the Associate Commissioner for Income Security Programs, 245 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Associate Commissioner for Income Security Programs as shown above.

**SUPPLEMENTARY INFORMATION:**

**A. General**

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State or local government records.

It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

**B. SSA Computer Matches Subject to the Privacy Act**

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: January 25, 2005.

**Martin H. Gerry,**

*Deputy Commissioner for Disability and Income Security Programs.*

**Notice of Computer Matching Program, Social Security Administration (SSA) With the Railroad Retirement Board (RRB)**

*A. Participating Agencies*

SSA and RRB.

*B. Purpose of the Matching Program*

The purpose of this matching program is to establish the conditions, terms and safeguards under which RRB agrees to the disclosure of RRB annuity payment data to SSA. This disclosure will provide SSA with information necessary to verify an individual's self-certification of eligibility for prescription drug subsidy assistance under the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA). The disclosure will also enable SSA to implement a Medicare outreach program mandated by section 1144 of title XI of the Social Security Act . Information disclosed by RRB will enable SSA to identify individuals to determine their eligibility for Medicare Savings Programs (MSP), Medicare transitional assistance prescription drug

cards and subsidized Medicare prescription drug coverage and enable SSA, in turn, to identify these individuals to the States.

*C. Authority for Conducting the Matching Program*

The legal authority for SSA to conduct this matching activity is contained in section 1860D–14 (42 U.S.C. 1395w–114) and section 1144 (42 U.S.C. 1320b–14) of the Act.

*D. Categories of Records and Individuals Covered by the Matching Program*

1. Specified Data Elements Used in the Match

a. RRB will electronically furnish SSA with the following RRB annuitant data: name, Social Security Number, date of birth, RRB claim number, and annuity payment.

b. SSA will match this file against the Medicare database.

2. Systems of Records

RRB will provide SSA with electronic files containing RRB annuity payment data from its systems of records, RRB–22 Railroad Retirement Survivors and Pension Benefits Systems (CHICO). RRB will also provide SSA with electronic files of all qualified Railroad beneficiaries from its system of records, RRB–20 (PSRRB). Pursuant to 5 U.S.C. 552a(b)(3), RRB has established routine uses to disclose the subject information.

SSA will match the RRB information with the electronic data from the following system of records: 60–0321 which is currently being developed to support the Medicare Part D subsidy computer matches

*E. Inclusive Dates of the Matching Program*

The matching program will become effective upon signing of the agreement by all parties to the agreement and approval of the agreement by the Data Integrity Boards of the respective agencies, but no sooner than 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 05–3100 Filed 2–17–05; 8:45 am]

BILLING CODE 4191–02–P

## SOCIAL SECURITY ADMINISTRATION

### Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Department of Veterans Affairs (VA), Veterans Benefit Administration (VBA)—Match Number 1309

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a new computer matching program.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a new computer matching program that SSA will conduct with VA.

**DATES:** SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Government Reform and Oversight of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefax to (410) 965–8582 or writing to the Associate Commissioner for Income Security Programs, 245 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Associate Commissioner for Income Security Programs as shown above.

**SUPPLEMENTARY INFORMATION:**

### A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State or local government records.

It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

### B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: January 25, 2005.

**Martin H. Gerry,**

*Deputy Commissioner for Disability and Income Security Programs.*

### Notice of Computer Matching Program, Social Security Administration (SSA) With the Department of Veterans Affairs (VA), Veterans Benefit Administration (VBA)

*A. Participating Agencies*

SSA and VA.

*B. Purpose of the Matching Program*

The purpose of this matching program is to establish the conditions, terms and safeguards under which VA agrees to the disclosure of VA compensation and pension payment data to SSA. This disclosure will provide SSA with information necessary to verify an individual's self-certification of eligibility for prescription drug subsidy assistance under the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA). The disclosure will also enable SSA to implement a Medicare outreach program mandated by section 1144 of title XI of the Social Security Act. Information disclosed by VA will enable SSA to identify individuals to determine their eligibility for Medicare Savings Programs (MSP), Medicare transitional assistance prescription drug cards and subsidized Medicare prescription drug coverage and enable SSA, in turn, to identify these individuals to the States.

*C. Authority for Conducting the Matching Program*

The legal authority for SSA to conduct this matching activity is

contained in section 1860D–14 (42 U.S.C. 1395w–114) and section 1144 (42 U.S.C. 1320b–14) of the Act.

*D. Categories of Records and Individuals Covered by the Matching Program*

1. Specified Data Elements Used in the Match

a. VA will electronically furnish SSA with the following VA compensation and pension payment data: Social Security number, name, date of birth, and VA claim number.

b. SSA will match this file against the Medicare database.

2. Systems of Records

VA will provide SSA with electronic files containing compensation and pension payment data from its system of records entitled the Compensation, Pension, Education and Rehabilitation Records–VA (58VA21/22). Pursuant to 5 U.S.C. 552a(b)(3), VA has established routine uses to disclose the subject information.

SSA will match the VA information with the electronic data from the following system of records: SSA SOR 60–0321 which is currently being developed to support the Medicare Part D subsidy computer matches.

*E. Inclusive Dates of the Matching Program*

The matching program will become effective upon signing of the agreement by all parties to the agreement and approval of the agreement by the Data Integrity Boards of the respective agencies, but no sooner than 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 05–3104 Filed 2–17–05; 8:45 am]

BILLING CODE 4191–02–P

## TENNESSEE VALLEY AUTHORITY

### Paperwork Reduction Act of 1995, as Amended by Public Law 104–13; Submission for OMB Review; Comment Request

**AGENCY:** Tennessee Valley Authority.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Alice D. Witt, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–6832. (SC: 000X1BL) Comments should be sent to the OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for the Tennessee Valley Authority by March 21, 2005.

**SUPPLEMENTARY INFORMATION:**

*Type of Request:* Regular submission for an extension of a currently approved collection, 3316–0099.

*Title of Information Collection:* TVA Aquatic Plant Management.

*Frequency of Use:* On occasion.

*Type of Affected Public:* Individuals or households.

*Small Businesses or Organizations Affected:* No.

*Federal Budget Functional Category Code:* 452.

*Estimated Number of Annual Responses:* 800.

*Estimated Total Annual Burden Hours:* 160.

*Estimated Average Burden Hours Per Response:* 0.20 (12 minutes).

*Need for and Use of Information:* TVA committed to involving the public in developing plans for managing aquatic plants in individual TVA lakes under a Supplemental Environmental Impact Statement completed in August 1993. This proposed survey will provide a mechanism for obtaining input into this planning process from a representative sample of people living near each lake. The information obtained from the survey will be factored into the development of aquatic plant management plans for mainstream Tennessee River lakes.

**Jacklyn J. Stephenson,**

*Senior Manager, Enterprise Operations, Information Services.*

[FR Doc. 05–3134 Filed 2–17–05; 8:45 am]

BILLING CODE 8120–08–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Receipt of Noise Compatibility Program Amendment; Austin-Bergstrom International Airport, Austin, TX

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces that it is reviewing a proposed amendment (second) for the noise compatibility program that was submitted for Austin-Bergstrom International Airport under the provisions of Title 49, U.S.C. Chapter 475 (hereinafter referred to as ''Title 49'') and 14 CFR part 150 by the city of Austin. This program was submitted subsequent to a determination by the FAA that associated noise exposure maps submitted under 14 CFR part 150 for Austin-Bergstrom International Airport were in compliance with applicable requirements effective on April 29, 2000. The original noise compatibility program was approved on November 7, 2000, and subseqently amended on February 11, 2004. The proposed update to the noise compatibility program will be approved or disapproved on or before August 10, 2005.

**DATES:** The effective date of the start of the FAA's review of the noise compatibility program is February 11, 2005. The public comment period ends April 10, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mr. Paul E. Blackford, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas, 76193–0652, (817) 222–5607. Comments on the proposed noise compatibilty program should also be submitted to the above office.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA is reviewing a proposed update to the existing noise compatibility program for Austin-Bergstrom International Airport, which will be approved or disapproved on or before August 10, 2005. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated ppursuant to Title 49, may submit a noise compatibility program for FAA approval, which sets forth the measures the operator has taken or

proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

On April 20, 1999, the FAA published its approval of noise exposure maps for the Augstin-Bergstrom International Airport in the Federal Register. On May 25, 2000, the FAA published its approval of a final 2004 noise exposure map for the Austin-Bergstrom International Airport in the Federal Register. The FAA approved the original noise compatibility program on November 7, 2000, produced during Austin-Bergstrom International Airport, austin, Texas Part 150 Noise Compatibility Study.

The FAA received an update to the noise compatibility program, and published its intent to review in the August 26, 2003, **Federal Register**. The FAA approved the updated noise compatibility program on February 11, 2004.

The FAA has formally received a second update to the noise compatibility program for Austin-Bergstrom International Airport. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise exposure programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before August 10, 2005.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the notice exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Airports Division, 2601 Meacham Boulevard, Forth Worth, Texas 76137.

Austin-Bergstrom International Airport, City of Austin, Aviation Department, 3600 Presidential Blvd., Austin, Texas 78719.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Dated: Issued in Forth Worth, Texas, February 11, 2005.

**D. Cameron Bryan,**

*Acting Manager, Airports Division.*

[FR Doc. 05–3111 Filed 2–17–05; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Air Traffic Procedures Advisory Committee

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

**SUMMARY:** The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

**DATES:** The meeting will be held Monday, April 18, 2005 from 1 p.m. to 4:30 p.m., Tuesday, April 19, 2005 from 9 a.m. to 4:30 p.m., and Wednesday, April 20, 2005 from 9 a.m. to 4:30 p.m.

**ADDRESSES:** The meeting will be held at FAA Headquarters, 800 Independence Avenue, SW., Washington, DC 20591.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen P. Creamer, Executive Director, ATPAC, System Operations and Safety, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9205.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby give of a meeting of the ATPAC to be held Monday, April 18, 2005 from 1 p.m. to 4:30 p.m., Tuesday, April 19, 2005 from 9 a.m. to 4:30 p.m., and Wednesday, April 20, 2005 from 9 a.m. to 4:30 p.m.

The agenda for this meeting will cover: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes.
2. Submission and Discussion of Areas of Concern.
3. Discussion of Potential Safety Items.
4. Report from Executive Director.
5. Items of Interest.
6. Discussion and agreement of location and dates for subsequent meetings. Attendance is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statement should notify the person listed above not later than April 8, 2005. The next quarterly meeting of the FAA ATPAC is planned to be held from July 11–14, 2005, in Anchorage, AK.

Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on February 10, 2005.

**Stephen Creamer,**

*Executive Director, Air Traffic Procedures Advisory Committee.*

[FR Doc. 05–3112 Filed 2–17–05; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Application (05–09–C–00–YKM) To Impose and Use, the Revenue From a Passenger Facility Charge (YKM) at Yakima Air Terminal—McAllister Field, Submitted By the Yakima Air Terminal—McAllister Field Board, Yakima Air Terminal—McAllister Field, Yakima, WA

**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, PFC revenue at Yakima Air Terminal—McAllister Field under the provisions of 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 March 21, 2005.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jerry Kilpatrick, Assistant Airport Manager, at the following address: 2400 West

Washington Avenue, Yakima, WA 98903.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Yakima Air Terminal—McAllister Field, under section 158.23 of part 158.

**FOR FURTHER INFORMATION CONTACT:** Ms. Suzanne Lee-Pang, (425) 227–2654, Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, Washington 98055–4056. 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 05–09–C–00–YKM to impose and use, PFC revenue at Yakima Air Terminal—McAllister Field, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 10, 2005, the FAA determined that the application to impose and use the revenue from a PFC submitted by Yakima Air Terminal—McAllister Field, Yakima, Washington, was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 18, 2005.

The following is a brief overview of the application.

*Level of the proposed PFC:* $3.00.

*Proposed charge effective date:* March 1, 2005.

*Proposed charge expiration date:* October 1, 2006.

*Total requested for use approval:* $198,184.

*Brief description of proposed project:* Construct West GA//Air Freight Ramp; Purchase Aircraft Rescue and Fire Fighting (ARFF) vechile; Develop Sign and Marking Plan; Develop Wildlife Management Plan; Relocate Runway Hold Position Sign on ''C'' Taxiway; Pavement Maintenance Program; Obstruction Removal Project.

*Class or classes of air carriers which the public agency has requested not be required to collect PFC's:* Air taxi/commercial operators who emplane less than 1% of total boardings.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Yakima Air Terminal—McAllister Field.

Issued in Renton, Washington on February 10, 2005.

**David A. Field,**

*Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.*

[FR Doc. 05–3114 Filed 2–17–05; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Ex Parte No. 333]**

### Sunshine Act Meeting

**TIME AND DATE:** 9:30 a.m., February 23, 2005.

**PLACE:** The Board's Hearing Room, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423.

**STATUS:** The Board will meet to discuss among themselves the following agenda items. Although the conference is open for public observation, no public participation is permitted.

**MATTERS TO BE CONSIDERED:** STB Finance Docket No. 33388 (Sub-No. 91), *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation [General Oversight].*

STB Finance Docket No. 34501, *James Riffin d/b/a The Northern Central Railroad—Acquisition and Operation Exemption—in York County, PA.*

*Embraced Case:* STB Finance Docket No. 34552, *James Riffin d/b/a The Northern Central Railroad—Petition for Declaratory Order.*

STB Finance Docket No. 34612, *Boston and Maine Corporation and Springfield Terminal Railway Company* v. *New England Central Railroad, Inc.*

STB Finance Docket No. 34608, *Ohio Valley Railroad Company—Petition to Restore Switch Connection and Other Relief.*

STB Finance Docket No. 34486, *Ohio Valley Railroad Company—Acquisition and Operation Exemption—Harwood Properties, Inc.*

STB Finance Docket No. 34518, *Central Illinois Railroad Company—Operation Exemption—Rail Line of the City of Peoria and the Village of Peoria Heights in Peoria and Peoria Heights, Peoria County, IL.*

*Embraced Case:* STB Finance Docket No. 34636, *Pioneer Industrial Railway Company—Petition for Declaratory Order.*

STB Docket No. MC–F–21010, *Atlas Van Lines, Inc., et al.—Pooling Agreement.*

STB Docket No. AB–512X, *Sierra Pacific Industries—Abandonment Exemption-—in Amador County, CA.*

*Embraced Case:* STB Docket No. AB–880X, *SierraPine—Discontinuance Exemption—in Amador County, CA.*

STB Finance Docket No. 34417 (Sub-No. 3), *Union Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF Railway Company.*

**CONTACT PERSON FOR MORE INFORMATION:** A. Dennis Watson, Office of Congressional and Public Services, Telephone: (202) 565–1596 FIRS: 1–800–877–8339.

Dated: February 15, 2005.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 05–3343 Filed 2–16–05; 12:45 pm]

BILLING CODE 4915–01–P

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 34659]**

### South Buffalo Railway Company—Trackage Rights Exemption—Buffalo & Pittsburgh Railroad, Inc.

Buffalo & Pittsburgh Railroad, Inc. (BPRR), has agreed to grant overhead trackage rights to South Buffalo Railway Company (SB) over BPRR's line of railroad on or near the Buffalo City line up to (but not including) the Control Point Draw Bridge, in the City of Buffalo, Erie County, NY,[1] a total distance of approximately 2 miles.[2]

The transaction was scheduled to be consummated on or after the February 7, 2005 effective date of the exemption.

The purpose of the trackage rights is to allow SB to continue to interchange with BPRR and other carriers accessible from the line.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in

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[1] In a related proceeding, *Buffalo & Pittsburgh Railroad, Inc.—Lease and Operation Exemption—South Buffalo Railway Company,* STB Finance Docket No. 34563 (STB served Dec. 23, 2004), BPRR was authorized to lease from its affiliate SB and operate the subject line. In that petition, the line was described as extending between approximately milepost 0.0 and approximately milepost 2.0.

[2] On February 3, 2005, SB filed a copy of the Amended and Restated Trackage Rights Agreement between SB and BPRR.

*Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34659, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Rose-Michele Weinryb, Weiner Brodsky Sidman Kider PC, Fifth Floor, 1300 19th Street, NW., Washington, DC 20036–1609.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: February 11, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 05–3170 Filed 2–17–05; 8:45 am]

BILLING CODE 4915–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

**AGENCY:** Internal Revenue Service (IRS) Treasury.

**ACTION:** Notice.

**SUMMARY:** An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted via teleconference. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Wednesday, March 16, 2005, at 1 p.m., Eastern Time.

**FOR FURTHER INFORMATION CONTACT:** Barbara Toy at 1–888–912–1227, or 414–297–1611.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Wednesday, March 16, 2005, at 1 p.m. Eastern time via a telephone conference call. If you would like to have the Joint Committee of TAP consider a written statement, please call 1–888–912–1227 or 414–297–1611, or write Barbara Toy, TAP Office, MS–1006–MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or FAX to 414–297–1623, or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Barbara Toy. Ms. Toy can be reached at 1–888–912–1227 or 414–297–1611, or by FAX at 414–297–1623.

The agenda will include the following: monthly committee summary report, discussion of issues brought to the joint committee, office report, and discussion of next meeting.

Dated: February 14, 2005.

**Bernard Coston,**

*Director, Taxpayer Advocacy Panel.*

[FR Doc. 05–3217 Filed 2–17–05; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Area 5 Taxpayer Advocacy Panel (Including the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Texas)

**AGENCY:** Internal Revenue Service (IRS) Treasury.

**ACTION:** Notice.

**SUMMARY:** An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Monday, March 14, 2005, at 2 p.m. Central Time.

**FOR FURTHER INFORMATION CONTACT:** Mary Ann Delzer at 1–888–912–1227, or (414) 297–1604.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 5 Taxpayer Advocacy Panel will be held Monday, March 14, 2005, at 2 p.m. Central Time via a telephone conference call. You can submit written comments to the panel by faxing to (414) 297–1623, or by mail to Taxpayer Advocacy Panel, Stop1006MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org.* This meeting is not required to be open to the public, but because we are always interested in community input, we will accept public comments. Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 297–1604 for additional information.

The agenda will include the following: Various IRS issues.

Dated: February 14, 2005.

**Bernard Coston,**

*Director, Taxpayer Advocacy Panel.*

[FR Doc. 05–3218 Filed 2–17–05; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Area 2 Taxpayer Advocacy Panel (Including the States of Delaware, North Carolina, South Carolina, New Jersey, Maryland, Pennsylvania, Virginia, W. Virginia and the District of Columbia)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice.

**SUMMARY:** An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Tuesday, March 15, 2005, from 1:30 p.m. to 3 p.m. e.t.

**FOR FURTHER INFORMATION CONTACT:** Inez E. De Jesus at 1–888–912–1227, or 954–423–7977.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 2 Taxpayer Advocacy Panel will be held Tuesday, March 15, 2005 from 1:30 p.m. to 3 p.m. ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7977, or write Inez E. De Jesus, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Inez E. De Jesus. Ms. De Jesus can be reached at 1–888–912–1227 or 954–423–7977, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: February 14, 2005.

**Martha Curry,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 05–3219 Filed 2–17–05; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

**[No. 2005–05]**

### Guidance on Overdraft Protection Programs

**AGENCY:** Office of Thrift Supervision, Treasury (OTS).

**ACTION:** Final guidance.

**SUMMARY:** OTS is issuing this final Guidance on Overdraft Protection Programs (Guidance). This Guidance is intended to assist savings associations in the responsible disclosure and administration of overdraft protection services.

**DATES:** This Guidance is effective February 18, 2005.

**FOR FURTHER INFORMATION CONTACT:** Maurice McClung, Program Manager, Market Conduct, Thrift Policy, (202) 906–6182; Richard Bennett, Counsel, Regulations and Legislation Division, (202) 906–7409, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:**

### I. Background

OTS has developed this final Guidance after careful consideration of comments received on the proposed Interagency Guidance on Overdraft Protection Programs, 69 FR 31858 (June 7, 2004) (proposed guidance) issued by the Federal Financial Institution Examination Council (FFIEC) agencies, i.e., the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), and National Credit Union Administration (NCUA). It addresses a service offered by insured depository institutions commonly referred to as ''bounced-check protection'' or ''overdraft protection.'' This service is sometimes offered to transaction account customers as an alternative to traditional ways of covering overdrafts (e.g., overdraft lines of credit or linked accounts). While both the availability and customer acceptance of these overdraft protection services have increased, aspects of the marketing, disclosure, and implementation of some of these programs have raised concerns for OTS.

The proposed guidance identified the historical and traditional approaches to providing consumers with protection against account overdrafts and contrasted these approaches with the more recent overdraft protection programs that are marketed to consumers. The Agencies also identified some of the existing and potential concerns surrounding the offering and administration of such overdraft protection programs that have been identified by Federal and State bank regulatory agencies, consumer groups, financial institutions, and their trade representatives.

In response to these concerns, the Agencies provided proposed guidance in three primary sections: Safety and Soundness Considerations, Legal Risks, and Best Practices. In the section on Safety and Soundness Considerations, the Agencies wanted to ensure that financial institutions offering overdraft protection services adopt adequate policies and procedures to address the risks associated with these services. The Legal Risks section of the proposed guidance outlined several federal consumer compliance laws, generally alerted institutions offering overdraft protection services of the need to comply with all applicable Federal and State laws, and advised institutions to have their overdraft protection programs reviewed by legal counsel to ensure overall compliance prior to implementation. Finally, the proposed guidance set forth Best Practices that serve as positive examples of practices that are currently observed in, or recommended by, the industry. Broadly, these Best Practices address the marketing and communications that accompany the offering of overdraft protection services, as well as the disclosure and operation, of program features.

The Agencies received a total of over 320 comment letters in response to the proposed guidance. Comment letters were received from depository institutions, trade associations, vendors offering overdraft protection products, and other industry representatives, as well as government officials, consumer and community groups, and individual consumers.

### II. Overview of Public Comments

The Agencies received comments that addressed broad aspects of the proposed guidance, as well as its specific provisions. Many industry commenters, for instance, were concerned about the overall scope of the proposed guidance and whether it would apply to financial institutions that do not offer bounce protection programs but do cover the occasional overdraft on a case-by-case basis. Commenters also addressed the three specific sections of the proposed guidance.

In regard to the Safety and Soundness section, for example, many industry commenters suggested extending the charge-off period from 30 days to either 45 or 60 days because they believed a longer charge-off period would provide consumers with more time to repay overdrafts and avoid being reported to credit bureaus as delinquent on their accounts. Comments were also received addressing technical reporting and accounting issues.

The Agencies received numerous comments regarding the Legal Risks section, particularly the Truth in Lending Act (TILA) and Equal Credit Opportunity Act (ECOA) discussions. For instance, many consumers and consumer group comments stated that overdraft protection should be considered credit covered by TILA's disclosures and other required protections. They likened the product to payday lending, which is covered by TILA. Many industry commenters argued against the coverage of overdraft programs by TILA and the Board's Regulation Z, and urged that the payment of overdrafts does not involve credit and finance charges requiring the disclosures and protections afforded by this body of law.

Lastly, many commenters offered specific criticisms or recommended edits with respect to particular Best Practices identified in the proposal. Several industry commenters sought general clarification of whether examiners would treat the Best Practices as law or rules when examining institutions offering overdraft protection services.

### III. Final Guidance

This final Guidance incorporates changes made by OTS to provide clarity and address many commenter concerns. Language has been added to clarify the scope of the Guidance. The Safety and Soundness section expressly states that it applies to all methods of covering overdrafts. The introduction to the Best Practices section clarifies that while OTS is concerned about promoted overdraft protection programs, the Best Practices may also be useful for other methods of covering overdrafts.

In response to the comments regarding the Safety and Soundness section, OTS now indicates that overdraft balances, including uncollected fees, should generally be written off when considered uncollectible, but no later than 60 days from the date first overdrawn. This OTS

Guidance does not address whether overdrafts are credit because OTS believes that some ''bounce protection'' programs are provided to customers as a fee for service rather than an extension of credit. Other overdraft plans, particularly those where the savings association performs a credit check on the borrower, provide a period of time to repay the overdraft, and charge interest based on the amount and time the overdraft is outstanding, are loans. It is not within the scope of this Guidance to make a determination of whether any particular overdraft program is credit. Other technical edits have been made to further clarify reporting and accounting aspects of this section of the Guidance.

This OTS Guidance has eliminated the discussion of Legal Risks. This section engendered substantial comment and controversy, particularly over whether overdrafts are credit for purposes of TILA and Regulation Z.

OTS reminds savings associations, however, that overdraft protection programs must comply with all applicable Federal laws and regulations. It is important that savings associations have their overdraft protection programs reviewed by counsel for compliance with all applicable laws prior to implementation. As these laws and regulations are subject to amendment, savings associations are reminded to monitor applicable laws and regulations for revisions and to ensure that their overdraft protection programs are fully compliant with them.

Lastly, OTS reaffirms that the Best Practices are practices that have been recommended or implemented by financial institutions and others, as well as practices that may otherwise be required by applicable law. The Best Practices, or principles within them, are enforceable to the extent they are required by other federal statutes and regulations. The final Guidance explicitly states that while OTS is particularly concerned about promoted overdraft protection programs, the Best Practices may also be useful for other methods of covering overdrafts. OTS also revised or shortened numerous Best Practices for clarity, in response to particular commenter suggestions.

OTS's Best Practices depart from those in the proposed guidance issued by the FFIEC agencies in a few respects. OTS's Best Practices include not manipulating transaction-clearing (including, but not limited to, check-clearing rules and batch debit processing) to inflate fees and not allowing consumers to access overdraft amounts unless the consumer is informed that the transaction will trigger an overdraft fee and is given an opportunity to cancel the transaction. If this is not feasible for a particular type of transaction, the savings association should allow consumers the choice to make access to the overdraft protection program unavailable by transaction type.

For savings associations interested in further reading on the subject of best practices, OTS recommends an American Bankers Association publication entitled, ''Overdraft Protection: A Guide for Bankers.''

The text of the OTS Guidance on Overdraft Protection Programs follows:

*OTS Guidance on Overdraft Protection Programs*

The Office of Thrift Supervision (OTS) is issuing this guidance concerning a service offered by savings associations that is commonly referred to as ''bounced-check protection'' or ''overdraft protection.'' This service is sometimes offered on both consumer and small business transaction accounts as an alternative to traditional ways of covering overdrafts. This guidance is intended to assist savings associations in the responsible disclosure and administration of overdraft protection services, particularly those that are marketed to consumers.

*Introduction*

To protect against account overdrafts, some consumers obtain an overdraft line of credit, which is subject to the disclosure requirements of the Truth in Lending Act (TILA). If a consumer does not have an overdraft line of credit, the institution typically returns the check as unpaid and charges the consumer a nonsufficient funds or ''NSF'' fee. Some institutions may accommodate the consumer and pay overdrafts on a discretionary, ad-hoc basis. Regardless of whether the overdraft is paid, institutions typically charge the NSF fee when an overdraft occurs. Over the years, this accommodation has become automated by many institutions. Historically, institutions have not promoted this accommodation. This approach has not raised significant supervisory concerns.

More recently, some depository institutions have offered ''overdraft protection'' programs that, unlike the discretionary accommodation traditionally provided to those lacking a line of credit or other type of overdraft service (*e.g.*, linked accounts), are marketed to consumers essentially as a convenience or fee for service program.

While the specific details of overdraft protection programs vary from institution to institution and also vary over time, those currently offered by institutions incorporate some or all of the following characteristics:

- Institutions inform consumers that overdraft protection is a feature of their accounts and advertise the use of the service.
- Coverage is automatic for consumers who meet the institution's criteria (*e.g.*, account has been open a certain number of days, deposits are made regularly). Typically, the institution performs no credit underwriting.
- Overdrafts generally are paid up to the aggregate limit set by the institution for the specific class of accounts, typically $100 to $500.
- Institutions with an express aggregate ''dollar limit'' inform consumers of their limit under the program.
- Many program disclosures state that payment of an overdraft is discretionary on the part of the institution and may disclaim any legal obligation of the institution to pay any overdraft.
- The service may extend to check transactions as well as other transactions, such as withdrawals at automated teller machines (ATMs), transactions using debit cards, pre-authorized automatic debits from a consumer's account, telephone-initiated funds transfers, and on-line banking transactions.
- A flat fee is charged each time the service is triggered and an overdraft item is paid. Commonly, a fee in the same amount would be charged even if the overdraft item were not paid. A daily fee also may apply for each day the account remains overdrawn.
- Some institutions offer closed-end loans to consumers who do not bring their accounts to a positive balance within a specified time period. These repayment plans allow consumers to repay their overdrafts and fees in installments.

*Concerns*

Aspects of the marketing, disclosure, and implementation of some overdraft protection programs are of concern to OTS. For example, some institutions have promoted this service in a manner that leads consumers to believe that it is a line of credit by informing them that their account includes an overdraft protection limit of a specified dollar amount without clearly disclosing the terms and conditions of the service, including how fees reduce overdraft protection dollar limits and how the service differs from a line of credit.

In addition, some institutions have adopted marketing practices that appear to encourage consumers to overdraw

their accounts, such as by informing consumers that the service may be used to routinely overdraw their accounts, with little or no analysis of the consumer's creditworthiness. These overdraft protection programs may be promoted in a manner that leads consumers to believe that overdrafts will always be paid when, in reality, the institution reserves the right not to pay some overdrafts. Some institutions may advertise accounts with overdraft protection coverage as ''free'' accounts and thereby lead consumers to believe that there are no fees associated with the account or the overdraft protection program.

Furthermore, institutions may not clearly disclose that the program may cover instances when consumers overdraw their accounts by means other than check, such as at ATMs and point-of-sale (POS) terminals. Some institutions may include overdraft protection amounts in the figure that they disclose as the consumer's account ''balance'' (for example at an ATM) without clearly distinguishing the funds that are available for withdrawal without overdrawing the account. Where the institution knows that the transaction will trigger an overdraft fee, such as at a proprietary ATM, institutions also may not alert the consumer prior to the completion of the transaction to allow the consumer to cancel the transaction before the fee is triggered.

Savings associations should carefully weigh the risks presented by the programs. Further, savings associations should carefully review their programs to ensure that marketing and other communications concerning the programs do not mislead consumers to believe that the program is a traditional line of credit or that payment of overdrafts is guaranteed, do not mislead consumers about their account balance or the costs and scope of the overdraft protection offered, and do not encourage irresponsible consumer financial behavior or other behavior that potentially may unacceptably increase risk to the savings association.

*Safety & Soundness Considerations*

Overdraft protection programs may expose an institution to a higher level of nonpayment than traditional line of credit programs where the institution has performed appropriate credit underwriting. All overdrafts, whether or not subject to an overdraft protection program, are subject to the safety and soundness considerations contained in this section.

Savings associations providing overdraft protection programs should adopt written policies and procedures adequate to address the operational, and other risks associated with these types of programs. Prudent risk management practices include the establishment of express account eligibility standards and well-defined and properly documented dollar limit decisions and other criteria. Savings associations also should monitor these accounts on an ongoing basis and be able to identify consumers who do not manage their accounts in a satisfactory manner. Overdraft protection programs should be administered and adjusted, as needed, to ensure that the performance of such programs is satisfactory and in line with expectations. This may include, where appropriate, disqualification of a consumer from future overdraft protection. Reports sufficient to enable management to identify, measure, and manage overdraft volume, profitability, and performance should be provided to management on a regular basis.

Savings associations also are expected to incorporate prudent risk management practices related to account repayment and suspension of overdraft protection services. These include the establishment of specific timeframes for when consumers must pay off their overdraft balances. For example, savings associations should have established procedures for the suspension of overdraft services when the account holder no longer meets the eligibility criteria (such as when the account holder has declared bankruptcy or defaulted on a loan at the savings association) as well as for when there is a lack of timely repayment of an overdraft. In addition, overdraft balances, including uncollected fees, should generally be written off when considered uncollectible, but no later than 60 days from the date first overdrawn.

Some overdrafts are rewritten as loan obligations in accordance with an institution's loan policy and supported by a documented assessment of that consumer's ability to repay. In those instances, the overdraft is considered a loan and the delinquency and charge-off timeframes described in the FFIEC Uniform Retail Credit Classification and Account Management Policy apply. See also OTS CEO Memorandum #128 (July 27, 2000) (''Revised Uniform Retail Credit and Account Management Policy''), available at *http://www.ots.treas.gov/docs/2/25128.pdf.*

With respect to the reporting of income and loss recognition on overdraft protection programs, savings associations should follow generally accepted accounting principles (GAAP). OTS expects all savings associations to adopt rigorous loss estimation processes to ensure that overdraft fee income is accurately measured. Such methods may include providing loss allowances for uncollectible amounts or fees or, alternatively, only recognizing that portion of earned fees estimated to be collectible.

Savings associations entering into overdraft protection contracts with third-party vendors must conduct thorough due diligence reviews prior to signing a contract. The interagency guidance contained in the Outsourcing Technology Services Booklet part of the FFIEC's IT Examination Handbook, outlines OTS's expectations for prudent practices in this area. See also OTS CEO Memorandum #201 (July 15, 2004), available at *http://www.ots.treas.gov/docs/2/25201.pdf.*

*Best Practices*

Clear disclosures and explanations to consumers of the operation, costs, and limitations of an overdraft protection program and appropriate management oversight of the program are fundamental to enabling responsible use of overdraft protection. Such disclosures and oversight can also minimize potential consumer confusion and complaints, foster good customer relations, and reduce credit, legal, and other potential risks to the savings association. Savings associations that establish overdraft protection programs should, as applicable, take into consideration the following Best Practices, many of which have been recommended or implemented by financial institutions and others, as well as practices that may otherwise be required by applicable law. While OTS is concerned about promoted overdraft protection programs, the Best Practices may also be useful for other methods of covering overdrafts. These Best Practices currently observed in or recommended by the industry include:

Marketing and Communications With Consumers

- *Avoid promoting poor account management.* Savings associations should not market the program in a manner that encourages routine or intentional overdrafts; rather present the program as a customer service that may cover inadvertent consumer overdrafts.
- *Fairly represent overdraft protection programs and alternatives.* When informing consumers about an overdraft protection program, inform consumers generally of other overdraft services or credit products, if any, that are available at the savings association and how the terms, including fees, for

these services or products differ. Identify for consumers the consequences of extensively using the overdraft protection program.

• *Train staff to explain program features and other choices.* Train customer service or consumer complaint processing staff to explain their overdraft protection program's features, costs, and terms, including how to opt out of the service. Staff also should be able to explain other available overdraft products offered by the savings association and how consumers may qualify for them.

• *Clearly explain the discretionary nature of program.* If payment of an overdraft is discretionary, make this clear. Savings associations should not represent that the payment of overdrafts is guaranteed or assured if the savings association retains discretion not to pay an overdraft.

• *Distinguish overdraft protection services from ''free'' account features.* Savings associations should not promote ''free'' accounts and overdraft protection services in the same advertisement in a manner that suggests the overdraft protection service is free of charges.

• *Clearly disclose program fees.* In communications about overdraft protection programs, clearly disclose the dollar amount of the fee for each overdraft and any interest rate or other fees that may apply. For example, rather than merely stating that the savings association's standard NSF fee will apply, savings associations should restate the dollar amount of any applicable fees or interest charges.

• *Clarify that fees count against the disclosed overdraft protection dollar limit.* Consumers should be alerted that the fees charged for covering overdrafts, as well as the amount of the overdraft item, will be subtracted from any overdraft protection limit disclosed.

• *Demonstrate when multiple fees will be charged.* If promoting an overdraft protection program, clearly disclose that more than one overdraft fee may be charged against the account per day, depending on the number of checks presented and other withdrawals made from the consumer's account.

• *Do not manipulate transaction-clearing rules.* Transaction-clearing rules (including check-clearing and batch debit processing) should not be administered unfairly or manipulated to inflate fees.

• *Explain the impact of transaction-clearing policies.* Clearly explain to consumers that transactions may not be processed in the order in which they occurred and that the order in which they are received by the savings association and processed can affect the total amount of overdraft fees incurred by the consumer. Savings associations should also clearly disclose rules for processing and clearing transactions.

• *Illustrate the type of transactions covered.* Clearly disclose that overdraft protection fees may be imposed on transactions such as ATM withdrawals, debit card transactions, preauthorized automatic debits, telephone-initiated transfers, or other electronic transfers, if applicable, to avoid implying that check transactions are the only transactions covered.

Program Features and Operation

• *Provide election or opt-out of service.* Obtain affirmative consent of consumers to receive overdraft protection. Alternatively, where overdraft protection is automatically provided, permit consumers to ''opt out'' of the overdraft program and provide a clear consumer disclosure of this option.

• *Alert consumers before a transaction triggers any fees.* When consumers attempt to withdraw, transfer, or otherwise access funds made available through an overdraft protection program (other than by check), savings associations should alert consumers that completing the transaction will trigger an overdraft protection fee. Savings associations should also give consumers an opportunity to cancel the attempted transaction. If this is not feasible for a particular type of transaction, then savings associations should allow consumers the choice to make access to the overdraft protection program unavailable by transaction type, even if it results in limiting access to the overdraft protection amount only to check transactions.

• *Prominently distinguish balances from overdraft protection funds availability.* When disclosing a single balance for an account by any means, savings associations should not include overdraft protection funds in that account balance. The disclosure should instead represent the consumer's own funds available without the overdraft protection funds included. If more than one balance is provided, separately (and prominently) identify the balance without the inclusion of overdraft protection.

• *Promptly notify consumers of overdraft protection program usage each time used.* In addition to any alert at the time of transaction, promptly notify consumers when overdraft protection has been accessed, for example, by sending a notice to consumers the day the overdraft protection program has been accessed. The notification should identify the date of the transaction, the type of transaction, the overdraft amount, the fee associated with the overdraft, the amount necessary to return the account to a positive balance, the amount of time consumers have to return their accounts to a positive balance, and the consequences of not returning the account to a positive balance within the given timeframe. Notify consumers if the savings association terminates or suspends the consumer's access to the service, for example, if the consumer is no longer in good standing.

• *Consider daily limits on fees imposed.* Consider providing a daily cap on overdraft fees charged against any one account, while continuing to provide coverage for overdrafts up to the overdraft limit.

• *Monitor overdraft protection program usage.* Monitor excessive consumer usage, which may indicate a need for alternative arrangements or other services and inform consumers of these available options.

• *Fairly report program usage.* Savings associations should not report negative information to consumer reporting agencies when the overdrafts are paid under the terms of overdraft protection programs that have been promoted by the savings association.

This concludes the text of the OTS Guidance on Overdraft Protection Programs.

Dated: February 15, 2005.

By the Office of Thrift Supervision

**James E. Gilleran,**

*Director.*

[FR Doc. 05–3195 Filed 2–17–05; 8:45 am]

BILLING CODE 6720–01–P

# Corrections

**Federal Register**

Vol. 70, No. 33

Friday, February 18, 2005

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2005–20061; Airspace Docket No. 05–ACE–3]**

### Modification of Class E Airspace; Ozark, MO

*Correction*

In rule document 05–2554 beginning on page 7021 in the issue of Thursday, February 10, 2005, make the following corrections:

1. On page 7021, in the third column, under the **SUPPLEMENTARY INFORMATION** heading, in the 19th line, ''mule'' should read ''mile''.

2. On the same page, in the same column, under the same heading, in the 25th line, ''7400.2ZE'' should read ''7400.2E''.

[FR Doc. C5–2554 Filed 2–17–05; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
February 18, 2005

# Part II

# Department of Housing and Urban Development

## Federal Property Suitable as Facilities To Assist the Homeless; Notice

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4980–N–07]**

## Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**FOR FURTHER INFORMATION CONTACT:** Kathy Ezzell, room 7266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Heather Ranson, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register,** the landholding agency, and the property number.

For more information regarding particular properties identified in this notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Army:* Ms. Audrey C. Ormerod, Department of the Army, Office of the Assistant Chief of Staff for Installation Management, Attn: DAIM–MD, Room 1E677, 600 Army Pentagon, Washington, DC 20310–0600; (703) 601–2520; *COE:* Ms. Shirley Middleswarth, Army Corps of Engineers, Civil Division, Directorate of Real Estate, 441 G Street, NW., Washington, DC 20314–1000; (202) 761–7425; *Energy:* Mr. Andy Duran, Department of Energy, Office of Engineering & Construction Management, ME–90, 1000 Independence Ave, SW., Washington, DC 20585: (202) 586–4548; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0084; *Interior:* Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., MS5512, Washington, DC 20240; (202) 219–0728; *Navy:* Mr. Charles C. Cocks, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: February 10, 2005.

**Mark R. Johnston,**

*Director, Office of Special Needs, Assistance Programs.*

**Title V, Federal Surplus Property Program Federal Register Report for 2/18/05**

**Suitable/Available Properties**

*Buildings (by State)*

Alaska

Bldg. 00001
Wainwright Armory
Wainwright Co: AK 99782–
Landholding Agency: Army
Property Number: 21200510055
Status: Excess
Comment: 1200 sq. ft., presence of asbestos, most recent use—storage

Arkansas

Social Security Building
405 Pecan Street
Helena Co: Phillips AR 72342–
Landholding Agency: GSA
Property Number: 54200510003
Status: Excess
Comment: 3010 sq. ft., most recent use—offices
GSA Number: 7–G–AR–0567

California

Bldg. YLL–172
Yosemite National Park
Hemlock Bldg.
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200420012
Status: Unutilized
Comment: 7020 sq. ft. motel, off-site use only

Bldg. YLL–174
Yosemite National Park
Alder Motel
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200420013
Status: Unutilized

Comment: 7020 sq. ft. motel, off-site use only

Bldg. 180
Yosemite National Park
Birch Motel
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200420014
Status: Unutilized
Comment: 3010 sq. ft. motel, off-site use only

Bldg. YLS–002
Yosemite National Park
Yosemite Lodge
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430021
Status: Unutilized
Comment: 1000 sq. ft., most recent use—bike storage, off-site use only

Bldg. YLS–003
Yosemite National Park
Yosemite Lodge
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430022
Status: Unutilized
Comment: 1000 sq. ft., most recent use—storage, off-site use only

Bldg. YLV–007
Yosemite National Park
Yosemite Lodge
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430023
Status: Unutilized
Comment: 957 sq. ft., most recent use—bike storage, off-site use only

Bldg. YLL173
Yosemite National Park
Yosemite Lodge
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430024
Status: Unutilized
Comment: 7020 sq. ft., most recent use—guest accomodations, off-site use only

Bldg. 1000 E & F
Yosemite National Park
Yosemite Lodge
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430025
Status: Unutilized
Comment: 3600 sq. ft., most recent use—housing, off-site use only

Colorado

Bldg. 850
Wallace Creek Lodge
Colbran Co: Mesa CO 81624–
Landholding Agency: GSA
Property Number: 54200510004
Status: Surplus
Comment: 4500 sq. ft. hunting lodge, off-site use only
GSA Number: 7–A–CO–0655

Florida

Job Corps Center
205 West Third Street
Jacksonville Co: FL 33206–
Landholding Agency: GSA
Property Number: 54200440019
Status: Excess
Comment: 4 bldgs., sq. ft. varies, presence of asbestos/possible lead paint, most recent use—housing/classroom/training/medical/recreation, historic potential
GSA Number: 4–L–FL–0967B

Georgia

Bldg. 01133
Hunter Army Airfield
Chatham Co: GA 31409–
Landholding Agency: Army
Property Number: 21200510062
Status: Excess
Comment: 1024 sq. ft., most recent use—storage, off-site use only

Bldg. 00924
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200510065
Status: Excess
Comment: 9360 sq. ft., most recent use—warehouse, off-site use only

Bldg. 07780
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200510070
Status: Excess
Comment: 1344 sq. ft., most recent use—air field ops., off-site use only

Hawaii

Bldg. S180
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640039
Status: Unutilized
Comment: 3412 sq. ft., 2-story, most recent use—bomb shelter, off-site use only, relocation may not be feasible

Bldg. S181
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640040
Status: Unutilized
Comment: 4258 sq. ft., 1-story, most recent use—bomb shelter, off-site use only, relocation may not be feasible

Bldg. 219
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640041
Status: Unutilized
Comment: 620 sq. ft., most recent use—damage control, off-site use only, relocation may not be feasible

Bldg. 220
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640042
Status: Unutilized
Comment: 620 sq. ft., most recent use—damage control, off-site use only, relocation may not be feasible

Idaho

Bldg. CF603
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200020004
Status: Excess
Comment: 15,005 sq ft. cinder block, presence of asbestos/lead paint, major rehab, off-site use only

Iowa

Bldg. 00691
Iowa Army Ammo Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 21200510073
Status: Unutilized
Comment: 2581 sq. ft. residence, presence of lead paint, possible asbestos

Fed Bldg/Courthouse 350 W 6th Street
Dubuque IA 52001–
Landholding Agency: GSA
Property Number: 54200330014
Status: Excess
Comment: 80,762 sq. ft., needs repair, tenants to relocate, most recent use—office, historic covenants
GSA Number: 7–G–IA–0495–1

Federal Bldg/Courthouse
205 S. 8th Street
Fort Dodge Co: Webster IA 50501–
Landholding Agency: GSA
Property Number: 54200510005
Status: Excess
Comment: 88,662 sq. ft., possible asbestos/lead paint, estimated $3.5 million in repairs, 40% occupied by Federal tenants for 2 years
GSA Number: 7–G–IA–0422–1

Kansas

Dwelling
Admin Area
Wilson Lake
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200440001
Status: Excess
Comment: 1600 sq. ft. residence, off-site use only

Dwelling
Admin Area
Wilson Lake
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200440002
Status: Excess
Comment: 1600 sq. ft., storage, off-site use only

Social Security Building
1201 SW Van Buren Street
Topeka Co: Shawnee KS 66612–
Landholding Agency: GSA
Property Number: 54200510006
Status: Excess
Comment: 9550 sq. ft., possible asbestos/lead paint, most recent use—office, tenants to relocate in Spring 2006
GSA Number: 7–G–KS–0523

Kentucky

Green River Lock & Dam #3
Rochester Co: Butler KY 42273–Location: SR 70 west from Morgantown, KY., approximately 7 miles to site
Landholding Agency: COE
Property Number: 31199010022
Status: Unutilized
Comment: 980 sq. ft.; 2 story wood frame; two story residence; potential utilities; needs major rehab

Minnesota

Lakes Project Office
307 Main Street East
Remer Co: Cass MN
Landholding Agency: GSA
Property Number: 54200410015
Status: Surplus
Comment: Office bldg/oil shed/maintenance garage, minor water damage
GSA Number: 5–D–MN–548–A

Missouri

Trailer
Gasconade Harbor Facility
Gasconade Co: MO 65036–
Landholding Agency: COE
Property Number: 31200430002
Status: Unutilized
Comment: 55 ft. x 12 ft., most recent use—office, off-site use only

Montana

Bldg. 1
Butte Natl Guard
Butte Co: Silverbow MT 59701–
Landholding Agency: COE
Property Number: 31200040010
Status: Unutilized
Comment: 22799 sq. ft., presence of asbestos, most recent use—cold storage, off-site use only

Bldg. 2
Butte Natl Guard
Butte Co: Silverbow MT 59701–
Landholding Agency: COE
Property Number: 31200040011
Status: Unutilized
Comment: 3292 sq. ft., most recent use—cold storage, off-site use only

Bldg. 3
Butte Natl Guard
Butte Co: Silverbow MT 59701–
Landholding Agency: COE
Property Number: 31200040012
Status: Unutilized
Comment: 964 sq. ft., most recent use—cold storage, off-site use only

Bldg. 4
Butte Natl Guard
Butte Co: Silverbow MT 59701–
Landholding Agency: COE
Property Number: 31200040013
Status: Unutilized
Comment: 72 sq. ft., most recent use—cold storage, off-site use only

Bldg. 5
Butte Natl Guard
Butte Co: Silverbow MT 59701–
Landholding Agency: COE
Property Number: 31200040014
Status: Unutilized
Comment: 1286 sq. ft., most recent use—cold storage, off-site use only

Lewistown Field Office
80 Airport Road
Lewistown Co: Fergus MT 59457–
Landholding Agency: GSA
Property Number: 54200510007
Status: Surplus
Comment: office, warehouse, garage, shed and parking spaces, subject to existing easements, mold issue in office
GSA Number: 7–I–MT–0618

New Jersey

Social Security Bldg.
686 Nye Avenue
Irvington Co: Essex NJ 07111–2315
Landholding Agency: GSA
Property Number: 54200430012
Status: Excess
Comment: 7757 sq. ft., most recent use—office
GSA Number: 1–G–NJ–652

Social Security Bldg.
22 Morris Street
Hackensack Co: Bergen NJ 07660–1546
Landholding Agency: GSA
Property Number: 54200430013
Status: Excess
Comment: 14,944 sq. ft., most recent use—office
GSA Number: 1–G–NJ–651

New York

Bldg. 2218
Stewart Newburg USARC
New Windsor Co: Orange NY 12553–9000
Landholding Agency: Army
Property Number: 21200510067
Status: Unutilized
Comment: 32,000 sq. ft., poor condition, requires major repairs, most recent use—storage/services

7 Bldgs.
Stewart Newburg USARC
New Windsor Co: Orange NY 12553–9000
Location: 2122, 2124, 2126, 2128, 2106, 2108, 2104
Landholding Agency: Army
Property Number: 21200510068
Status: Unutilized
Comment: sq. ft. varies, poor condition, needs major repairs, most recent use—storage/services

Tappan USARC
335 Western Hwy
Tappan Co: Rockland NY 10983–
Landholding Agency: Army
Property Number: 21200510069
Status: Excess
Comment: 33,537 sq. ft., army reserve center

Social Security Bldg.
63 North Street
Monticello Co: Sullivan NY 12701–1124
Landholding Agency: GSA
Property Number: 54200430014
Status: Excess
Comment: 5659 sq. ft., most recent use—office
GSA Number: 1–G–NY–915

Building 1
Scotia Navy Depot
Scotia Co: Schenectady NY 12302–9460
Landholding Agency: Navy
Property Number: 77200440021
Status: Excess
Comment: 39,554 sq. ft., needs extensive repairs, presence of asbestos/lead paint, most recent use—office

North Carolina

SSA Building
215 W. Third Avenue
Gastonia Co: Gaston NC 28052–
Landholding Agency: GSA
Property Number: 54200440020
Status: Excess
Comment: 8081 sq. ft., presence of asbestos, most recent use—office
GSA Number: 4–G–NC–0745

Federal Building
241 Sunset Avenue
Asheboro Co: Randolph NC 27203–
Landholding Agency: GSA
Property Number: 54200440021
Status: Excess
Comment: 7141 sq. ft., presence of asbestos/possible lead paint, historic preservation covenants, most recent use—office
GSA Number: 4–G–NC–746

Ohio

Barker Historic House
Willow Island Locks and Dam
Newport Co: Washington OH 45768–9801
Location: Located at lock site, downstream of lock and dam structure
Landholding Agency: COE
Property Number: 31199120018
Status: Unutilized
Comment: 1600 sq. ft. bldg. with ½ acre of land, 2 story brick frame, needs rehab, on Natl Register of Historic Places, no utilities, off-site use only

Pennsylvania

Mahoning Creek Reservoir
New Bethlehem Co: Armstrong PA 16242–
Landholding Agency: COE
Property Number: 31199210008
Status: Unutilized
Comment: 1015 sq. ft., 2 story brick residence, off-site use only

Dwelling
Lock & Dam 6, Allegheny River, 1260 River Rd.
Freeport Co: Armstrong PA 16229–2023
Landholding Agency: COE
Property Number: 31199620008
Status: Unutilized
Comment: 2652 sq. ft., 3-story brick house, in close proximity to Lock and Dam, available for interim use for nonresidential purposes

Govt. Dwelling
Youghiogheny River Lake
Confluence Co: Fayette PA 15424–9103
Landholding Agency: COE
Property Number: 31199640002
Status: Unutilized
Comment: 1421 sq. ft., 2-story brick w/basement, most recent use—residential

Dwelling
Lock & Dam 4, Allegheny River
Natrona Co: Allegheny PA 15065–2609
Landholding Agency: COE
Property Number: 31199710009
Status: Unutilized
Comment: 1664 sq. ft., 2-story brick residence, needs repair, off-site use only

Dwelling #1
Crooked Creek Lake
Ford City Co: Armstrong PA 16226–8815
Landholding Agency: COE
Property Number: 31199740002
Status: Excess
Comment: 2030 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #2
Crooked Creek Lake
Ford City Co: Armstrong PA 16226–8815
Landholding Agency: COE
Property Number: 31199740003
Status: Excess
Comment: 3045 sq. ft., most recent use—residential, good condition, off-site use only

Govt Dwelling
East Branch Lake
Wilcox Co: Elk PA 15870–9709
Landholding Agency: COE
Property Number: 31199740005
Status: Underutilized
Comment: Approx. 5299 sq. ft., 1-story, most recent use—residence, off-site use only

Dwelling #1
Loyalhanna Lake
Saltsburg Co: Westmoreland PA 15681–9302
Landholding Agency: COE
Property Number: 31199740006
Status: Excess
Comment: 1996 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #2
Loyalhanna Lake
Saltsburg Co: Westmoreland PA 15681–9302
Landholding Agency: COE
Property Number: 31199740007
Status: Excess
Comment: 1996 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #1
Woodcock Creek Lake
Saegertown Co: Crawford PA 16433–0629
Landholding Agency: COE
Property Number: 31199740008
Status: Excess
Comment: 2106 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #2
Lock & Dam 6, 1260 River Road
Freeport Co: Armstrong PA 16229–2023
Landholding Agency: COE
Property Number: 31199740009
Status: Excess
Comment: 2652 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #2
Youghiogheny River Lake
Confluence Co: Fayette PA 15424–9103
Landholding Agency: COE
Property Number: 31199830003
Status: Excess
Comment: 1421 sq. ft., 2-story + basement, most recent use—residential

Residence A
2045 Pohopoco Drive
Lehighton Co: Carbon PA 18235–
Landholding Agency: COE
Property Number: 31200410007
Status: Unutilized
Comment: 1200 sq. ft., presence of asbestos, off-site use only

Texas

Water Tower
Lake Meredith Natl Rec Area
Fritch Co: Hutchinson TX 79036–
Landholding Agency: Interior
Property Number: 61200510002
Status: Unutilized
Comment: Off-site use only

Virginia

Metal Bldg.
John H. Kerr Dam & Reservoir
Co. Boydton VA
Landholding Agency: COE
Property Number: 31199620009
Status: Excess
Comment: 800 sq. ft., most recent use—storage, off-site use only

Washington

Bldg. 88
1917 Marsh Road
Yakima WA 98901–
Landholding Agency: Interior
Property Number: 61200340007
Status: Unutilized
Comment: 1032 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

*Land (by State)*

Arkansas

Parcel 01
DeGray Lake
Section 12
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010071
Status: Unutilized
Comment: 77.6 acres

Parcel 02
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010072
Status: Unutilized
Comment: 198.5 acres

Parcel 03
DeGray Lake
Section 18
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010073
Status: Unutilized
Comment: 50.46 acres

Parcel 04
DeGray Lake
Section 24, 25, 30 and 31
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010074
Status: Unutilized
Comment: 236.37 acres

Parcel 05
DeGray Lake
Section 16
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010075
Status: Unutilized
Comment: 187.30 acres

Parcel 06
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010076
Status: Unutilized
Comment: 13.0 acres

Parcel 07
DeGray Lake
Section 34
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 31199010077
Status: Unutilized
Comment: 0.27 acres

Parcel 08
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010078
Status: Unutilized
Comment: 14.6 acres

Parcel 09
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 31199010079
Status: Unutilized
Comment: 6.60 acres

Parcel 10
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 31199010080
Status: Unutilized
Comment: 4.5 acres

Parcel 11
DeGray Lake
Section 19
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 31199010081
Status: Unutilized
Comment: 19.50 acres

Lake Greeson
Section 7, 8 and 18
Murfreesboro Co: Pike AR 71958–9720
Landholding Agency: COE
Property Number: 31199010083
Status: Unutilized
Comment: 46 acres

Idaho

19.5 acres
Teton Dam Site
Newdale Co: Madison ID 83436–
Landholding Agency: Interior
Property Number: 61200430047
Status: Excess
Comment: Narrow strip of land, center of irrigated agriculture fields

19.47 acres
Tract C/Section 11
Paul Co: Minidoka ID 83347–
Landholding Agency: Interior
Property Number: 61200430048
Status: Excess
Comment: Agriculture/sagebrush

20.07 acres
Section 15; Lots 9–10
Paul Co: Minidoka ID 83347–
Landholding Agency: Interior
Property Number: 61200430049
Status: Excess
Comment: Agriculture production/irrigation sprinkler system

Indiana

Tracts 100 & 119–2
State Hwy 224/Rd. 50
Union Twshp Co: Huntington IN
Landholding Agency: GSA
Property Number: 54200430021
Status: Surplus
Comment: 6.65 acres and 8.68 acres, open space, no sanitary facilities, zoning restrictions
GSA Number: 1–D–IN–573–B

Tanner's Creek

Access Site off Rt. 50
Lawrenceburg Co: IN
Landholding Agency: GSA
Property Number: 54200430022
Status: Excess
Comment: 8.45 acres, boat launch, flowage easement
GSA Number: 1–D–IN–571–C

Patriot Boat Ramp
Rt 156
Switzerland Co: IN
Landholding Agency: GSA
Property Number: 54200440009
Status: Excess
Comment: 34.11 acres, parking and boat launch, flowage easement
GSA Number: 1–D–IN–571–B

Kansas

Parcel 1
El Dorado Lake
Section 13, 24, and 18
(See County) Co: Butler KS
Landholding Agency: COE
Property Number: 31199010064
Status: Unutilized
Comment: 61 acres; most recent use—recreation

Kentucky

Tract 2625
Barkley Lake, Kentucky, and Tennessee
Cadiz Co: Trigg KY 42211–
Location: Adjoining the village of Rockcastle
Landholding Agency: COE
Property Number: 31199010025
Status: Excess
Comment: 2.57 acres; rolling and wooded

Tract 2709–10 and 2710–2
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle
Landholding Agency: COE
Property Number: 31199010026
Status: Excess
Comment: 2.00 acres; steep and wooded

Tract 2708–1 and 2709–1
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle
Landholding Agency: COE
Property Number: 31199010027
Status: Excess
Comment: 3.59 acres; rolling and wooded; no utilities

Tract 2800
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 4½ miles in a southeasterly direction from the village of Rockcastle
Landholding Agency: COE
Property Number: 31199010028
Status: Excess
Comment: 5.44 acres; steep and wooded

Tract 2915
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 6½ miles west of Cadiz
Landholding Agency: COE
Property Number: 31199010029
Status: Excess
Comment: 5.76 acres; steep and wooded; no utilities

Tract 2702
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 1 mile in a southerly direction from the village of Rockcastle
Landholding Agency: COE
Property Number: 31199010031
Status: Excess
Comment: 4.90 acres; wooded; no utilities

Tract 4318
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: Trigg Co. adjoining the city of Canton, KY on the waters of Hopson Creek
Landholding Agency: COE
Property Number: 31199010032
Status: Excess
Comment: 8.24 acres; steep and wooded

Tract 4502
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 3½ miles in a southerly direction from Canton, KY
Landholding Agency: COE
Property Number: 31199010033
Status: Excess
Comment: 4.26 acres; steep and wooded

Tract 4611
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 5 miles south of Canton, KY
Landholding Agency: COE
Property Number: 31199010034
Status: Excess
Comment: 10.51 acres; steep and wooded; no utilities

Tract 4619
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY
Landholding Agency: COE
Property Number: 31199010035
Status: Excess
Comment: 2.02 acres; steep and wooded; no utilities

Tract 4817
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 6½ miles south of Canton, KY
Landholding Agency: COE
Property Number: 31199010036
Status: Excess
Comment: 1.75 acres; wooded

Tract 1217
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: On the north side of the Illinois Central Railroad
Landholding Agency: COE
Property Number: 31199010042
Status: Excess
Comment: 5.80 acres; steep and wooded

Tract 1906
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4 miles east of Eddyville, KY
Landholding Agency: COE
Property Number: 31199010044
Status: Excess
Comment: 25.86 acres; rolling steep and partially wooded; no utilities

Tract 1907
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038–
Location: On the waters of Pilfen Creek, 4 miles east of Eddyville, KY
Landholding Agency: COE
Property Number: 31199010045
Status: Excess
Comment: 8.71 acres; rolling steep and wooded; no utilities

Tract 2001 #1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY
Landholding Agency: COE
Property Number: 31199010046
Status: Excess
Comment: 47.42 acres; steep and wooded; no utilities

Tract 2001 #2
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY
Landholding Agency: COE
Property Number: 31199010047
Status: Excess
Comment: 8.64 acres; steep and wooded; no utilities

Tract 2005
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 5½ miles east of Eddyville, KY
Landholding Agency: COE
Property Number: 31199010048
Status: Excess
Comment: 4.62 acres; steep and wooded; no utilities

Tract 2307
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 7½ miles southeasterly of Eddyville, KY
Landholding Agency: COE
Property Number: 31199010049
Status: Excess
Comment: 11.43 acres; steep; rolling and wooded; no utilities

Tract 2403
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 7 miles southeasterly of Eddyville, KY
Landholding Agency: COE
Property Number: 31199010050
Status: Excess
Comment: 1.56 acres; steep and wooded; no utilities

Tract 2504
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 9 miles southeasterly of Eddyville, KY
Landholding Agency: COE
Property Number: 31199010051
Status: Excess
Comment: 24.46 acres; steep and wooded; no utilities

Tract 214
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: South of the Illinois Central Railroad, 1 mile east of the Cumberland River
Landholding Agency: COE
Property Number: 31199010052

Status: Excess
Comment: 5.5 acres; wooded; no utilities

Tract 215
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 31199010053
Status: Excess
Comment: 1.40 acres; wooded; no utilities

Tract 241
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY
Landholding Agency: COE
Property Number: 31199010054
Status: Excess
Comment: 1.26 acres; steep and wooded; no utilities

Tracts 306, 311, 315 and 325
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 2.5 miles southwest of Kuttawa, KY on the waters of Cypress Creek
Landholding Agency: COE
Property Number: 31199010055
Status: Excess
Comment: 38.77 acres; steep and wooded; no utilities

Tracts 2305, 2306, and 2400–1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 6½ miles southeasterly of Eddyville, KY
Landholding Agency: COE
Property Number: 31199010056
Status: Excess
Comment: 97.66 acres; steep rolling and wooded; no utilities

Tracts 5203 and 5204
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212–
Location: Village of Linton, KY state highway 1254
Landholding Agency: COE
Property Number: 31199010058
Status: Excess
Comment: 0.93 acres; rolling, partially wooded; no utilities

Tract 5240
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212–
Location: 1 mile northwest of Linton, KY
Landholding Agency: COE
Property Number: 31199010059
Status: Excess
Comment: 2.26 acres; steep and wooded; no utilities

Tract 4628
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY
Landholding Agency: COE
Property Number: 31199011621
Status: Excess
Comment: 3.71 acres; steep and wooded; subject to utility easements

Tract 4619–B
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY
Landholding Agency: COE
Property Number: 31199011622
Status: Excess
Comment: 1.73 acres; steep and wooded; subject to utility easements

Tract 2403–B
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038–
Location: 7 miles southeasterly from Eddyville, KY
Landholding Agency: COE
Property Number: 31199011623
Status: Unutilized
Comment: 0.70 acres, wooded; subject to utility easements

Tract 241–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: South of Old Henson Ferry Road, 6 miles west of Kuttawa, KY
Landholding Agency: COE
Property Number: 31199011624
Status: Excess
Comment: 11.16 acres; steep and wooded; subject to utility easements

Tracts 212 and 237
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY
Landholding Agency: COE
Property Number: 31199011625
Status: Excess
Comment: 2.44 acres; steep and wooded; subject to utility easements

Tract 215–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 31199011626
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements

Tract 233
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 31199011627
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements

Tract N–819
Dale Hollow Lake & Dam Project
Illwill Creek, Hwy 90
Hobart Co: Clinton KY 42601–
Landholding Agency: COE
Property Number: 31199140009
Status: Underutilized
Comment: 91 acres, most recent use—hunting, subject to existing easements

Portion of Lock & Dam No. 1
Kentucky River
Carrolton Co: Carroll KY 41008–0305
Landholding Agency: COE
Property Number: 31199320003
Status: Unutilized
Comment: approx. 3.5 acres (sloping), access monitored

Tract No. F–610
Buckhorn Lake Project
Buckhorn KY 41721–
Landholding Agency: COE
Property Number: 31200240001
Status: Unutilized
Comment: 0.64 acres, encroachments, most recent use—flood control purposes

Louisiana

Wallace Lake Dam and Reservoir
Shreveport Co: Caddo LA 71103–
Landholding Agency: COE
Property Number: 31199011009
Status: Unutilized
Comment: 10.81 acres; wildlife/forestry; no utilities

Bayou Bodcau Dam and Reservoir
Haughton Co: Caddo LA 71037–9707
Location: 35 miles Northeast of Shreveport, LA
Landholding Agency: COE
Property Number: 31199011010
Status: Unutilized
Comment: 203 acres; wildlife/forestry; no utilities

Mississippi

Parcel 7
Grenada Lake
Sections 22, 23, T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011019
Status: Underutilized
Comment: 100 acres; no utilities; intermittently used under lease—expires 1994

Parcel 8
Grenada Lake
Section 20, T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011020
Status: Underutilized
Comment: 30 acres; no utilities; intermittently used under lease—expires 1994

Parcel 9
Grenada Lake
Section 20, T24N, R7E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011021
Status: Underutilized
Comment: 23 acres; no utilities; intermittently used under lease—expires 1994

Parcel 10
Grenada Lake
Sections 16, 17, 18 T24N R8E
Grenada Co: Calhoun MS 38901–0903
Landholding Agency: COE
Property Number: 31199011022
Status: Underutilized
Comment: 490 acres; no utilities; intermittently used under lease—expires 1994

Parcel 2
Grenada Lake
Section 20 and T23N, R5E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 31199011023
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management

Parcel 3
Grenada Lake
Section 4, T23N, R5E
Grenada Co: Yalobusha MS 38901–0903

Landholding Agency: COE
Property Number: 31199011024
Status: Underutilized
Comment: 120 acres; no utilities; most recent use—wildlife and forestry management; (13.5 acres/agriculture lease)

Parcel 4
Grenada Lake
Section 2 and 3. T23N, R5E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011025
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management

Parcel 5
Grenada Lake
Section 7, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011026
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management; (14 acres/agriculture lease)

Parcel 6
Grenada Lake
Section 9, T24N, R6E
Grenada Co: Yalobusha MS 38903–0903
Landholding Agency: COE
Property Number: 31199011027
Status: Underutilized
Comment: 80 acres; no utilities; most recent use—wildlife and forestry management

Parcel 11
Grenada Lake
Section 20, T24N, R8E
Grenada Co: Calhoun MS 38901–0903
Landholding Agency: COE
Property Number: 31199011028
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management

Parcel 12
Grenada Lake
Section 25, T24N, R7E
Grenada Co: Yalobusha MS 38390–10903
Landholding Agency: COE
Property Number: 31199011029
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management

Parcel 13
Grenada Lake
Section 34, T24N, R7E
Grenada Co: Yalobusha MS 38903–0903
Landholding Agency: COE
Property Number: 31199011030
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management; (11 acres/agriculture lease)

Parcel 14
Grenada Lake
Section 3, T23N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011031
Status: Underutilized
Comment: 15 acres; no utilities; most recent use—wildlife and forestry management

Parcel 15
Grenada Lake
Section 4, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011032
Status: Underutilized
Comment: 40 acres; no utilities; most recent use—wildlife and forestry management

Parcel 16
Grenada Lake
Section 9, T23N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011033
Status: Underutilized
Comment: 70 acres; no utilities; most recent use—wildlife and forestry management

Parcel 17
Grenada Lake
Section 17, T23N, R7E
Grenada Co: Grenada MS 28901–0903
Landholding Agency: COE
Property Number: 31199011034
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management

Parcel 18
Grenada Lake
Section 22, T23N, R7E
Grenada Co: Grenada MS 28902–0903
Landholding Agency: COE
Property Number: 31199011035
Status: Underutilized
Comment: 10 acres; no utilities; most recent use—wildlife and forestry management

Parcel 19
Grenada Lake
Section 9, T22N, R7E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 31199011036
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management

Missouri

Harry S Truman Dam & Reservoir
Warsaw Co: Benton MO 65355–
Location: Triangular shaped parcel southwest of access road ''B'', part of Bledsoe Ferry Park Tract 150
Landholding Agency: COE
Property Number: 31199030014
Status: Underutilized
Comment: 1.7 acres; potential utilities

New Jersey

Storage Site
Black Oak Ridge Road
Wayne Co: Passaic NJ
Landholding Agency: GSA
Property Number: 54200440011
Status: Excess
Comment: 6.5 acres, utility infrastructure exist
GSA Number: 1–B–NJ–0653

Ohio

GWEN Site #3
Township Rd. 196
Radnor Co: Delaware OH
Landholding Agency: GSA
Property Number: 54200420021
Status: Surplus
Comment: Two tracts of farm land = 0.953 acre and 10.778 acres
GSA Number: 1–D–OH–825

Oklahoma

Pine Creek Lake
Section 27
(See County) Co: McCurtain OK
Landholding Agency: COE
Property Number: 31199010923
Status: Unutilized
Comment: 3 acres; no utilities; subject to right of way for Oklahoma State Highway 3

Pennsylvania

Mahoning Creek Lake
New Bethlehem Co: Armstrong PA 16242–9603
Location: Route 28 North to Belknap, Road #4
Landholding Agency: COE
Property Number: 31199010018
Status: Excess
Comment: 2.58 acres; steep and densely wooded

Tracts 610, 611, 612
Shenango River Lake
Sharpsville Co: Mercer PA 16150–
Location: I–79 North, I–80 West, Exit Sharon. R18 North 4 miles, left on R518, right on Mercer Avenue
Landholding Agency: COE
Property Number: 31199011001
Status: Excess
Comment: 24.09 acres; subject to flowage easement

Tracts L24, L26
Crooked Creek Lake
Co: Armstrong PA 03051–
Location: Left bank—55 miles downstream of dam
Landholding Agency: COE
Property Number: 31199011011
Status: Unutilized
Comment: 7.59 acres; potential for utilities

Portion of Tract L–21A
Crooked Creek Lake, LR 03051
Ford City Co: Armstrong PA 16226–
Landholding Agency: COE
Property Number: 31199430012
Status: Unutilized
Comment: Approximately 1.72 acres of undeveloped land, subject to gas rights

Tennessee

Tract 6827
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 2½ miles west of Dover, TN.
Landholding Agency: COE
Property Number: 31199010927
Status: Excess
Comment: .57 acres; subject to existing easements

Tracts 6002–2 and 6010
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3½ miles south of village of Tabaccoport
Landholding Agency: COE
Property Number: 31199010928
Status: Excess
Comment: 100.86 acres; subject to existing easements

Tract 11516
Barkley Lake
Ashland City Co: Dickson TN 37015–
Location: ½ mile downstream from Cheatham Dam

Landholding Agency: COE
Property Number: 31199010929
Status: Excess
Comment: 26.25 acres; subject to existing easements

Tract 2319
J. Percy Priest Dam and Resorvoir
Murfreesboro Co: Rutherford TN 37130–
Location: West of Buckeye Bottom Road
Landholding Agency: COE
Property Number: 31199010930
Status: Excess
Comment: 14.48 acres; subject to existing easements

Tract 2227
J. Percy Priest Dam and Resorvoir
Murfreesboro Co: Rutherford TN 37130–
Location: Old Jefferson Pike
Landholding Agency: COE
Property Number: 31199010931
Status: Excess
Comment: 2.27 acres; subject to existing easements

Tract 2107
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: Across Fall Creek near Fall Creek camping area
Landholding Agency: COE
Property Number: 31199010932
Status: Excess
Comment: 14.85 acres; subject to existing easements

Tracts 2601, 2602, 2603, 2604
Cordell Hull Lake and Dam Project
Doe Row Creek
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 56
Landholding Agency: COE
Property Number: 31199010933
Status: Unutilized
Comment: 11 acres; subject to existing easements

Tract 1911
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: East of Lamar Road
Landholding Agency: COE
Property Number: 31199010934
Status: Excess
Comment: 6.92 acres; subject to existing easements

Tract 7206
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 2½ miles SE of Dover, TN
Landholding Agency: COE
Property Number: 31199010936
Status: Excess
Comment: 10.15 acres; subject to existing easements

Tracts 8813, 8814
Barkley Lake
Cumberland Co: Stewart TN 37050–
Location: 1½ miles East of Cumberland City
Landholding Agency: COE
Property Number: 31199010937
Status: Excess
Comment: 96 acres; subject to existing easements

Tract 8911
Barkley Lake
Cumberland City Co: Montgomery TN 37050–
Location: 4 miles east of Cumberland City
Landholding Agency: COE
Property Number: 31199010938
Status: Excess
Comment: 7.7 acres; subject to existing easements

Tract 11503
Barkley Lake
Ashland City Co: Cheatham TN 37015–
Location: 2 miles downstream from Cheatham Dam
Landholding Agency: COE
Property Number: 31199010939
Status: Excess
Comment: 1.1 acres; subject to existing easements

Tracts 11523, 11524
Barkley Lake
Ashland City Co: Cheatham TN 37015–
Location: 2½ miles downstream from Cheatham Dam
Landholding Agency: COE
Property Number: 31199010940
Status: Excess
Comment: 19.5 acres; subject to existing easements

Tract 6410
Barkley Lake
Bumpus Mills Co: Stewart TN 37028–
Location: 4½ miles SW. of Bumpus Mills
Landholding Agency: COE
Property Number: 31199010941
Status: Excess
Comment: 17 acres; subject to existing easements

Tract 9707
Barkley Lake
Palmyer Co: Montgomery TN 37142–
Location: 3 miles NE of Palmyer, TN, Highway 149
Landholding Agency: COE
Property Number: 31199010943
Status: Excess
Comment: 6.6 acres; subject to existing easements

Tract 6949
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 1½ miles SE of Dover, TN
Landholding Agency: COE
Property Number: 31199010944
Status: Excess
Comment: 29.67 acres; subject to existing easements

Tracts 6005 and 6017
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3 miles south of Village of Tobaccoport
Landholding Agency: COE
Property Number: 31199011173
Status: Excess
Comment: 5 acres; subject to existing easements

Tracts K–1191, K–1135
Old Hickory Lock and Dam
Hartsville Co: Trousdale TN 37074–
Landholding Agency: COE
Property Number: 31199130007
Status: Underutilized
Comment: 54 acres, (portion in floodway), most recent use—recreation

Tract A–102
Dale Hollow Lake & Dam Project
Canoe Ridge, State Hwy 52
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 31199140006
Status: Underutilized
Comment: 351 acres, most recent use—hunting, subject to existing easements

Tract A–120
Dale Hollow Lake & Dam Project
Swann Ridge, State Hwy No. 53
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 31199140007
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements

Tract D–185
Dale Hollow Lake & Dam Project
Ashburn Creek, Hwy No. 53
Livingston Co: Clay TN 38570–
Landholding Agency: COE
Property Number: 31199140010
Status: Underutilized
Comment: 97 acres, most recent use—hunting, subject to existing easements

Texas

14.34 acres
9300 Tidwell Road
Houston Co: Harris TX 77078–
Landholding Agency: GSA
Property Number: 54200510008
Status: Excess
Comment: Development may require an archeological survey
GSA Number: 7–G–TX–1085

Virginia

Tract H–35–A
Chantilly Access Road
Vienna Co: VA
Landholding Agency: GSA
Property Number: 54200430016
Status: Excess
Comment: 0.331 acre, public street, any owner would be required to provide equivalent, uninterrupted alternate access.
GSA Number: 11–U–VA–0001

**Suitable/Unavailable Properties**

*Buildings (by State)*

Alabama

Bldg. 30105
Fort Rucker
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 21200510052
Status: Excess
Comment: 4100 sq. ft., most recent use—admin., off-site use only

Bldg. 40115
Fort Rucker
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 21200510053
Status: Excess
Comment: 34,520 sq. ft., most recent use—storage, off-site use only

Alaska

House
910 S. Felton Street
Tsunami Warning Center
Palmer Co: AK
Landholding Agency: GSA
Property Number: 54200430007

Status: Surplus
Comment: 1400 sq. ft., off-site use only
GSA Number: 9–C–AK–794

Georgia

Bldg. 01674
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200510056
Status: Unutilized
Comment: 5311 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01675
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200510057
Status: Unutilized
Comment: 5475 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01676
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200510058
Status: Unutilized
Comment: 7209 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01677
Fort Benning
Ft. Benning Co: GA 31905–
Landholding Agency: Army
Property Number: 21200510059
Status: Unutilized
Comment: 5311 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01678
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200510060
Status: Unutilized
Comment: 6488 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 05887
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200510061
Status: Unutilized
Comment: 1344 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 01305
Hunter Army Airfield
Chatham Co: GA 31409–
Landholding Agency: Army
Property Number: 21200510063
Status: Excess
Comment: 400 sq. ft., most recent use—general purpose, off-site use only

Bldg. 00285
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200510064
Status: Excess
Comment: 6087 sq. ft., most recent use—police station, off-site use only

Idaho

Bldg. CFA–613
Central Facilities Area
Idaho National Engineering Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199630001
Status: Unutilized
Comment: 1219 sq. ft., most recent use—sleeping quarters, presence of asbestos, off-site use only

Illinois

Bldg. 7
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010001
Status: Unutilized
Comment: 900 sq. ft.; 1 floor wood frame; most recent use—residence

Bldg. 6
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010002
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence

Bldg. 5
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010003
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence

Bldg. 4
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010004
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence

Bldg. 3
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010005
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame

Bldg. 2
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010006
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence

Bldg. 1
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010007
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence

Michigan

Bldg. 00001
Sheridan Hall USARC
501 Euclid Avenue
Helena Co: Lewis & Clark MI 59601–2865
Landholding Agency: Army
Property Number: 21200510066
Status: Unutilized
Comment: 19,321 sq. ft., most recent use—reserve center

Minnesota

MG Clement Trott Mem. USARC
Walker Co: Cass MN 56484–
Landholding Agency: GSA
Property Number: 54199930003
Status: Excess
Comment: 4320 sq. ft. training center and 1316 sq. ft. vehicle maintenance shop, presence of environmental conditions
GSA Number: 1–D–MN–575

Missouri

Hardesty Federal Complex
607 Hardesty Avenue
Kansas City Co: Jackson MO 64124–3032
Landholding Agency: GSA
Property Number: 54199940001
Status: Excess
Comment: 7 warehouses and support buildings (540 to 216,000 sq. ft.) on 17.47 acres, major rehab, most recent use—storage/office, utilities easement
GSA Number: 7–G–MO–637

New Jersey

Parcels 3, 4, 5
Former Coast Guard Station
Beach Haven Co: Ocean NJ 08008–
Landholding Agency: GSA
Property Number: 54200420005
Status: Excess
Comment: 11,644 sq. ft. bldg. w/1.4 acres, within floodplain, environmental considerations, legal restrictions, storage tank
GSA Number: 1–U–NJ–499B

New York

Social Sec. Admin. Bldg.
517 N. Barry St.
Olean NY 10278–0004
Landholding Agency: GSA
Property Number: 54200230009
Status: Excess
Comment: 9174 sq. ft., poor condition, most recent use—office
GSA Number: 1–G–NY–0895

Hancock Army Complex
Track 4
Stewart Drive West
Cicero Co: Onondaga NY 13039–
Landholding Agency: GSA
Property Number: 54200310013
Status: Excess
Comment: 3 bunker-style structures and several small outbuildings, presence of asbestos, possible lead paint, most recent use—admin/training/storage
GSA Number: 1–D–NY–803

Ohio

Bldg.—Berlin Lake
7400 Bedell Road
Berlin Center Co: Mahoning OH 44401–9797

Landholding Agency: COE
Property Number: 31199640001
Status: Unutilized
Comment: 1420 sq. ft., 2-story brick w/garage and basement, most recent use—residential, secured w/alternate access

Pennsylvania

Tract 403A
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 31199430021
Status: Unutilized
Comment: 620 sq. ft., 2-story, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site

Tract 403B
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 31199430022
Status: Unutilized
Comment: 1600 sq. ft., 2-story, brick structure, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site

Tract 403C
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 31199430023
Status: Unutilized
Comment: 672 sq. ft., 2-story carriage house/stable barn type structure, needs repair, most recent use—storage/garage, if used for habitation must be flood proofed or removed

Tennessee

3 Facilities, Guard Posts
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930011
Status: Surplus
Comment: 48–64 sq. ft., most recent use—access control, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

Federal Building
204 North Second Street
Clarksville Co: Montgomery TN 37040–
Landholding Agency: GSA
Property Number: 54200430003
Status: Excess
Comment: 13429 gross sq. ft., presence of asbestos, possible lead paint, most recent use—office, historic preservation covenants
GSA Number: 4–G–TN–0654

West Virginia

Social Security Bldg.
50 16th Street
Wheeling Co: Ohio WV 25301–
Landholding Agency: GSA
Property Number: 54200430019
Status: Excess
Comment: 4975 sq. ft., presence of asbestos, most recent use—office
GSA Number: 4–G–WV–0549

*Land (by State)*

Illinois

Lake Shelbyville
Shelbyville Co: Shelby & Moultrie IL 62565–9804
Landholding Agency: COE
Property Number: 31199240004
Status: Unutilized
Comment: 5 parcels of land equalling 0.70 acres, improved w/4 small equipment storage bldgs. and a small access road, easement restrictions

Michigan

IOM Site
Chesterfield Road
Chesterfield Co: Macomb MI–
Landholding Agency: GSA
Property Number: 54200340008
Status: Excess
Comment: Approx. 17.4 acres w/concrete block bldg. in poor condition, most recent use—radio antenna field, narrow right-of-way
GSA Number: 1–D–MI–0603F

Pennsylvania

East Branch Clarion River Lake
Wilcox Co: Elk PA
Location: Free camping area on the right bank off entrance roadway
Landholding Agency: COE
Property Number: 31199011012
Status: Underutilized
Comment: 1 acre; most recent use—free campground

Dashields Locks and Dam (Glenwillard, PA)
Crescent Twp. Co: Allegheny PA 15046–0475
Landholding Agency: COE
Property Number: 31199210009
Status: Unutilized
Comment: 0.58 acres, most recent use—baseball field

**Suitable/To Be Excessed**

*Land (by State)*

Georgia

Lake Sidney Lanier
Co: Forsyth GA 30130–
Location: Located on Two Mile Creek adj. to State Route 369
Landholding Agency: COE
Property Number: 31199440010
Status: Unutilized
Comment: 0.25 acres, endangered plant species

Lake Sidney Lanier—3 parcels
Gainesville Co: Hall GA 30503–
Location: Between Gainesville H.S. and State Route 53 By-Pass
Landholding Agency: COE
Property Number: 31199440011
Status: Unutilized
Comment: 3 parcels totalling 5.17 acres, most recent use—buffer zone, endangered plant species

Kansas

Parcel #1
Fall River Lake
Section 26
Co: Greenwood KS
Landholding Agency: COE
Property Number: 31199010065
Status: Unutilized
Comment: 126.69 acres; most recent use—recreation and leased cottage sites.

Parcel No. 2, El Dorado Lake
Approx. 1 mi east of the town of El Dorado
Co: Butler KS
Landholding Agency: COE
Property Number: 31199210005
Status: Unutilized
Comment: 11 acres, part of a relocated railroad bed, rural area

Massachusetts

Buffumville Dam
Flood Control Project
Gale Road
Carlton Co: Worcester MA 01540–0155
Location: Portion of tracts B–200, B–248, B–251, B–204, B–247, B–200 and B–256
Landholding Agency: COE
Property Number: 31199010016
Status: Excess
Comment: 1.45 acres

Tennessee

Tract D–456
Cheatham Lock and Dam
Ashland Co: Cheatham TN 37015–
Location: Right downstream bank of Sycamore Creek
Landholding Agency: COE
Property Number: 31199010942
Status: Excess
Comment: 8.93 acres; subject to existing easements

Texas

Corpus Christi Ship Channel
Corpus Christi Co: Neuces TX
Location: East side of Carbon Plant Road, approx. 14 miles NW of downtown Corpus Christi
Landholding Agency: COE
Property Number: 31199240001
Status: Unutilized
Comment: 4.4 acres, most recent use—farm land

**Unsuitable Properties**

*Buildings (by State)*

Arkansas

Dwelling
Bull Shoals Lake/Dry Run Road
Oakland Co: Marion AR 72661–
Landholding Agency: COE
Property Number: 31199820001
Status: Unutilized
Reason: Extensive deterioration

Helena Casting Plant
Helena Co: Phillips AR 72342–
Landholding Agency: COE
Property Number: 31200220001
Status: Unutilized
Reason: Extensive deterioration

California

Bldg. 00635
Parks Reserve Forces
Training Area
Dublin Co: Alameda CA 94568–
Landholding Agency: Army
Property Number: 21200510071
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00796

Parks Reserve Forces
Training Area
Dublin Co: Alameda CA 94568–
Landholding Agency: Army
Property Number: 21200510072
Status: Unutilized
Reason: Extensive deterioration

Soil & Materials Testing Lab
Sausalito CA 00000–
Landholding Agency: COE
Property Number: 31199920002
Status: Excess
Reason: Contamination

Bldgs. M03, MO14, MO17
Sandia National Lab
Livermore Co: Alameda CA 94550–
Landholding Agency: Energy
Property Number: 41200220001
Status: Excess
Reason: Extensive deterioration

Bldgs. 9163, 962, 9621
Sandia National Lab
Livermore Co: Alameda CA 94551–
Landholding Agency: Energy
Property Number: 41200420001
Status: Unutilized
Reason: Secured Area

Bldg. 29D
Berkeley National Lab
Berkeley Co: Alameda CA 94720–
Landholding Agency: Energy
Property Number: 41200430070
Status: Excess
Reason: Extensive deterioration

Mobile Home/T00706
Yosemite Natl Park
5001 Trailer Court
El Portal Co: Mariposa CA 95318–
Landholding Agency: Interior
Property Number: 61200340009
Status: Unutilized
Reason: Extensive deterioration

133/215 Conlon
Golden Gate Natl Rec Area
Mill Valley Co: Marin CA 94941–
Landholding Agency: Interior
Property Number: 61200340011
Status: Unutilized
Reason: Extensive deterioration

Bldg. 3410
Yosemite National Park
Vogelsang
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200420008
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 06240 thru 06245
Yosemite National Park
Tamarack Flat
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200420009
Status: Unutilized
Reason: Extensive deterioration

Bldg./Lodge
Yosemite National Park
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200420011
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 412–414
Yosemite National Park
Lower Pines
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200430001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 416
Yosemite National Park
Lower Pines
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200430002
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 421–424
Yosemite National Park
Upper River
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200430003
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 428–432
Yosemite National Park
Lower River
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200430004
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 451, 452
Yosemite National Park
Group Campgrounds
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200430005
Status: Unutilized
Reason: Extensive deterioration

Bldg. 438
Golden Gate Natl Rec
Camino Del Canyon
Mill Valley Co: Marin CA 94941–
Landholding Agency: Interior
Property Number: 61200430012
Status: Unutilized
Reason: Extensive deterioration

Bldg. 490
Golden Gate Natl Rec
Camino Del Canyon
Mill Valley Co: Marin CA 94941–
Landholding Agency: Interior
Property Number: 61200430013
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 666A, 666B
Golden Gate Natl Rec
Camino Del Canyon
Mill Valley Co: Marin CA 94941–
Landholding Agency: Interior
Property Number: 61200430014
Status: Unutilized
Reason: Extensive deterioration

Bldg. 690
Golden Gate Natl Rec
Camino Del Canyon
Mill Valley Co: Marin CA 94941–
Landholding Agency: Interior
Property Number: 61200430015
Status: Unutilized
Reason: Extensive deterioration

Tract 113–65
Santa Monica Mountains
National Recreation
Malibu Co: Los Angeles CA 90265–
Landholding Agency: Interior
Property Number: 61200430018
Status: Unutilized
Reason: Extensive deterioration

Bldg. YLS–001
Yosemite National Park
Yosemite Lodge
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430026
Status: Unutilized
Reason: Extensive deterioration

Bldg. YLS–004
Yosemite National Park
Yosemite Lodge
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430027
Status: Unutilized
Reason: Extensive deterioration

Bldg. YLE069
Yosemite National Park
Yosemite Lodge
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430028
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1000 A & B
Yosemite National Park
Yosemite Lodge
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430029
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 1000C, 1000D
Yosemite National Park
Yosemite Lodge
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430030
Status: Unutilized
Reason: Extensive deterioration

Post Office
Yosemite National Park
Yosemite Lodge
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430031
Status: Unutilized
Reason: Extensive deterioration

Boiler Room
Yosemite National Park
Yosemite Lodge
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430032
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4177
Yosemite National Park
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430036
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4153
Yosemite National Park
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430037
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4205
Yosemite National Park
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430038
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4730
Yosemite National Park
Mariposa Co: CA 95389–
Landholding Agency: Interior
Property Number: 61200430039
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 4176, 4183
Yosemite National Park
Wawona Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61200430040
Status: Unutilized
Reason: Extensive deterioration

Randa House
National Recreation Area
Agoura Hills Co: Los Angeles CA 91301–
Landholding Agency: Interior
Property Number: 61200510003
Status: Unutilized
Reason: Extensive deterioration

Bldg. 652
Naval Air Station
North Island Co: CA
Landholding Agency: Navy
Property Number: 77200430001
Status: Excess
Reason: Extensive deterioration

Bldg. 2486
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200430002
Status: Excess
Reason: Extensive deterioration

Bldg. 13140
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200430003
Status: Excess
Reason: Extensive deterioration

Bldgs. 22141, 22142
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200430004
Status: Excess
Reason: Extensive deterioration

Bldg. 25170
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200430005
Status: Excess
Reason: Extensive deterioration

Bldgs. 31340, 31341
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200430006
Status: Excess
Reason: Extensive deterioration

Bldg. 52652
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200430007
Status: Excess
Reason: Extensive deterioration

Bldg. 2
Naval Base
Point Loma Co: CA
Landholding Agency: Navy
Property Number: 77200430054
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

4 Bldgs.
Naval Base
Port Hueneme Co: Ventura CA 93043–
Location: PH–1413, PH–1254, PH–1323, PH–1162
Landholding Agency: Navy
Property Number: 77200430055
Status: Unutilized
Reason: Secured Area

Bldg. 03890
Naval Air Weapons Station
China Lake Co: CA 93555–
Landholding Agency: Navy
Property Number: 77200430056
Status: Excess
Reason: Extensive deterioration

Bldg. 440
Naval Base Point Loma
Fleet Warfare Center
San Diego Co: CA
Landholding Agency: Navy
Property Number: 77200440002
Status: Excess
Reason: Extensive deterioration

Bldgs. 20, 25
Naval Base Point Loma
San Diego Co: CA
Landholding Agency: Navy
Property Number: 77200440016
Status: Unutilized
Reason: Extensive deterioration

Colorado

Bldg. 34
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199540001
Status: Underutilized
Reasons: Contamination, Secured Area

Bldg. 35
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199540002
Status: Underutilized
Reasons: Contamination, Secured Area

Bldg. 36
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199540003
Status: Underutilized
Reasons: Contamination, Secured Area

Bldg. 727
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 717
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930022
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 770
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930023
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 771
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930024
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 771B
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930025
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 771C
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930026
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 774
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930029
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 776
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200010001
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 777
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200010002
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 778
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200010003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Structure 771 TUN
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–

Landholding Agency: Energy
Property Number: 41200010006
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 124, 129
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200220002
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 371, 374, 374A
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200220003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 561, 562
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200220007
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 701, 705–708
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200220011
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 714, 715, 718
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200220012
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 731, 732
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200220013
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 881, 881F, 881H
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200220018
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 883–885, 887
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200220019
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 891
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200220020
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 120, 120B
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340004
Status: Excess
Reason: Secured Area

Bldgs. 121, 122, 122S
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340005
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 223
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340008
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 331, 331A
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340010
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 444, 445
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340013
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 447, 448
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340014
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 460
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340016
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 920, 920B
Rocky Flats Env Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200340019
Status: Excess
Reason: Secured Area

Loveland Substation
Loveland Co: Larimer CO 80537–
Landholding Agency: GSA
Property Number: 54200440007
Status: Surplus
Reason: Secured Area
GSA Number: 7–B–CO–0654

Pueblo Substation
Pueblo Co: CO 81006–
Landholding Agency: GSA
Property Number: 54200440008
Status: Underutilized
Reason: Secured Area
GSA Number: 7–B–CO–0653

Connecticut

Hezekiah S. Ramsdell Farm
West Thompson Lake
North Grosvenordale Co: Windham CT 06255–9801
Landholding Agency: COE
Property Number: 31199740001
Status: Unutilized
Reasons: Floodway, Extensive deterioration

Bldgs. 25 and 26
Prospect Hill Road
Windsor Co: Hartford CT 06095–
Landholding Agency: Energy
Property Number: 41199440003
Status: Excess
Reason: Secured Area

9 Bldgs.
Knolls Atomic Power Lab, Windsor Site
Windsor Co: Hartford CT 06095–
Landholding Agency: Energy
Property Number: 41199540004
Status: Excess
Reason: Secured Area

Bldg. 8, Windsor Site
Knolls Atomic Power Lab
Windsor Co: Hartford CT 06095–
Landholding Agency: Energy
Property Number: 41199830006
Status: Unutilized
Reason: Extensive deterioration

Florida

Bldg. SF–15
Sub-Office Operations
Clewiston Co: Hendry FL 33440–
Landholding Agency: COE
Property Number: 31200430003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. SF–16
Sub-Office Operations
Clewiston Co: Hendry FL 33440–
Landholding Agency: COE
Property Number: 31200430004
Status: Unutilized
Reason: Secured Area

Bldg. SF–17
Sub-Office Operations
Clewiston Co: Hendry FL 33440–
Landholding Agency: COE
Property Number: 31200430005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 1559, 1963
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200430008
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Georgia

Prop. ID HAR18015
Hartwell Project
Hartwell GA 30643–
Landholding Agency: COE

Property Number: 31200310001
Status: Unutilized
Reason: Extensive deterioration

Prop. ID RBR17830
Russell Dam Dr.
Elberton GA 30635–
Landholding Agency: COE
Property Number: 31200310002
Status: Unutilized
Reason: Secured Area

Prop. ID RBR17832
Russell Dam Drive
Elberton GA 30635–
Landholding Agency: COE
Property Number: 31200310003
Status: Unutilized
Reason: Secured Area

Bldg. #WRSH18
West Point Lake
West Point Co: GA 31833–
Landholding Agency: COE
Property Number: 31200430006
Status: Unutilized
Reason: Secured Area

Bldg. W03
West Point Lake
West Point Co: GA 31833–
Landholding Agency: COE
Property Number: 31200430007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Gatehouse #W03
West Point Lake
West Point Co: GA 31833–9517
Landholding Agency: COE
Property Number: 31200510001
Status: Unutilized
Reason: Extensive deterioration

WRSH14, WRSH15, WRSH18
West Point Lake
West Point Co: GA 31833–9517
Landholding Agency: COE
Property Number: 31200510002
Status: Unutilized
Reason: Extensive deterioration

Quarters #7
Chattahoochee River Natl Rec Area
Atlanta Co: Cobb GA 30350–
Landholding Agency: Interior
Property Number: 61200510001
Status: Unutilized
Reason: Extensive deterioration

Guam

Bldg. 262
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410027
Status: Excess
Reason: Extensive deterioration

Bldg. 369A
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410028
Status: Excess
Reason: Extensive deterioration

Bldg. 739
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410029
Status: Excess
Reason: Extensive deterioration

Bldg. 741
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410030
Status: Excess
Reason: Extensive deterioration

Bldg. 865
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410031
Status: Excess
Reason: Extensive deterioration

Bldg. 3011
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410032
Status: Excess
Reason: Extensive deterioration

Bldg. 464
Naval Forces
Marianas Co: Waterfront GU
Landholding Agency: Navy
Property Number: 77200410041
Status: Excess
Reason: Extensive deterioration

Bldgs. 122, 171, 198
U.S. Naval Forces
Dededo Co: GU 96540–
Landholding Agency: Navy
Property Number: 77200510001
Status: Unutilized
Reason: Secured Area

Bldg. 224B
U.S. Naval Forces
Dededo Co: GU 96540–
Landholding Agency: Navy
Property Number: 77200510002
Status: Unutilized
Reason: Secured Area

Bldgs. 286, 295
U.S. Naval Forces
Dededo Co: GU 96540–
Landholding Agency: Navy
Property Number: 77200510003
Status: Unutilized
Reason: Secured Area

Bldgs. 304, 322, 387
U.S. Naval Forces
Dededo Co: GU 96540–
Landholding Agency: Navy
Property Number: 77200510004
Status: Unutilized
Reason: Secured Area

Bldgs. 451, 454
U.S. Naval Forces
Dededo Co: GU 96540–
Landholding Agency: Navy
Property Number: 77200510005
Status: Unutilized
Reason: Secured Area

Bldg. 467
U.S. Naval Forces
Dededo Co: GU 96540–
Landholding Agency: Navy
Property Number: 77200510006
Status: Unutilized
Reason: Secured Area

Bldgs. 488, 489
U.S. Naval Forces
Dededo Co: GU 96540–
Landholding Agency: Navy
Property Number: 77200510007
Status: Unutilized
Reason: Secured Area

Hawaii

Bldg. 621
Naval Station, Pearl Harbor
Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77200310001
Status: Excess
Reason: Extensive deterioration

Bldg. 517
Naval Station
Beckoning Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77200430010
Status: Excess
Reason: Extensive deterioration

Bldg. 79
Naval Station
Ford Island Co: Pearl Harbor HI 96860–
Landholding Agency: Navy
Property Number: 77200430029
Status: Underutilized
Reason: Secured Area

Bldg. 62NS
Naval Station
Beckoning Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77200440003
Status: Unutilized
Reason: Secured Area

Bldg. 63NS
Naval Station
Beckoning Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77200440004
Status: Unutilized
Reason: Secured Area

Idaho

Bldg. AFD0070
Albeni Falls Dam
Oldtown Co: Bonner ID 83822–
Landholding Agency: COE
Property Number: 31199910001
Status: Unutilized
Reason: Extensive deterioration

Bldg. CPP–691
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610003
Status: Unutilized
Reason: Secured Area

Bldg. TAN–636
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610008
Status: Unutilized
Reason: Secured Area

Bldg. TAN–670
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610010
Status: Unutilized

Reason: Secured Area

Bldg. TRA–669
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610013
Status: Unutilized
Reason: Secured Area

Bldg. TAN–637
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610014
Status: Unutilized
Reason: Secured Area

Bldg. TAN–651
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610017
Status: Unutilized
Reason: Secured Area

Bldg. TRA–673
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610018
Status: Unutilized
Reason: Secured Area

Bldg. PBF–620
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610019
Status: Unutilized
Reason: Secured Area

Bldg. PBF–619
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610022
Status: Unutilized
Reason: Secured Area

Bldg. PBF–625
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610024
Status: Unutilized
Reason: Secured Area

Bldg. PBF–629
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610025
Status: Unutilized
Reason: Secured Area

Bldg. PBF–604
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610026
Status: Unutilized
Reason: Secured Area

Bldg. TRA–641
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610034
Status: Unutilized
Reason: Secured Area

Bldg. CF–606
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610037
Status: Unutilized
Reason: Secured Area

8 Bldgs.
Idaho Natl Engineering & Environmental Lab
Test Reactor North
Scoville Co: Butte ID 83415–
Location: TRA 643, 644, 655, 660, 704–706, 755
Landholding Agency: Energy
Property Number: 41199830003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. CPDTB1
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410009
Status: Excess
Reason: Secured Area

Bldg. CPP620A
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410012
Status: Excess
Reason: Secured Area

Bldg. CPP637/620
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410013
Status: Excess
Reason: Secured Area

Bldgs. CPP638, CPP642
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410014
Status: Excess
Reason: Secured Area

Bldg. CPP 743
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410020
Status: Excess
Reason: Secured Area

Bldgs. CPP1647, 1653
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410022
Status: Excess
Reason: Secured Area

Bldg. CPP1677
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410023
Status: Excess
Reason: Secured Area

Bldgs. TAN640, TAN641
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410024
Status: Excess
Reason: Secured Area

Bldgs. TAN645, TAN646
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410026
Status: Excess
Reason: Secured Area

Bldg. TAN731
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410028
Status: Excess
Reason: Secured Area

Bldg. Tan 624
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410031
Status: Excess
Reason: Secured Area

Bldgs. Tan 630, Tan 633
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410032
Status: Excess
Reason: Secured Area

Bldgs. Tan 649, Tan 650
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410033
Status: Excess
Reason: Secured Area

Bldg. 694
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410034
Status: Excess
Reason: Secured Area

Bldg. Tan 719
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410035
Status: Excess
Reason: Secured Area

Bldgs. Tan 725, Tan 726
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200410036
Status: Excess
Reason: Secured Area

Bldg.TRA 647
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200420006
Status: Excess
Reason: Secured Area

Bldgs. TRA651, TRA656
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200420007
Status: Excess
Reason: Secured Area

Bldg. TRA 663
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200420008
Status: Excess
Reason: Secured Area

Bldg. TRA 779
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200420009
Status: Excess
Reason: Secured Area

Bldg. PBF 731
Idaho Natl Eng & Env Laboratory
Scovile Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200420023
Status: Excess
Reason: Secured Area

Bldgs. CPP1604–CPP1608
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200430071
Status: Excess
Reason: Secured Area

Bldgs. CPP1617–CPP1619
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200430072
Status: Excess
Reason: Secured Area

6 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP1631, CPP1634, CPP1635, CPP1636, CPP1637, CPP1638
Landholding Agency: Energy
Property Number: 41200430073
Status: Excess
Reason: Secured Area

5 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP1642, CPP1643, CPP1644, CPP1646, CPP1649
Landholding Agency: Energy
Property Number: 41200430074
Status: Excess
Reason: Secured Area

3 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP1650, CPP1651, CPP1656
Landholding Agency: Energy
Property Number: 41200430075
Status: Excess
Reason: Secured Area

5 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP1662, CPP1663, CPP1671, CPP1673, CPP1674
Landholding Agency: Energy
Property Number: 41200430076
Status: Excess
Reason: Secured Area

5 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP1678, CPP1682, CPP1683, CPP1684, CPP1686
Landholding Agency: Energy
Property Number: 41200430077
Status: Excess
Reason: Secured Area

5 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP1713, CPP1749, CPP1750, CPP1767, CPP1769
Landholding Agency: Energy
Property Number: 41200430078
Status: Excess
Reason: Secured Area

5 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP1770, CPP1771, CPP1772, CPP1774, CPP1776
Landholding Agency: Energy
Property Number: 41200430079
Status: Excess
Reason: Secured Area

4 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP1778, CPP1779, CPP1780, CPP1784
Landholding Agency: Energy
Property Number: 41200430080
Status: Excess
Reason: Secured Area

4 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP1789, CPP1790, CPP1792, CPP1794
Landholding Agency: Energy
Property Number: 41200430081
Status: Excess
Reason: Secured Area

Bldgs. CPP2701, CPP2706
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200430082
Status: Excess
Reason: Secured Area

3 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: TRA603, TRA604, TRA610
Landholding Agency: Energy
Property Number: 41200430089
Status: Excess
Reason: Secured Area

Bldg. TAN611
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200430090
Status: Excess
Reason: Secured Area

5 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: TRA626, TRA635, TRA642, TRA648, TRA654
Landholding Agency: Energy
Property Number: 41200430091
Status: Excess
Reason: Secured Area

Bldg. TAN655
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200430092
Status: Excess
Reason: Secured Area

3 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: TRA657, TRA661, TRA668
Landholding Agency: Energy
Property Number: 41200430093
Status: Excess
Reason: Secured Area

Bldg. TAN711
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200430094
Status: Excess
Reason: Secured Area

6 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP602–CPP606, CPP609
Landholding Agency: Energy
Property Number: 41200430095
Status: Excess
Reason: Secured Area

5 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP611–CPP614, CPP616
Landholding Agency: Energy
Property Number: 41200430096
Status: Excess
Reason: Secured Area

4 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP621, CPP626, CPP630, CPP639
Landholding Agency: Energy
Property Number: 41200430097
Status: Excess
Reason: Secured Area

4 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP641, CPP644, CPP645, CPP649
Landholding Agency: Energy
Property Number: 41200430098
Status: Excess
Reason: Secured Area

Bldgs. CPP651–CPP655
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200430099
Status: Excess
Reason: Secured Area

Bldgs. CPP659–CPP663
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440001
Status: Excess
Reason: Secured Area

Bldgs. CPP666, CPP668
Idaho Naitonal Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440002
Status: Excess
Reason: Secured Area

3 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP674, CPP675, CPP679
Landholding Agency: Energy
Property Number: 41200440003
Status: Excess
Reason: Secured Area

1 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP684
Landholding Agency: Energy
Property Number: 41200440004
Status: Excess
Reason: Secured Area

5 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP692, CPP694, CPP697–CPP699
Landholding Agency: Energy
Property Number: 41200440005
Status: Excess
Reason: Secured Area

3 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP701, CPP701A, CPP708
Landholding Agency: Energy
Property Number: 41200440006
Status: Excess
Reason: Secured Area

Bldgs. 711, 719A
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440007
Status: Excess
Reason: Secured Area

4 Bldgs.
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Location: CPP724–CPP726, CPP728
Landholding Agency: Energy
Property Number: 41200440008
Status: Excess
Reason: Secured Area

Bldg. CPP729/741
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440012
Status: Excess
Reason: Secured Area

Bldgs. CPP733, CPP736
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440013
Status: Excess
Reason: Secured Area

Bldgs. CPP740, CPP742
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440014
Status: Excess
Reason: Secured Area

Bldgs. CPP746, CPP748
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440015
Status: Excess
Reason: Secured Area

3 Bldgs.
Idaho National Eng & Env Lab
CPP750, CPP751, CPP752
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440016
Status: Excess
Reason: Secured Area

3 Bldgs.
Idaho National Eng & Env Lab
CPP753, CPP753A, CPP754
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440017
Status: Excess
Reason: Secured Area

Bldgs. CPP760, CPP763
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440018
Status: Excess
Reason: Secured Area

Bldgs. CPP764, CPP765
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440019
Status: Excess
Reason: Secured Area

Bldgs. CPP767, CPP768
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440020
Status: Excess
Reason: Secured Area

Bldgs. CPP791, CPP795
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440021
Status: Excess
Reason: Secured Area

3 Bldgs.
Idaho National Eng & Env Lab
CPP796, CPP797, CPP799
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440022
Status: Excess
Reason: Secured Area

Bldgs. CPP701B, CPP719
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440023
Status: Excess
Reason: Secured Area

Bldgs. CPP720A, CPP720B
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440024
Status: Excess
Reason: Secured Area

Bldg. CPP1781
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440025
Status: Excess
Reason: Secured Area

2 Bldgs.
Idaho National Eng & Env Lab
CPP0000VES–UTI–111, VES–UTI–112
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440026
Status: Excess
Reason: Secured Area

3 Bldgs.
Idaho National Eng & Env Lab
TAN607, TAN666, TAN668
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440027
Status: Excess
Reason: Secured Area

Bldgs. TAN704, TAN733
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440028
Status: Excess
Reason: Secured Area

Bldgs. TAN1611, TAN1614
Idaho National Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440029
Status: Excess
Reason: Secured Area

Bldgs. CF604, CF680
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200440034
Status: Excess
Reason: Secured Area

Bldg. 0708
Middleton Co: Canyon ID 83644–
Landholding Agency: Interior
Property Number: 61200420005
Status: Unutilized
Reason: Extensive deterioration

Bldg. 0709
Middleton Co: Canyon ID 83644–
Landholding Agency: Interior
Property Number: 61200420006
Status: Unutilized
Reason: Extensive deterioration

Bldg. 0717
Fruitland Co: Payette ID 83619–
Landholding Agency: Interior
Property Number: 61200420007
Status: Unutilized
Reason: Extensive deterioration

Illinois

Bldgs. 3220, 3221
Naval Station
Great Lakes Co: IL 60088–
Landholding Agency: Navy
Property Number: 77200440008
Status: Excess
Reason: Extensive deterioration

Bldgs. 3311, 3312
Naval Station
Great Lakes Co: IL 60088–
Landholding Agency: Navy
Property Number: 77200510008
Status: Excess
Reason: Extensive deterioration

Indiana

Bldg. 2780
Naval Support Activity
Crane Co: Martin IN 47522–
Landholding Agency: Navy
Property Number: 77200430015
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 2893

Naval Support Activity
Crane Co: Martin IN 47522–
Landholding Agency: Navy
Property Number: 77200430016
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldgs. 113, 114
Naval Support Activity
Crane Co: Martin IN 47522–
Landholding Agency: Navy
Property Number: 77200430017
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 181
Naval Support Activity
Crane Co: Martin IN 47522–
Landholding Agency: Navy
Property Number: 77200430018
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 2109
Naval Support Activity
Crane Co: Martin IN 47522–
Landholding Agency: Navy
Property Number: 77200430019
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 2777
Naval Support Activity
Crane Co: Martin IN 47522–
Landholding Agency: Navy
Property Number: 77200430020
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 2889
Naval Support Activity
Crane Co: Martin IN 47522–
Landholding Agency: Navy
Property Number: 77200430021
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 2926
Naval Support Activity
Crane Co: Martin IN 47522–
Landholding Agency: Navy
Property Number: 77200430022
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 3207
Naval Support Activity
Crane Co: Martin IN 47522–
Landholding Agency: Navy
Property Number: 77200430023
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Iowa

Treatment Plant
South Fork Park
Mystic Co: Appanoose IA 52574–
Landholding Agency: COE
Property Number: 31200220002
Status: Excess
Reason: Extensive deterioration

Storage Bldg.
Rathbun Project
Moravia Co: Appanoose IA 52571–
Landholding Agency: COE
Property Number: 31200330001
Status: Excess
Reason: Extensive deterioration

Bldg.
Island View Park
Rathbun Project
Centerville Co: Appanoose IA 52544–
Landholding Agency: COE
Property Number: 31200330002
Status: Excess
Reason: Extensive deterioration

Tract 137
Camp Dodge
Johnston Co: Polk IA 50131–1902
Landholding Agency: COE
Property Number: 31200410001
Status: Excess
Reason: Extensive deterioration

Rathbun 29369, 29368
Island View park
Centerville Co: Appanoose IA 52544–
Landing Agency: COE
Property Number: 31200510003
Status: Excess
Reason: Extensive deterioration

Kansas

No. 01017
Kanopolis Project
Marquette Co: Ellsworth KS 67456–
Landing Agency: COE
Property Number: 31200210001
Status: Unutilized
Reason: Extensive deterioration

No. 01020
Kanopolis Project
Marquette Co: Ellsworth KS 67456–
Landing Agency: COE
Property Number: 31200210002
Status: Unutilized
Reason: Extensive deterioration

No. 61001
Kanopolis Project
Marquette Co: Ellsworth KS 67456–
Landing Agency: COE
Property Number: 31200210003
Status: Unutilized
Reason: Extensive deterioration

Bldg. #1
Kanopolis Project
Marquette Co: Ellsworth KS 67456–
Landing Agency: COE
Property Number: 31200220003
Status: Excess
Reason: Extensive deterioration

Bldg. #2
Kanopolis Project
Marquette Co: Ellsworth KS 67456–
Landing Agency: COE
Property Number: 31200220004
Status: Excess
Reason: Extensive deterioration

Bldg. #4
Kanopolis Project
Marquette Co: Ellsworth KS 67456–
Landing Agency: COE
Property Number: 31200220005
Status: Excess
Reason: Extensive deterioration

Comfort Station
Clinton Lake Project
Lawrence Co: Douglas KS 66049–
Landing Agency: COE
Property Number: 31200220006
Status: Excess
Reason: Extensive deterioration

Privie
Perry Lake
Perry Co: Jefferson KS 66074–
Landing Agency: COE
Property Number: 31200310004
Status: Unutilized
Reason: Extensive deterioration

Shower
Perry Lake
Perry Co: Jefferson KS 66073–
Landholding Agency: COE
Property Number: 31200310005
Status: Unutilized
Reason: Extensive deterioration

Tool Shed
Perry Lake
Perry Co: Jefferson KS 66073–
Landholding Agency: COE
Property Number: 31200310006
Status: Unutilized
Reason: Extensive deterioration

Bldg. M37
Minooka Park
Sylvan Grove Co: Russell KS 67481–
Landholding Agency: COE
Property Number: 31200320002
Status: Excess
Reason: Extensive deterioration

Bldg. M38
Minooka Park
Sylvan Grove Co: Russell KS 67481–
Landholding Agency: COE
Property Number: 31200320003
Status: Excess
Reason: Extensive deterioration

Bldg. L19
Lucas Park
Sylvan Grove Co: Russell KS 67481–
Landholding Agency: COE
Property Number: 31200320004
Status: Unutilized
Reason: Extensive deterioration

2 Bldgs.
Tuttle Creek Lake
Near Shelters #3 & #4
Riley KS 66502–
Landholding Agency: COE
Property Number: 31200330003
Status: Excess
Reason: Extensive deterioration

6 Bldgs.
Cottonwood Point/Hillsboro Cove
Marion Co: Coffey KS 66861–
Landholding Agency: COE
Property Number: 31200340001
Status: Excess
Reason: Extensive deterioration

20 Bldgs.
Riverside
Burlington Co: Coffey KS 66839–8911
Landholding Agency: COE
Property Number: 31200340002
Status: Excess

Reason: Extensive deterioration

2 Bldgs.
Canning Creek/Richey Cove
Council Grove Co: Morris KS 66846–9322
Landholding Agency: COE
Property Number: 31200340003
Status: Excess
Reason: Extensive deterioration

6 Bldgs.
Santa Fe Trail/Outlet Channel
Council Grove Co: Morris KS 66846–
Landholding Agency: COE
Property Number: 31200340004
Status: Excess
Reason: Extensive deterioration

Residence
Melvern Lake Project
Melvern Co: Osage KS 66510–
Landholding Agency: COE
Property Number: 31200340005
Status: Excess
Reason: Extensive deterioration

2 Bldgs.
Management Park
Vassar KS 66543–
Landholding Agency: COE
Property Number: 31200340006
Status: Excess
Reason: Extensive deterioration

Bldg.
Hickory Campground
Lawrence KS 66049–
Landholding Agency: COE
Property Number: 31200340007
Status: Excess
Reason: Extensive deterioration

Bldg.
Rockhaven Park Area
Lawrence KS 66049–
Landholding Agency: COE
Property Number: 31200340008
Status: Excess
Reason: Extensive deterioration

Bldg.
Overlook Park Area
Lawrence KS 66049–
Landholding Agency: COE
Property Number: 31200340009
Status: Excess
Reason: Extensive deterioration

Bldg.
Walnut Campground
Lawrence KS 66049–
Landholding Agency: COE
Property Number: 31200340010
Status: Excess
Reason: Extensive deterioration

Bldg.
Cedar Ridge Campground
Lawrence KS 66049–
Landholding Agency: COE
Property Number: 31200340011
Status: Excess
Reason: Extensive deterioration

Bldg.
Woodridge Park Area
Lawrence KS 66049–
Landholding Agency: COE
Property Number: 31200340012
Status: Excess
Reason: Extensive deterioration

8 Bldgs.
Tuttle Cove Park
Manhattan Co: Riley KS 66502–
Landholding Agency: COE
Property Number: 31200410002
Status: Unutilized
Reason: Extensive deterioration

2 Bldgs.
Old Garrison Campground
Pottawatomie KS
Landholding Agency: COE
Property Number: 31200410003
Status: Unutilized
Reason: Extensive deterioration

2 Bldgs.
School Creek ORV Area
Junction City KS 66441–
Landholding Agency: COE
Property Number: 31200410004
Status: Excess
Reason: Extensive deterioration

Bldg.
Slough Creek Park
Perry Co: Jefferson KS 66073–
Landholding Agency: COE
Property Number: 31200410005
Status: Excess
Reason: Extensive deterioration

Bldg.
Spillway Boat Ramp
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200430008
Status: Excess
Reason: Extensive deterioration

Bldg.
Minooka Park Area
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200430009
Status: Excess
Reason: Extensive deterioration

Bldg.
Lucas Park Area
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200430010
Status: Excess
Reason: Extensive deterioration

Bldg.
Sylvan Park Area
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200430011
Status: Excess
Reason: Extensive deterioration

Bldg.
North Outlet Area
Junction City Co: KS 66441–
Landholding Agency: COE
Property Number: 31200430012
Status: Excess
Reason: Extensive deterioration

3 Vault Toilets
West Rolling Hills
Milford Lake
Junction City Co: KS 66441–
Landholding Agency: COE
Property Number: 31200440003
Status: Excess
Reason: Extensive deterioration

Vault Toilet
East Rolling Hills
Milford Lake
Junction City Co: KS 66441–
Landholding Agency: COE
Property Number: 31200440004
Status: Excess
Reason: Extensive deterioration

Bldgs. 25002, 35012
Lucas Park
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200510004
Status: Excess
Reason: Extensive deterioration

Bldgs. 25006, 25038
Lucas Group Camp
Sylvan Grove Co: KS 67481–
Landholding Agency: COE
Property Number: 31200510005
Status: Excess
Reason: Extensive deterioration

Kentucky

Spring House
Kentucky River Lock and Dam No. 1
Highway 320
Carrollton Co: Carroll KY 41008–
Landholding Agency: COE
Property Number: 21199040416
Status: Unutilized
Reason: Spring House

6-Room Dwelling
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 31199120010
Status: Unutilized
Reason: Floodway

2-Car Garage
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 31199120011
Status: Unutilized
Reason: Floodway

Office and Warehouse
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 31199120012
Status: Unutilized
Reason: Floodway

2 Pit Toilets
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Landholding Agency: COE
Property Number: 31199120013
Status: Unutilized
Reason: Floodway

Tract 1379
Barkley Lake & Dam
Eddyville Co: Lyon KY 42038–
Landholding Agency: COE
Property Number: 31200420001
Status: Unutilized
Reason: Landlocked

Tract 4300
Barkley Lake & Dam
Cadiz Co: Trigg KY 42211–
Landholding Agency: COE
Property Number: 31200420002
Status: Unutilized
Reason: Floodway

Tracts 317, 318, 319

Barkley Lake & Dam
Grand Rivers Co: Lyon KY 42045–
Landholding Agency: COE
Property Number: 31200420003
Status: Unutilized
Reason: Floodway

Comfort Station
Holmes Bend Access
Green River Lake
Adair Co: KY
Landholding Agency: COE
Property Number: 31200440005
Status: Excess
Reason: Extensive deterioration

Steel Structure
Mcalpine Locks & Dam
Louisville Co: KY 40212–
Landholding Agency: COE
Property Number: 31200440006
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Floodway

Comfort Station
Mcalpine Locks & Dam
Louisville Co: KY 40212–
Landholdingy Agency: COE
Property Number: 31200440007
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Floodway

Shelter
Mcalpine Locks & Dam
Louisville Co: KY 40212–
Landholding Agency: COE
Property Number: 31200440008
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Floodway

Parking Lot
Mcalpine Locks & Dam
Louisville Co: KY 40212–
Landholding Agency: COE
Property Number: 31200440009
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Floodway

Sewage Treatment Plant
Holmes Bend Recreation
Campbellsville Co: KY 42718–9805
Landholding Agency: COE
Property Number: 31200510006
Status: Unutilized
Reason: Extensive deterioration

Louisiana

Weeks Island Facility
New Iberia Co: Iberia Parish LA 70560–
Landholding Agency: Energy
Property Number: 41199610038
Status: Underutilized
Reason: Secured Area

Maine

Bldg. M–6
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240013
Status: Excess
Reason: Secured Area

Bldg. M–9
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240014
Status: Excess
Reason: Secured Area

Bldg. M–10
Portsmouth Naval Shipyard
Kittery Co: York ME 0390–4
Landholding Agency: Navy
Property Number: 77200240015
Status: Excess
Reason: Secured Area

Bldg. M–11
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240016
Status: Excess
Reason: Secured Area

Bldg. M–18
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240017
Status: Excess
Reason: Secured Area

Bldg. H–29
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240018
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 33
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240019
Status: Excess
Reason: Secured Area

Bldg. 34
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240020
Status: Excess
Reason: Secured Area

Bldg. 41
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240021
Status: Excess
Reason: Secured Area

Bldg. 55
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240022
Status: Excess
Reason: Secured Area

Bldg. 62/62A
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240023
Status: Excess
Reason: Secured Area

Bldg. 63
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240024
Status: Excess
Reason: Secured Area

Bldg. 65
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240025
Status: Excess
Reason: Secured Area

Bldg. 158
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240026
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 188
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240027
Status: Excess
Reason: Secured Area

Bldg. 189
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240028
Status: Excess
Reason: Secured Area

Bldg. 237
Portsmouth Naval Shipyard
Kittery Co: York ME 03904–
Landholding Agency: Navy
Property Number: 77200240029
Status: Excess
Reason: Secured Area

Bldg. 150
Portsmouth Naval Shipyard
Kittery Co: York ME
Landholding Agency: Navy
Property Number: 77200340040
Status: Excess
Reason: Extensive deterioration

Maryland

Bloody Pt Bar Lighthouse
Chesapeake Bay
Kent MD
Landholding Agency: GSA
Property Number: 54200330002
Status: Excess
Reason: Not accessible
GSA Number: 4–U–MD–0612

Tract 399–24
Appalachian Trail
Cascade Co: Washington MD 21719–
Landholding Agency: Interior
Property Number: 61200430019
Status: Unutilized
Reason: Extensive deterioration

Massachusetts

Jaquith House
National Seashore
Eastham Co: Barnstable MA–
Landholding Agency: Interior
Property Number: 61200430017
Status: Unutilized
Reason: Extensive deterioration

Michigan

Portion/Station Frankfort
100 Coast Guard Road
Frankfort Co: MI 49635–
Landholding Agency: GSA
Property Number: 54200440018

Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–U–MI–582A

Minnesota

Parcel B
Twin Cities Army Ammunition Plant
Arden Hills MN 55112–3938
Landholding Agency: GSA
Property Number: 54200240015
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–D–MN–0578B

Missouri

Rec Office
Harry S. Truman Dam & Reservoir
Osceola Co: St. Clair MO 64776–
Landholding Agency: COE
Property Number: 31200110001
Status: Unutilized
Reason: Extensive deterioration

Privy/Nemo Park
Pomme de Terre Lake
Hermitage MO 65668–
Landholding Agency: COE
Property Number: 31200120001
Status: Excess
Reason: Extensive deterioration

Privy No. 1/Bolivar Park
Pomme de Terre Lake
Hermitage MO 65668–
Landholding Agency: COE
Property Number: 31200120002
Status: Excess
Reason: Extensive deterioration

Privy No. 2/Bolivar Park
Pomme de Terre Lake
Hermitage MO 65668–
Landholding Agency: COE
Property Number: 31200120003
Status: Excess
Reason: Extensive deterioration

#07004, 60006, 60007
Crabtree Cove/Stockton Area
Stockton MO 65785–
Landholding Agency: COE
Property Number: 31200220007
Status: Excess
Reason: Extensive deterioration

Bldg.
Old Mill Park Area
Stockton MO 65785–
Landholding Agency: COE
Property Number: 31200310007
Status: Excess
Reason: Extensive deterioration

Stockton Lake Proj. Ofc.
Stockton Co: Cedar MO 65785–
Landholding Agency: COE
Property Number: 31200330004
Status: Unutilized
Reason: Extensive deterioration

House
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420005
Status: Unutilized
Reason: Extensive deterioration

30x36 Barn
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420006
Status: Unutilized
Reason: Extensive deterioration

30x26 Barn
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420007
Status: Unutilized
Reason: Extensive deterioration

30x10 Shed
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420008
Status: Unutilized
Reason: Extensive deterioration

30x26 Shed
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420009
Status: Unutilized
Reason: Extensive deterioration

9x9 Shed
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420010
Status: Unutilized
Reason: Extensive deterioration

Tract 1111
Thurnau Mitigation Site
Craig Co: Holt MO 64437–
Landholding Agency: COE
Property Number: 31200420011
Status: Excess
Reason: Extensive deterioration

Shower
Pomme de Terre Lake
Hermitage Co: Polk MO 65668–
Landholding Agency: COE
Property Number: 31200420012
Status: Unutilized
Reason: Extensive deterioration

11 Bldgs.
Warsaw Co: MO 65355–
Location: Fairfield, Tally Bend, Cooper Creek, Shawnee Bend
Landholding Agency: COE
Property Number: 31200430013
Status: Excess
Reason: Extensive deterioration

2 Storage Bldgs.
District Service Base
St. Louis Co: MO–
Landholding Agency: COE
Property Number: 31200430014
Status: Excess
Reason: Extensive deterioration

Privy
Pomme de Terre Lake
Wheatland Co: Hickory MO–
Landholding Agency: COE
Property Number: 31200440010
Status: Underutilized
Reason: Floodway

Vault Toilet
Ruark Bluff
Stockton Co: MO–
Landholding Agency: COE
Property Number: 31200440011
Status: Excess
Reason: Extensive deterioration

Comfort Station
Overlook Area
Stockton Co: MO–
Landholding Agency: COE
Property Number: 31200440012
Status: Excess
Reason: Extensive deterioration

Maintenance Building
Missouri River Area
Napoleon Co: Lafayette MO 64074–
Landholding Agency: COE
Property Number: 31200510007
Status: Excess
Reason: Floodway

Bldg. 34001
Orleans Trail Park
Stockton Co: MO 65785–
Landholding Agency: COE
Property Number: 31200510008
Status: Excess
Reason: Extensive deterioration

Bldgs. 34016, 34017
Orleans Trail Park
Stockton Co: MO 65785–
Landholding Agency: COE
Property Number: 31200510009
Status: Excess
Reason: Extensive deterioration

Montana

Bldg.
Tiber Dam
Chester Co: Liberty MT 59522–
Landholding Agency: Interior
Property Number: 61200410005
Status: Excess
Reason: Extensive deterioration

Nebraska

Vault Toilets
Harlan County Project
Republican NE 68971–
Landholding Agency: COE
Property Number: 31200210006
Status: Unutilized
Reason: Extensive deterioration

Patterson Treatment Plant
Harlan County Project
Republican NE 68971–
Landholding Agency: COE
Property Number: 31200210007
Status: Unutilized
Reason: Extensive deterioration

#30004
Harlan County Project
Republican Co: Harlan NE 68971–
Landholding Agency: COE
Property Number: 31200220008
Status: Unutilized
Reason: Extensive deterioration

#3005, 3006
Harlan County Project
Republican Co: Harlan NE 68971–
Landholding Agency: COE
Property Number: 31200220009
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 70001, 70002

South Outlet Park
Republican City Co: NE–
Landholding Agency: COE
Property Number: 31200510010
Status: Excess
Reason: Extensive deterioration

Nevada

28 Facilities
Nevada Test Site
Mercury Co: Nye NV 89023–
Landholding Agency: Energy
Property Number: 41200310018
Status: Excess
Reasons: Contamination, Secured Area

31 Bldgs./Facilities
Nellis AFB
Tonopah Test Range
Tonopah Co: Nye NV 89049–
Landholding Agency: Energy
Property Number: 41200330003
Status: Unutilized
Reason: Secured Area

42 Bldgs.
Nellis Air Force Base
Tonopah Co: Nye NV 89049–
Location: 49–01, NM104, NM105, 03–35A–H, 03–35J–N, 03–36A–C, 03–36E–H, 03–36J–N, 03–36R, 03–37, 15036, 03–44A–D, 03–46, 03–47, 03–49, 03–88, 03–89, 03–90
Landholding Agency: Energy
Property Number: 41200410029
Status: Unutilized
Reason: Secured Area

241 Bldgs.
Tonopah Test Range
Tonopah Co: Nye NV 89049–
Landholding Agency: Energy
Property Number: 41200440036
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

6 Bldgs.
Dale Street Complex
300, 400, 500, 600, Block Bldg, Valve House
Boulder City NV 89005–
Landholding Agency: GSA
Property Number: 54200020017
Status: Excess
Reason: Extensive deterioration
GSA Number: LC–00–01–RP

New Hampshire

Naval Obs. Tower
Rye NH 03870–
Landholding Agency: GSA
Property Number: 54200420007
Status: Excess
Reason: Contamination
GSA Number: 1–N–NH–451

New Jersey

Former NIKE Missile Battery
Site PH–58
Woolwich Co: Gloucester NJ
Landholding Agency: GSA
Property Number: 54200310012
Status: Excess
Reason: Extensive deterioration
GSA Number: 1–GR–NJ–0538

Bldg. 263
Naval Air Engineering Station
Lakehurst Co: Ocean NJ 08733–5000
Landholding Agency: Navy
Property Number: 77200310002
Status: Unutilized
Reason: Extensive deterioration

Bldg. GB–1
Naval Weapons Station
Colts Neck NJ 07722–
Landholding Agency: Navy
Property Number: 77200310013
Status: Unutilized
Reason: Extensive deterioration

Bldg. D–5
Naval Weapons Station
Colts Neck NJ 07722–
Landholding Agency: Navy
Property Number: 77200310014
Status: Unutilized
Reason: Extensive deterioration

New Mexico

Bldgs. 9252, 9268
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87185–
Landholding Agency: Energy
Property Number: 41199430002
Status: Unutilized
Reason: Extensive deterioration

Tech Area II
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87105–
Lanholding Agency: Energy
Property Number: 41199630004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 26, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Lanholding Agency: Energy
Property Number: 41199810004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 2, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Lanholding Agency: Energy
Property Number: 41199810008
Status: Underutilized
Reason: Secured Area

Bldg. 5, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Lanholding Agency: Energy
Property Number: 41199810011
Status: Unutilized
Reason: Secured Area

Bldg. 21, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Lanholding Agency: Energy
Property Number: 41199810012
Status: Unutilized
Reason: Secured Area

Bldg. 116, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Lanholding Agency: Energy
Property Number: 41199810013
Status: Unutilized
Reason: Secured Area

Bldg. 228, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Lanholding Agency: Energy
Property Number: 41199810015
Status: Unutilized
Reason: Secured Area

Bldg. 286, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810016
Status: Unutilized
Reason: Secured Area

Bldg. 516, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810021
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 517, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 31
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199930003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 21, TA–2
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940001
Status: Unutilized
Reason: Secured Area

Bldg. 38, TA–14
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 8, TA–15
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940005
Status: Unutilized
Reasons: Secured Area Extensive deterioration

Bldg. 9, TA–15
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940006
Status: Unutilized
Reason: Secured Area

Bldg. 22, TA–15
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940007
Status: Unutilized
Reason: Secured Area

Bldg. 141, TA–15
Los Alamos National Lab

Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940008
Status: Unutilized
Reason: Secured Area

Bldg. 44, TA–15
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940009
Status: Unutilized
Reason: Secured Area

Bldg. 2, TA–18
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 5, TA–18
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 186, TA–18
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940012
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 188, TA–18
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 44, TA–36
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940015
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 45, TA–36
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940016
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 19, TA–40
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940017
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 43, TA–40
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940018
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 258, TA–46
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199940019
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–3, Bldg. 208
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–6, Bldg. 1
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–6, Bldg. 2
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010012
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–6, Bldg. 3
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–6, Bldg. 5
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010014
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–6, Bldg. 6
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010015
Status: Unutilized
Reason: Secured Area

TA–6, Bldg. 7
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010016
Status: Unutilized
Reason: Secured Area

TA–6, Bldg. 8
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010017
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–6, Bldg. 9
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010018
Status: Unutilized
Reason: Secured Area

TA–14, Bldg. 5
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010019
Status: Unutilized
Reason: Secured Area

TA–21, Bldg. 150
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010020
Status: Unutilized
Reason: Secured Area

Bldg. 149, TA–21
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010024
Status: Unutilized
Reason: Secured Area

Bldg. 312, TA–21
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010025
Status: Unutilized
Reason: Secured Area

Bldg. 313, TA–21
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010026
Status: Unutilized
Reason: Secured Area

Bldg. 314, TA–21
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010027
Status: Unutilized
Reason: Secured Area

Bldg. 315, TA–21
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010028
Status: Unutilized
Reason: Secured Area

Bldg. 1, TA–8
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010029
Status: Unutilized
Reason: Secured Area

Bldg. 2, TA–8
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200010030
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 3, TA–8
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020001

Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 51, TA–9
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020002
Status: Unutilized
Reason: Secured Area

Bldg. 30, TA–14
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020003
Status: Unutilized
Reason: Secured Area

Bldg. 16, TA–3
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020009
Status: Unutilized
Reason: Secured Area

Bldg. 339, TA–16
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020010
Status: Unutilized
Reason: Secured Area

Bldg. 340, TA–16
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020011
Status: Unutilized
Reason: Secured Area

Bldg. 341, TA–16
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020012
Status: Unutilized
Reason: Secured Area

Bldg. 342, TA–16
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020013
Status: Unutilized
Reason: Secured Area

Bldg. 343, TA–16
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020014
Status: Unutilized
Reason: Secured Area

Bldg. 345, TA–16
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020015
Status: Unutilized
Reason: Secured Area

Bldg. 48, TA–55
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020017
Status: Unutilized
Reason: Secured Area

Bldg. 125, TA–55
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020018
Status: Unutilized
Reason: Secured Area

Bldg. 162, TA–55
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020019
Status: Unutilized
Reason: Secured Area

Bldg. 22, TA–33
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020022
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 23, TA–49
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020023
Status: Unutilized
Reason: Secured Area

Bldg. 37, TA–53
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020024
Status: Unutilized
Reason: Secured Area

Bldg. 121, TA–49
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200020025
Status: Unutilized
Reason: Secured Area

5 Bldgs.
Kirtland AFB
Sandia Natl Lab
Albuquerque Co: Bernalillo NM 87185–
Location: 9927, 9970, 6730, 6731, 6555
Landholding Agency: Energy
Property Number: 41200210014
Status: Excess
Reason: Extensive deterioration

6 Bldgs.
Kirtland AFB
Sandia Natl Lab
Albuquerque Co: Bernalillo NM 87185–
Location: 6725, 841, 884, 892, 893, 9800
Landholding Agency: Energy
Property Number: 41200210015
Status: Excess
Reason: Extensive deterioration

TA–53, Bldg. 61
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200220023
Status: Unutilized
Reason: Extensive deterioration

TA–53, Bldg. 63
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200220024
Status: Unutilized
Reason: Extensive deterioration

TA–53, Bldg. 65
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200220025
Status: Unutilized
Reason: Extensive deterioration

Bldg. B117
Kirtland Operations
Albuquerque Co: Bernalillo NM 87117–
Landholding Agency: Energy
Property Number: 41200220032
Status: Excess
Reason: Extensive deterioration

Bldg. B118
Kirtland Operations
Albuquerque Co: Bernalillo NM 87117–
Landholding Agency: Energy
Property Number: 41200220033
Status: Excess
Reason: Extensive deterioration

Bldg. B119
Kirtland Operations
Albuquerque Co: Bernalillo NM 87117–
Landholding Agency: Energy
Property Number: 41200220034
Status: Excess
Reason: Extensive deterioration

Bldg. 6721
Kirtland AFB
Albuquerque Co: Bernalillo NM 87185–
Landholding Agency: Energy
Property Number: 41200220042
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs.
Kirtland Air Force Base
#852, 874, 9939A, 6536, 6636, 833A
Albuquerque NM 87185–
Landholding Agency: Energy
Property Number: 41200230001
Status: Excess
Reason: Secured Area

Bldg. 805
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87185–
Landholding Agency: Energy
Property Number: 41200240001
Status: Unutilized
Reason: Secured Area

Bldg. 8898
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87185–
Landholding Agency: Energy
Property Number: 41200240002
Status: Unutilized
Reason: Secured Area

8 Bldgs., TA–16
Los Alamos National Lab
195, 220–226
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200240003
Status: Unutilized
Reason: Secured Area

Bldg. 2, TA–11
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200240004
Status: Unutilized
Reason: Secured Area

Bldg. 4, TA–41
Los Alamos National Lab

Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200240005
Status: Unutilized
Reason: Secured Area

Bldg. 16, TA–41
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200240006
Status: Unutilized
Reason: Secured Area

Bldg. 30, TA–41
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200240007
Status: Unutilized
Reason: Secured Area

Bldg. 53, TA–41
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200240008
Status: Unutilized
Reason: Secured Area

Bldg. 2, TA–33
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200310001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 228, 286, TA–21
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200310002
Status: Unutilized
Reason: Secured Area

Bldg. 116, TA–21
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200310003
Status: Unutilized
Reason: Secured Area

Bldgs. 1, 2, 3, 4, 5, TA–28
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41200310004
Status: Unutilized
Reason: Secured Area

Bldgs. 447, 1483
Los Alamos Natl Laboratory
Los Alamos NM
Landholding Agency: Energy
Property Number: 41200410002
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 870C & 9830
Kirtland AFB
Albuquerque Co: Bernalillo NM 87185–
Landholding Agency: Energy
Property Number: 41200410037
Status: Excess
Reason: Secured Area

Tract 102–73
El Malpais National Monument
Grants Co: Cibola NM 87020–
Landholding Agency: Interior
Property Number: 61200420002
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 001A, 001B, 001C
Pigeon's Ranch
Glorieta Co: Santa Fe NM 87535–
Landholding Agency: Interior
Property Number: 61200430006
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 002A, 002B, 002C
Pigeon's Ranch
Glorieta Co: Santa Fe NM 87535–
Landholding Agency: Interior
Property Number: 61200430007
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 002D, 002F
Pigeon's Ranch
Glorieta Co: Santa Fe NM 87535–
Landholding Agency: Interior
Property Number: 61200430008
Status: Unutilized
Reason: Extensive deterioration

Bldg. 003A
Pigeon's Ranch
Glorieta Co: Santa Fe NM 87535–
Landholding Agency: Interior
Property Number: 61200430009
Status: Unutilized
Reason: Extensive deterioration

Blgs. 004A, 004B
Pigeon's Ranch
Glorieta Co: Santa Fe NM 87535–
Landholding Agency: Interior
Property Number: 61200430010
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 006A, 006B
Pigeon's Ranch
Glorieta Co: Santa Fe NM 87535–
Landholding Agency: Interior
Property Number: 61200430011
Status: Unutilized
Reason: Extensive deterioration

New York

Warehouse
Whitney Lake Project
Whitney Point Co: Broome NY 13862–0706
Landholding Agency: COE
Property Number: 31199630007
Status: Unutilized
Reason: Extensive deterioration

Bldg. 0207
Brookhaven Natl Laboratory
Upton Co: Suffolk NY 11973–
Landholding Agency: Energy
Property Number: 41200410006
Status: Excess
Reason: Extensive deterioration

Bldgs/Pier/Field
USCG/Ft. Totten
Borough of Queens Co: Flushing NY
Landholding Agency: GSA
Property Number: 54200320015
Status: Surplus
Reason: Contamination
GSA Number: 1–U–NY–882

Gardiners Point
Long Island Co: Suffolk NY
Landholding Agency: GSA
Property Number: 54200340003
Status: Excess
Reasons: No access/unexploded ordnance Extensive deterioration
GSA Number: 1–N–NY–897

Army Reserve Center
Corning Co: Steuben NY 14830–2098
Landholding Agency: GSA
Property Number: 54200420017
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–D–NY–0896

Woodhaven Housing
Park Drive
Rome Co: NY 13440–
Landholding Agency: GSA
Property Number: 54200440003
Status: Surplus
Reason: Extensive deterioration
GSA Number: 1–D–NY–0831–C

North Carolina

Prop. ID WKS20350
Scott Reservoir Project
Wilkesboro NC 28697–7462
Landholding Agency: COE
Property Number: 31200310008
Status: Unutilized
Reason: Extensive deterioration

Bldg. #2–17009
Cape Fear River Lock/Dam
Elizabeth Co: Bladen NC 28337–
Landholding Agency: COE
Property Number: 31200420013
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Kerr Scott Project
Wilkesboro Co: Wilkes NC 28697–7462
Location: WKS16334–16335, 17334–17337, 18227–18228, 18864–18865
Landholding Agency: COE
Property Number: 31200420014
Status: Unutilized
Reason: Extensive deterioration

5 Bldgs.
Kerr Scott Project
Wilkesboro Co: Wilkes NC 28697–7462
Location: WKS15830, 17268, 18687, 18875, 26808
Landholding Agency: COE
Property Number: 31200420015
Status: Unutilized
Reason: Extensive deterioration

Bldgs. WKS16426, 16427, 25928
Kerr Scott Project
Wilkesboro Co: Wilkes NC 28697–7462
Landholding Agency: COE
Property Number: 31200420016
Status: Unutilized
Reason: Extensive deterioration

Bldgs. WKS18234, 18337
Kerr Scott Project
Wilkesboro Co: Wilkes NC 28697–7462
Landholding Agency: COE
Property Number: 31200420017
Status: Unutilized
Reason: Extensive deterioration

Bldg. WKS18691
Kerr Scott Project
Wilkesboro Co: Wilkes NC 28697–7462
Landholding Agency: COE
Property Number: 31200420018
Status: Unutilized
Reason: Extensive deterioration

Ranger Residence

Jordan Lake Project
Apex Co: Chatham NC
Landholding Agency: COE
Property Number: 31200440013
Status: Unutilized
Reason: Extensive deterioration

Ranger Residence #2
Falls Lake Project
Wake Co: NC
Landholding Agency: COE
Property Number: 31200510011
Status: Unutilized
Reason: Extensive deterioration

Two Tower Sites
Marine Corps Air Station
Cherry Point Co: NC
Landholding Agency: Navy
Property Number: 77200440017
Status: Underutilized
Reason: Secured Area

Bldg. 82
Marine Corps Air Station
Cherry Point Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 77200510009
Status: Underutilized
Reason: Secured Area

Bldg. 4314
Marine Corps Air Station
Cherry Point Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 77200510010
Status: Underutilized
Reason: Secured Area

Ohio

Bldg. 77
Fernald Environmental Management Project
Fernald Co: Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41199840003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 82A
Fernald Environmental Mgmt. Project
Fernald Co: Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41199910018
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 16
RMI Environmental Services
Ashtabula OH 44004–
Landholding Agency: Energy
Property Number: 41199930016
Status: Unutilized
Reason: Secured Area

Bldg. 22B
Fernald Env. Mgmt. Proj.
Hamilton OH 45013–9402
Landholding Agency: Energy
Property Number: 41200020026
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 53A
Fernald Env. Mgmt. Project
Fernald Co: Hamilton OH 45013–9402
Landholding Agency: Energy
Property Number: 41200120009
Status: Excess
Reason: Secured Area

Bldg. 8G
Fernald Environmental Mgmt. Project
Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41200210003
Status: Excess
Reason: Secured Area

Bldg. 8H
Fernald Environmental Mgmt. Project
Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41200210004
Status: Excess
Reason: Secured Area

Bldg. 94A
Fernald Environmental Mgmt. Project
Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41200210005
Status: Excess
Reason: Secured Area

Bldg. 11
Fernald Env. Mgmt. Proj.
Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41200220026
Status: Excess
Reason: Secured Area

Bldg. 14A
Fernald Env. Mgmt. Proj
Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41200220027
Status: Excess
Reason: Secured Area

Bldg. 15C
Fernald Env. Mgmt. Proj.
Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41200220029
Status: Excess
Reason: Secured Area

Bldg. 20K
Fernald Env. Mgmt. Proj.
Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41200220030
Status: Excess
Reason: Secured Area

Bldg. 53B
Fernald Env. Mgmt. Proj.
Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41200220031
Status: Excess
Reason: Secured Area

Modular Ofc. Bldg.
RMI
Ashtabula OH 44004–
Landholding Agency: Energy
Property Number: 41200310008
Status: Excess
Reason: Contamination

Modular Lab Bldg.
RMI
Ashtabula OH 44004–
Landholding Agency: Energy
Property Number: 41200310009
Status: Excess
Reason: Contamination

Soil Storage Bldg.
RMI
Ashtabula OH 44004–
Landholding Agency: Energy
Property Number: 41200310010
Status: Excess
Reason: Contamination

Soil Washing Bldg.
RMI
Ashtabula OH 44004–
Landholding Agency: Energy
Property Number: 41200310011
Status: Excess
Reason: Contamination

Bldg. 16B
Fernald Env. Mgmt. Proj.
Hamilton Co: Butler OH 45013–
Landholding Agency: Energy
Property Number: 41200310012
Status: Excess
Reasons: Contamination, Secured Area

Bldg. 24C
Fernald Env. Mgmt. Proj.
Hamilton Co: Butler OH 45013–
Landholding Agency: Energy
Property Number: 41200310013
Status: Excess
Reasons: Contamination, Secured Area

Bldg. 50
Fernald Env. Mgmt. Proj.
Hamilton Co: Butler OH 45013–
Landholding Agency: Energy
Property Number: 41200310015
Status: Excess
Reasons: Contamination, Secured Area

Bldg. 52A
Fernald Env. Mgmt. Proj.
Hamilton Co: Butler OH 45013–
Landholding Agency: Energy
Property Number: 41200310016
Status: Excess
Reasons: Contamination, Secured Area

Bldg. 52B
Fernald Env. Mgmt. Proj.
Hamilton Co: Butler OH 45013–
Landholding Agency: Energy
Property Number: 41200310017
Status: Excess
Reasons: Contamination, Secured Area

Oklahoma

Comfort Station
LeFlore Landing PUA
Sallisaw Co: LeFlore OK 74955–9445
Landholding Agency: COE
Property Number: 31200240008
Status: Excess
Reason: Extensive deterioration

Comfort Station
Braden Bend PUA
Sallisaw Co: LeFlore OK 74955–9445
Landholding Agency: COE
Property Number: 31200240009
Status: Excess
Reason: Extensive deterioration

Water Treatment Plant
Salt Creek Cove
Sawyer Co: Choctaw OK 74756–0099
Landholding Agency: COE
Property Number: 31200240010
Status: Excess
Reason: Extensive deterioration

Water Treatment Plant
Wilson Point
Sawyer Co: Choctaw OK 74756–0099
Landholding Agency: COE
Property Number: 31200240011
Status: Excess
Reason: Extensive deterioration

2 Comfort Stations
Landing PUA/Juniper Point PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240012
Status: Excess
Reason: Extensive deterioration

Filter Plant/Pumphouse
South PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240013
Status: Excess
Reason: Extensive deterioration

Filter Plant/Pumphouse
North PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240014
Status: Excess
Reason: Extensive deterioration

Filter Plant/Pumphouse
Juniper Point PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240015
Status: Excess
Reason: Extensive deterioration

Comfort Station
Juniper Point PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240016
Status: Excess
Reason: Extensive deterioration

Comfort Station
Brooken Cove PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240017
Status: Excess
Reason: Extensive deterioration

2 Bldgs.
Outlet Channel/Walker Creek
Waurika OK 73573–0029
Landholding Agency: COE
Property Number: 31200340013
Status: Excess
Reason: Extensive deterioration

2 Bldgs.
Damsite South
Stigler OK 74462–9440
Landholding Agency: COE
Property Number: 31200340014
Status: Excess
Reason: Extensive deterioration

19 Bldgs.
Kaw Lake
Ponca City OK 74601–9962
Landholding Agency: COE
Property Number: 31200340015
Status: Excess
Reason: Extensive deterioration

30 Bldgs.
Keystone Lake
Sand Springs OK 74063–9338
Landholding Agency: COE
Property Number: 31200340016
Status: Excess
Reason: Extensive deterioration

13 Bldgs.
Oologah Lake
Oologah OK 74053–0700
Landholding Agency: COE
Property Number: 31200340017
Status: Excess
Reason: Extensive deterioration

14 Bldgs.
Pine Creek Lake
Valliant OK 74764–9801
Landholding Agency: COE
Property Number: 31200340018
Status: Excess
Reason: Extensive deterioration

6 Bldgs.
Sardis Lake
Clayton OK 74536–9729
Landholding Agency: COE
Property Number: 31200340019
Status: Excess
Reason: Extensive deterioration

24 Bldgs.
Skiatook Lake
Skiatook OK 74070–9803
Landholding Agency: COE
Property Number: 31200340020
Status: Excess
Reason: Extensive deterioration

40 Bldgs.
Eufaula Lake
Stigler OK 74462–5135
Landholding Agency: COE
Property Number: 31200340021
Status: Excess
Reason: Extensive deterioration

2 Bldgs.
Holiday Cove
Stigler OK 74462–5135
Landholding Agency: COE
Property Number: 31200340022
Status: Excess
Reason: Extensive deterioration

18 Bldgs.
Fort Gibson
Ft. Gibson Co: Wagoner OK 74434–0370
Landholding Agency: COE
Property Number: 31200340023
Status: Excess
Reason: Extensive deterioration

2 Bldgs.
Fort Supply
Ft. Supply Co: Woodward OK 73841–0248
Landholding Agency: COE
Property Number: 31200340024
Status: Excess
Reason: Extensive deterioration

Game Bird House
Fort Supply Lake
Ft. Supply Co: Woodward OK 73841–0248
Landholding Agency: COE
Property Number: 31200340025
Status: Excess
Reason: Extensive deterioration

11 Bldgs.
Hugo Lake
Sawyer OK 74756–0099
Landholding Agency: COE
Property Number: 31200340026
Status: Excess
Reason: Extensive deterioration

5 Bldgs.
Birch Cove/Twin Cove
Skiatook OK 74070–9803
Landholding Agency: COE
Property Number: 31200340027
Status: Excess
Reason: Extensive deterioration

2 Bldgs.
Fairview Group Camp
Canton OK 73724–0069
Landholding Agency: COE
Property Number: 31200340028
Status: Excess
Reason: Extensive deterioration

2 Bldgs.
Chouteau & D Bluff
Gore Co: Wagoner OK 74935–9404
Landholding Agency: COE
Property Number: 31200340029
Status: Excess
Reason: Extensive deterioration

2 Bldgs.
Newt Graham L&D
Gore OK 74935–9404
Landholding Agency: COE
Property Number: 31200340030
Status: Excess
Reason: Extensive deterioration

6 Bldgs.
Damsite/Fisherman's Landing
Sallisaw OK 74955–9445
Landholding Agency: COE
Property Number: 31200340031
Status: Excess
Reason: Extensive deterioration

10 Bldgs.
Webbers Falls Lake
Gore OK 74435–5541
Landholding Agency: COE
Property Number: 31200340032
Status: Excess
Reason: Extensive deterioration

14 Bldgs.
Copan Lake
Copan OK 74022–9762
Landholding Agency: COE
Property Number: 31200340033
Status: Excess
Reason: Extensive deterioration

Oregon

2 Floating Docks
Rogue River
Gold Beach Co: Curry OR 97444–
Landholding Agency: COE
Property Number: 31200430015
Status: Excess
Reason: Floodway

2 Trailers
John Day Project
#1 West Marine Drive
Boardman Co: Morrow OR 97818–
Landholding Agency: COE
Property Number: 31200510012
Status: Unutilized
Reason: Extensive deterioration

Industrial Warehouse
2760 Yeon Avenue
Portland Co: OR 97210–
Landholding Agency: GSA
Property Number: 54200430009
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–G–OR–741

Bldg. 0012–0410–00
Homedale Road
Klamath Falls Co: Klamath OR 97603–
Landholding Agency: Interior
Property Number: 61200410002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 0012–0411–00

Homedale Road
Klamath Falls Co: Klamath OR 97603–
Landholding Agency: Interior
Property Number: 61200410003
Status: Unutilized
Reason: Extensive deterioration

Bldg. 0012–0412–00
Homedale Road
Klamath Falls Co: Klamath OR 97603–
Landholding Agency: Interior
Property Number: 61200410004
Status: Unutilized
Reason: Extensive deterioration

Pennsylvania

Z–Bldg.
Bettis Atomic Power Lab
West Mifflin Co: Allegheny PA 15122–0109
Landholding Agency: Energy
Property Number: 41199720002
Status: Excess
Reason: Extensive deterioration

Bldg. 904
Naval Support Activity
Mechanicsburg Co: Cumberland PA 17055–
Landholding Agency: Navy
Property Number: 77200430066
Status: Excess
Reason: Extensive deterioration

Bldg. 952
Naval Support Activity
Mechanicsburg Co: Cumberland PA 17055–
Landholding Agency: Navy
Property Number: 77200430067
Status: Excess
Reason: Extensive deterioration

Bldg. 953
Naval Support Activity
Mechanicsburg Co: Cumberland PA 17055–
Landholding Agency: Navy
Property Number: 77200430068
Status: Excess
Reason: Extensive deterioration

South Carolina

Prop. ID JST18895
Thurmond Project
Clarks Hill Co: McCormick SC
Landholding Agency: COE
Property Number: 31200310010
Status: Unutilized
Reason: Extensive deterioration

5 Bldgs.
Thurmond Project
Clarks Hill Co: McCormick SC
Location: JST15781, JST15784, JST15864, JST15866, TST15868
Landholding Agency: COE
Property Number: 31200310011
Status: Unutilized
Reason: Extensive deterioration

Prop. ID JST17133
Thurmond Project
Clarks Hill Co: McCormick SC
Landholding Agency: COE
Property Number: 31200310012
Status: Unutilized
Reason: Extensive deterioration

Prop. ID JST18428
Thurmond Project
Clarks Hill Co: McCormick SC
Landholding Agency: COE
Property Number: 31200310013
Status: Unutilized
Reason: Extensive deterioration

Bldg.
Fishing Creek/Deer Run
Clarks Hill SC 29821–0010
Landholding Agency: COE
Property Number: 31200340034
Status: Excess
Reason: Extensive deterioration

2 Outbuildings
JST–20814, JST–20815
Lower Air Strip
Clarks Hill Co: McCormick SC 29821–
Landholding Agency: COE
Property Number: 31200510013
Status: Unutilized
Reason: Extensive deterioration

Bldg. 701–6G
Jackson Barricade
Jackson SC
Landholding Agency: Energy
Property Number: 41200420010
Status: Unutilized
Reason: Secured Area

Bldg. 211–000F
Nuclear Materials Processing Facility
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420011
Status: Excess
Reason: Secured Area

Bldg. 211–001F
Nuclear Materials Processing Facility
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420012
Status: Excess
Reason: Secured Area

Bldg. 211–002F
Nuclear Materials Processing Facility
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420013
Status: Excess
Reason: Secured Area

Bldg. 221–25F
Nuclear Materials Processing Facility
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420014
Status: Excess
Reason: Secured Area

Bldg. 221–001F
Nuclear Materials Processing Facility
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420015
Status: Excess
Reason: Secured Area

Bldg. 704–D
Federal Reserve Site
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420016
Status: Excess
Reason: Secured Area

Bldg. 703–F
Savannah River Operations
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420019
Status: Unutilized
Reason: Secured Area

Bldg. 721–A
Savannah River Operations
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420020
Status: Unutilized
Reason: Secured Area

Bldg. 724–A
Savannah River Operations
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420021
Status: Unutilized
Reason: Secured Area

Bldg. 730–M
Savannah River Operations
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420022
Status: Unutilized
Reason: Secured Area

Bldgs. 183–1R, 183–2R
Savannah River Operations
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420025
Status: Unutilized
Reason: Secured Area

Bldg. 186–C
Savannah River Operations
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420026
Status: Unutilized
Reason: Secured Area

Bldgs. 186–K, 186–1K
Savannah River Operations
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420027
Status: Unutilized
Reason: Secured Area

Bldgs. 186–P, 186–1P
Savannah River Operations
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420028
Status: Unutilized
Reason: Secured Area

Bldg. 190–C
Savannah River Operations
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420029
Status: Unutilized
Reason: Secured Area

Bldg. 190–K
Savannah River Operations
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420030
Status: Unutilized
Reason: Secured Area

Bldg. 190–P
Savannah River Operations
Aiken SC 29802–
Landholding Agency: Energy
Property Number: 41200420031
Status: Unutilized
Reason: Secured Area

Bldg. 704–002N
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430001
Status: Excess
Reason: Secured Area

Bldg. 710–015N
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430002
Status: Excess
Reason: Secured Area

Bldg. 713–000N
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430003
Status: Excess
Reason: Secured Area

Bldg. 717–000C
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430004
Status: Excess
Reason: Secured Area

Bldg. 717–011N
Savannah River Opeations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430005
Status: Excess
Reason: Secured Area

Bldgs. 80–9G, 10G
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430006
Status: Excess
Reason: Secured Area

Bldgs. 105–P, 105–R
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430007
Status: Excess
Reason: Secured Area

Bldg. 183–002P
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430008
Status: Excess
Reason: Secured Area

Bldg. 183–003L
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430009
Status: Excess
Reason: Secured Area

Bldgs. 183–004K, 004L, 004P
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430010
Status: Excess
Reason: Secured Area

6 Bldgs.
Savannah River Operations
Aiken Co: SC 29802–
Location: 185–000K, 607–020K, 110–000L, 107–000P, 607–024P, 109–000R
Landholding Agency: Energy
Property Number: 41200430011
Status: Excess
Reason: Secured Area

Bldg. 191–000L
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430012
Status: Excess
Reason: Secured Area

Bldgs. 211–005F, 008F, 042F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430013
Status: Excess
Reason: Secured Area

Bldg. 221–016F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430014
Status: Excess
Reason: Secured Area

Bldgs. 221–034F, 035F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430015
Status: Excess
Reason: Secured Area

Bldgs. 221–053F, 054F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430016
Status: Excess
Reason: Secured Area

Bldgs. 252–003F, 005F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430017
Status: Excess
Reason: Secured Area

Bldg. 607–022P
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430018
Status: Excess
Reason: Secured Area

Bldg. 614–002P
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430019
Status: Excess
Reason: Secured Area

Bldg. 647–000G
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430020
Status: Excess
Reason: Secured Area

Bldgs. 701–002P, 012A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430021
Status: Excess
Reason: Secured Area

Bldg. 704–000P
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430022
Status: Excess
Reason: Secured Area

Bldg. 709–000A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430023
Status: Excess
Reason: Secured Area

Bldg. 710–000N
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430024
Status: Excess
Reason: Secured Area

Bldgs. 723–001L, 002L, 003L
Savannah River Opeations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430025
Status: Excess
Reason: Secured Area

Bldg. 725–000A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430026
Status: Excess
Reason: Secured Area

Bldg. 763–000A
Savannah River Opeations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430027
Status: Excess
Reason: Secured Area

Bldg. 221–013F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430028
Status: Excess
Reason: Secured Area

Bldg. 278–002N
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430029
Status: Excess
Reason: Secured Area

Bldg. 315–M
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430030
Status: Excess
Reason: Secured Area

Bldg. 607–001A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430031
Status: Excess
Reason: Secured Area

Bldg. 607–009C
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430032
Status: Excess
Reason: Secured Area

Bldg. 607–016A
Savannah River Operations
Aiken Co: SC 29802–

Landholding Agency: Energy
Property Number: 41200430033
Status: Excess Reason:
Secured Area

Bldg. 607–038N
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430034
Status: Excess
Reason: Secured Area

Bldg. 614–002C
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430035
Status: Excess
Reason: Secured Area

Bldg. 614–002K
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430036
Status: Excess
Reason: Secured Area

Bldg. 614–002L
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430037
Status: Excess
Reason: Secured Area

Bldg. 701–001F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430038
Status: Excess
Reason: Secured Area

Bldg. 701–002C
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430039
Status: Excess
Reason: Secured Area

Bldg. 716–002A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430040
Status: Excess
Reason: Secured Area

Bldg. 901–001K
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430041
Status: Excess
Reason: Secured Area

Bldgs. 221–21F, 22F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430042
Status: Excess
Reason: Secured Area

Bldg. 221–033F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430043
Status: Excess
Reason: Secured Area

Bldg. 254–007F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430044
Status: Excess
Reason: Secured Area

Bldg. 281–001F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430045
Status: Excess
Reason: Secured Area

Bldg. 281–004F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430046
Status: Excess
Reason: Secured Area

Bldg. 281–006F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430047
Status: Excess
Reason: Secured Area

Bldg. 305–000A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430048
Status: Excess
Reason: Secured Area

Bldg. 701–012A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430049
Status: Excess
Reason: Secured Area

Bldg. 703–045A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430050
Status: Excess
Reason: Secured Area

Bldg. 703–071A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430051
Status: Excess
Reason: Secured Area

Bldg. 709–000A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430052
Status: Excess
Reason: Secured Area

Bldg. 710–000A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430053
Status: Excess
Reason: Secured Area

Bldg. 713–000A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430054
Status: Excess
Reason: Secured Area

Bldg. 716–A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430055
Status: Excess
Reason: Secured Area

Bldg. 719–000A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430056
Status: Excess
Reason: Secured Area

Bldg. 720–000A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430057
Status: Excess
Reason: Secured Area

Bldg. 754–008A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430058
Status: Excess
Reason: Secured Area

Bldg. 763–000A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430059
Status: Excess
Reason: Secured Area

Bldgs. 772–008G, 009G, 010G
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430060
Status: Excess
Reason: Secured Area

Bldg. 777–010A
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430061
Status: Excess
Reason: Secured Area

Bldgs. 709–005F, 004F
Savannah River Operations
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430062
Status: Excess
Reason: Secured Area

Bldg. 186–R
Savannah River Site
Aiken Co: SC
Landholding Agency: Energy
Property Number: 41200430063
Status: Unutilized
Reason: Secured Area

Bldg. 190–R
Savannah River Site
Aiken Co: SC
Landholding Agency: Energy
Property Number: 41200430064
Status: Unutilized
Reason: Secured Area

Bldg. 230–H

Savannah River Site
Aiken Co: SC
Landholding Agency: Energy
Property Number: 41200430065
Status: Unutilized
Reason: Secured Area

4 Bldgs.
Savannah River Site
#281–2F, 281–5F, 285–F, 285–5F
Aiken Co: SC
Landholding Agency: Energy
Property Number: 41200430066
Status: Unutilized
Reason: Secured Area

Bldgs. 711–3N, 717–12N
Savannah River Site
Aiken Co: SC
Landholding Agency: Energy
Property Number: 41200430067
Status: Unutilized
Reason: Secured Area

Bldgs. 186L, 190L
Savannah River Site
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430069
Status: Unutilized
Reason: Secured Area

Bldg. 701–000M
Savannah River Site
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430084
Status: Unutilized
Reason: Secured Area

Bldg. 701–002A
Savannah River Site
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430085
Status: Unutilized
Reason: Secured Area

Bldg. 701–003A
Savannah River Site
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430086
Status: Unutilized
Reason: Secured Area

Bldg. 721–002A
Savannah River Site
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430087
Status: Unutilized
Reason: Secured Area

Bldg. 726–000A
Savannah River Site
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200430088
Status: Unutilized
Reason: Secured Area

Bldg. 122–R
Savannah River Site
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200440009
Status: Unutilized
Reason: Secured Area

Bldg. 151–2R
Savannah River Site
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200440010
Status: Unutilized
Reason: Secured Area

Bldg. 740–001A
Savannah River Site
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200440011
Status: Unutilized
Reason: Secured Area

Bldg. 608–000P
Savannah River Site
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200440031
Status: Excess
Reason: Secured Area

Bldg. 690–000N
Savannah River Site
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200440032
Status: Underutilized
Reason: Secured Area

Bldg. 763–106N
Savannah River Site
Aiken Co: SC 29802–
Landholding Agency: Energy
Property Number: 41200440033
Status: Underutilized
Reason: Secured Area

Bldgs. 1000 thru 1021
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200440018
Status: Unutilized
Reason: Secured Area

South Dakota

Mobile Home
Tract L–1295
Oahe Dam
Potter SD 00000–
Landholding Agency: COE
Property Number: 31200030001
Status: Excess
Reason: Extensive deterioration

Tennessee

Bldg. 204
Cordell Hull Lake and Dam Project
Defeated Creek Recreation Area
Carthage Co: Smith TN 37030–
Location: US Highway 85
Landholding Agency: COE
Property Number: 31199011499
Status: Unutilized
Reason: Floodway

Tract 2618 (Portion)
Cordell Hull Lake and Dam Project
Roaring River Recreation Area
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 135
Landholding Agency: COE
Property Number: 31199011503
Status: Underutilized
Reason: Floodway

Water Treatment Plant
Dale Hollow Lake & Dam Project
Obey River Park, State Hwy 42
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 31199140011
Status: Excess
Reason: Water treatment plant

Water Treatment Plant
Dale Hollow Lake & Dam Project
Lillydale Recreation Area, State Hwy 53
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 31199140012
Status: Excess
Reason: Water treatment plant

Water Treatment Plant
Dale Hollow Lake & Dam Project
Willow Grove Recreational Area, Hwy No. 53
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 31199140013
Status: Excess
Reason: Water treatment plant

Comfort Station/Land
Cook Campground
Nashville Co: Davidson TN 37214–
Landholding Agency: COE
Property Number: 31200420024
Status: Unutilized
Reason: Floodway

Tracts 915, 920, 931C–1
Cordell Hull Dam/Reservoir
Cathage Co: Smith TN 37030–
Landholding Agency: COE
Property Number: 31200430016
Status: Unutilized
Reasons: Floodway; landlocked

Bldg. 3004
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199710002
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldgs. 9714–3, 9714–4, 9983–AY
Y–12 Pistol Range
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199720004
Status: Unutilized
Reason: Secured Area

5 Bldgs.
K–724, K–725, K–1031, K–1131, K–1410
East Tennessee Technology Park
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199730001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9418–1
Y–12 Plant
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199810026
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 9825
Y–12 Plant
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199810027
Status: Unutilized
Reason: Secured Area

17 Bldgs.
Oak Ridge Tech Park
Oak Ridge Co: Roane TN 37831–
Location: K–801, A–D, H, K–891, K–892, K1025A–E, K–1064B–E, H, K, L, K1206–E

Landholding Agency: Energy
Property Number: 41200310007
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. SC–3
ORISE
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200340001
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Pump House/6 acres
Volunteer Army Ammo Plant
Chattanooga Co: Hamilton TN 37422–
Landholding Agency: GSA
Property Number: 54200440013
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4DTN05943T

25 Bldgs.
Naval Support Activity
Millington Co: TN 38054–
Location: 2032, 2037, 2041, 2043, 2056, 2072, 2085–2086, 2089–2090, 2099, 2103, 2105–2106, 501, 596, 429, 431–433, 1045, 570–573
Landholding Agency: Navy
Property Number: 77200430024
Status: Excess
Reason: Secured Area

Texas

Comfort Station
Overlook PUA
Powderly Co: Lamar TX 75473–9801
Landholding Agency: COE
Property Number: 31200240018
Status: Excess
Reason: Extensive deterioration

58 Bldgs.
Texoma Lake
Denison TX 75020–6425
Landholding Agency: COE
Property Number: 31200340035
Status: Excess
Reason: Extensive deterioration

Zone 5, Bldg. FS–18
Pantex Plant
Amarillo Co: Carson TX 79120–
Landholding Agency: Energy
Property Number: 41200220044
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Zone 12, Bldg. 12–20
Pantex Plant
Amarillo Co: Carson TX 79120–
Landholding Agency: Energy
Property Number: 41200220053
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 12–017E, 12–019E
Pantex Plant
Amarillo Co: Carson TX 79120–
Landholding Agency: Energy
Property Number: 41200320010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

5 Bldgs.
Pantex Plant
#10–002, 11–009, 12–013, 12–078, 12–R–078
Amarillo Co: Carson TX 79120–
Landholding Agency: Energy
Property Number: 41200410003
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 15–016
Pantex Plant
Amarillo Co: Carson TX 79120–
Landholding Agency: Energy
Property Number: 41200420017
Status: Unutilized
Reason: Secured Area

Bldg. 4–052P
Pantex Plant
Amarillo Co: Carson TX 79120–
Landholding Agency: Energy
Property Number: 41200420018
Status: Unutilized
Reason: Secured Area

Border Patrol Station
Hebbronville Co: Jim Hogg TX 78361–
Landholding Agency: GSA
Property Number: 54200440016
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 7–J–TX–0621B

Bldg. 25
Naval Air Station
Corpus Christi Co: Nueces TX 78419–
Landholding Agency: Navy
Property Number: 77200510011
Status: Excess
Reason: Secured Area

Bldg. 1261
Naval Air Station
Corpus Christi Co: Nueces TX 78419–
Landholding Agency: Navy
Property Number: 77200510012
Status: Excess
Reason: Secured Area

Bldg. 1739
Naval Air Station
Corpus Christi Co: Nueces TX 78419–
Landholding Agency: Navy
Property Number: 77200510013
Status: Excess
Reason: Secured Area

Bldg. 1826
Naval Air Station
Corpus Christi Co: Nueces TX 78419–
Landholding Agency: Navy
Property Number: 77200510014
Status: Excess
Reason: Secured Area

Virginia

PHL–188855, 16498, 16693
Mize Point Campground
Bassett Co: VA 24055–
Landholding Agency: COE
Property Number: 31200510014
Status: Unutilized
Reason: Extensive deterioration

E. Beale House
Tract 01–132
Appomattox Co: VA 24522–
Landholding Agency: Interior
Property Number: 61200440003
Status: Excess
Reason: Extensive deterioration

Ferguson House
Tract 01–124
Appomattox Co: VA 24522–
Landholding Agency: Interior
Property Number: 61200440004
Status: Excess
Reason: Extensive deterioration

Bldg. 3041A
Marine Corps Base
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77200440019
Status: Excess
Reasons: Secured Area; Extensive deterioration

Bldg. 3215
Marine Corps Base
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77200440020
Status: Excess
Reasons: Secured Area; Extensive deterioration

Washington

Rec Storage Bldg.
Richland Parks
Richland Co: Benton WA 99352–
Landholding Agency: COE
Property Number: 31200240019
Status: Unutilized
Reason: Extensive deterioration

Railroad Club Bldg.
McNary Lock & Dam Proj
Richland Co: Benton WA 99352–
Landholding Agency: COE
Property Number: 31200410006
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Barn
Heart K Ranch
Near Thorp Co: Kittitas WA 98946–
Landholding Agency: Interior
Property Number: 61200330014
Status: Unutilized
Reason: Extensive deterioration

Garage/Shop
Heart K Ranch
Near Thorp Co: Kittitas WA 98946–
Landholding Agency: Interior
Property Number: 61200330015
Status: Unutilized
Reason: Extensive deterioration

1-Stall Garage
Heart K Ranch
Near Thorp Co: Kittitas WA 98946–
Landholding Agency: Interior
Property Number: 61200330016
Status: Unutilized
Reason: Extensive deterioration

Residence
Heart K Ranch
Near Thorp Co: Kittitas WA 98946–
Landholding Agency: Interior
Property Number: 61200330017
Status: Unutilized
Reason: Extensive deterioration

Storage
Heart K Ranch
Near Thorp Co: Kittitas WA 98946–
Landholding Agency: Interior
Property Number: 61200330018
Status: Unutilized
Reason: Extensive deterioration

Residence No. 50
1807 Rest Haven Road

Yakima WA 98901–
Landholding Agency: Interior
Property Number: 61200330019
Status: Unutilized
Reason: Extensive deterioration

Cow Barn
1807 Rest Haven Road
Yakima WA 98901–
Landholding Agency: Interior
Property Number: 61200330020
Status: Unutilized
Reason: Extensive deterioration

Chicken Coop
1807 Rest Haven Road
Yakima WA 98901–
Landholding Agency: Interior
Property Number: 61200330021
Status: Unutilized
Reason: Extensive deterioration

Garage/No. 804
Columbia Basin
George Co: Grant WA 98848–
Landholding Agency: Interior
Property Number: 61200330024
Status: Unutilized
Reason: Extensive deterioration

Residence No. 804
Columbia Basin
George Co: Grant WA 98848–
Landholding Agency: Interior
Property Number: 61200330025
Status: Unutilized
Reason: Extensive deterioration

Garage/No. 801
Columbia Basin
George Co: Grant WA 98848–
Landholding Agency: Interior
Property Number: 61200330026
Status: Unutilized
Reason: Extensive deterioration

Residence No. 801
Columbia Basin
George Co: Grant WA 98848–
Landholding Agency: Interior
Property Number: 61200330027
Status: Unutilized
Reason: Extensive deterioration

Garage/No. 305
Columbia Basin
Soap Lake Co: Grant WA 98851–
Landholding Agency: Interior
Property Number: 61200330028
Status: Unutilized
Reason: Extensive deterioration

Residence No. 305
Columbia Basin
Soap Lake Co: Grant WA 98851–
Landholding Agency: Interior
Property Number: 61200330029
Status: Unutilized
Reason: Extensive deterioration

Garage/Residence No. 304
Columbia Basin
Soap Lake Co: Grant WA 98851–
Landholding Agency: Interior
Property Number: 61200330030
Status: Unutilized
Reason: Extensive deterioration

Residence No. 304
Columbia Basin
Soap Lake Co: Grant WA 98851–
Landholding Agency: Interior
Property Number: 61200330031
Status: Unutilized
Reason: Extensive deterioration

Bldg. 81
39307 Kelly Road
Benton City Co: Benton WA 99320–
Landholding Agency: Interior
Property Number: 61200340001
Status: Unutilized
Reason: Extensive deterioration

Garage/81
39307 Kelly Road
Benton City Co: Benton WA 99320–
Landholding Agency: Interior
Property Number: 61200340002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 73
1171 Beane Road
Moxee Co: Yakima WA 98936–
Landholding Agency: Interior
Property Number: 61200340003
Status: Unutilized
Reason: Extensive deterioration

Garage/73
1171 Beane Road
Moxee Co: Yakima WA 98936–
Landholding Agency: Interior
Property Number: 61200340004
Status: Unutilized
Reason: Extensive deterioration

Bldg. 129
1917 Marsh Road
Yakima WA 98901–
Landholding Agency: Interior
Property Number: 61200340005
Status: Unutilized
Reason: Extensive deterioration

Bldg. 529
Puget Sound Naval Shipyard
Bremerton WA 98314–5000
Landholding Agency: Navy
Property Number: 77200040020
Status: Excess
Reason: Secured Area

Bldg. 8
Naval Reserve Center
Spokane Co: WA 99205–
Landholding Agency: Navy
Property Number: 77200430025
Status: Excess
Reasons: Secured Area—Extensive deterioration

Bldgs. 10, 11
Naval Reserve Center
Spokane Co: WA 99205–
Landholding Agency: Navy
Property Number: 77200430026
Status: Excess
Reasons: Secured Area—Extensive deterioration

Bldgs. 2656–2658
Naval Air Station
Lake Hancock
Coupeville Co: Island WA 98239–
Landholding Agency: Navy
Property Number: 77200430027
Status: Unutilized
Reason: Secured Area

Bldgs. 2652, 2705
Naval Air Station
Whidbey
Oak Harbor Co: WA 98277–
Landholding Agency: Navy
Property Number: 77200440010
Status: Unutilized
Reason: Secured Area

Bldgs. 79, 884
NAS Whidbey Island
Seaplane Base
Oak Harbor Co: WA 98277–
Landholding Agency: Navy
Property Number: 77200440011
Status: Unutilized
Reason: Secured Area

Bldg. 121
NAS Whidbey Island
Ault Field
Oak Harbor Co: WA 98277–
Landholding Agency: Navy
Property Number: 77200440012
Status: Unutilized
Reason: Secured Area

Bldg. 419
NAS Whidbey Island
Ault Field
Oak Harbor Co: WA 98277–
Landholding Agency: Navy
Property Number: 77200440013
Status: Unutilized
Reason: Secured Area

Bldgs. 2609, 2610
NAS Whidbey Island
Ault Field
Oak Harbor Co: WA 98277–
Landholding Agency: Navy
Property Number: 77200440014
Status: Unutilized
Reason: Secured Area

Bldg. 2753
NAS Whidbey Island
Ault Field
Oak Harbor Co: WA 98277–
Landholding Agency: Navy
Property Number: 77200440015
Status: Unutilized
Reason: Secured Area

Bldg. 108
Naval Magazine
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200510015
Status: Unutilized
Reasons: Secured Area—Extensive deterioration

West Virginia

Radio Transmitter Rcv Site
Greenbrier Street
Charleston WV 25311–
Landholding Agency: GSA
Property Number: 54200340011
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4–U–WV–0547

*Land (by State)*

Arizona

2.56 acres
Chauncy Ranch
Phoenix Co: Maricopa AZ 85054–
Landholding Agency: GSA
Property Number: 61200430050
Status: Excess
Reason: Floodway
GSA Number: 9–I–AZ–833

Colorado

Landfill
48th & Holly Streets

Commerce Co: Adams CO 80022–
Landholding Agency: GSA
Property Number: 54200220006
Status: Surplus
Reasons: Within 2000 ft. of flammable or explosive material contamination
GSA Number: 7–Z–CO–0647

Florida

3 parcels
U.S. Customs Svc Natl Law Enforcement Comm Ctr
Orlando Co: Orange FL 32803–
Landholding Agency: GSA
Property Number: 54200310015
Status: Excess
Reason: Landlocked
GSA Number: 4–T–FL–1209–1A

Navy Site Alpha
Homestead Co: Miami/Dade FL
Landholding Agency: GSA
Property Number: 54200330009
Status: Surplus
Reason: Flooding
GSA Number: 4–N–FL–1079

Hawaii

Portion/PR111016
Naval Station
Beckoning Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77200440005
Status: Unutilized
Reason: Secured Area

Kentucky

Tract 4626
Barkley, Lake, Kentucky and Tennessee
Donaldson Creek Launching Area
Cadiz Co: Trigg KY 42211–
Location: 14 miles from US Highway 68.
Landholding Agency: COE
Property Number: 31199010030
Status: Underutilized
Reason: Floodway

Tract AA–2747
Wolf Creek Dam and Lake Cumberland
U.S. Hwy 27 to Blue John Road
Burnside Co: Pulaski KY 42519–
Landholding Agency: COE
Property Number: 31199010038
Status: Underutilized
Reason: Floodway

Tract AA–2726
Wolf Creek Dam and Lake Cumberland
KY Hwy 80 to Route 769
Burnside Co: Pulaski KY 42519–
Landholding Agency: COE
Property Number: 31199010039
Status: Underutilized
Reason: Floodway

Tract 1358
Barkley Lake, Kentucky and Tennessee
Eddyville Recreation Area
Eddyville Co: Lyon KY 42038–
Location: U.S. Highway 62 to state highway 93
Landholding Agency: COE
Property Number: 31199010043
Status: Excess
Reason: Floodway

Red River Lake Project
Stanton Co: Powell KY 40380–
Location: Exit Mr. Parkway at the Stanton and Slade Interchange, then take SR Hand 15 north to SR 613
Landholding Agency: COE
Property Number: 31199011684
Status: Unutilized
Reason: Floodway

Barren River Lock & Dam No. 1
Richardsville Co: Warren KY 42270–
Landholding Agency: COE
Property Number: 31199120008
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy. 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 31199120009
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 4
Woodbury Co: Butler KY 42288–
Location: Off State Hwy 403, which is off State Hwy 231
Landholding Agency: COE
Property Number: 31199120014
Status: Underutilized
Reason: Floodway

Green River Lock & Dam No. 5
Readville Co: Butler KY 42275–
Location: Off State Highway 185
Landholding Agency: COE
Property Number: 31199120015
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 6
Brownsville Co: Edmonson KY 42210–
Location: Off State Highway 259
Landholding Agency: COE
Property Number: 31199120016
Status: Underutilized
Reason: Floodway

Vacant land west of locksite
Greenup Locks and Dam
5121 New Dam Road
Rural Co: Greenup KY 41144–
Landholding Agency: COE
Property Number: 31199120017
Status: Unutilized
Reason: Floodway

Tracts 111, 112 (Partial)
Dyer Creek Access Site
Smithland Locks & Dam
Smithland Co: Livingston KY
Landholding Agency: GSA
Property Number: 54200430001
Status: Surplus
Reason: flooding
GSA Number: 4–D–KY–568–B

Maryland

Tract 131R
Youghiogheny River Lake, Rt. 2, Box 100
Friendsville Co: Garrett MD
Landholding Agency: COE
Property Number: 31199240007
Status: Underutilized
Reason: Floodway

Michigan

Land/USCG
1380 Beach Street
Muskegon MI 49441–
Landholding Agency: GSA
Property Number: 54200320014
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–U–MI–0610

Minnesota

Parcel A
Twin Cities Army Ammunition Plant
Arden Hills MN 55112–3938
Landholding Agency: GSA
Property Number: 54200240014
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–D–MN–0578A

Mississippi

Parcel 1
Grenada Lake
Section 20
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 31199011018
Status: Underutilized
Reason: Within airport runway clear zone

Missouri

Ditch 19, Item 2, Tract No. 230
St. Francis Basin Project
2½ miles west of Malden
Co: Dunklin MO
Landholding Agency: COE
Property Number: 31199130001
Status: Unutilized
Reason: Floodway

North Carolina

Sites A,B,C,D,E
Marine Corps Base
Camp Lejeune Co: NC
Landholding AGENCY: Navy
Property Number: 77200430053
Status: Underutilized
Reason: Secured Area

Portion/Training Area
Marine Corps Base
Camp Lejeune Co: NC
Landholding Agency: Navy
Property Number: 77200430065
Status: Underutilized
Reason: Secured Area

Ohio

Mosquito Creek Lake
Everett Hull Road Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 31199440007
Status: Underutilized
Reason: Floodway

Mosquito Creek Lake
Housel—Craft Rd., Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 31199440008
Status: Underutilized
Reason: Floodway

36 Site Campground
German Church Campground
Berlin Center Co: Portage OH 44401–9707
Landholding Agency: COE
Property Number: 31199810001
Status: Unutilized
Reason: Floodway

Pennsylvania

Lock and Dam #7
Monongahela River
Greensboro Co: Greene PA
Location: Left hand side of entrance roadway to project

Landholding Agency: COE
Property Number: 31199011564
Status: Unutilized
Reason: Floodway

Mercer Recreation Area
Shenango Lake
Transfer Co: Mercer PA 16154–
Landholding Agency: COE
Property Number: 31199810002
Status: Unutilized
Reason: Floodway

Tract No. B–212C
Upstream from Gen. Jadwin Dam & Reservoir
Honesdale Co: Wayne PA 18431–
Landholding Agency: COE
Property Number: 31200020005
Status: Unutilized
Reason: Floodway

Puerto Rico

Parcel 2R
Naval Security Group
Sabana Seca Co: Toa Baja PR
Landholding Agency: GSA
Property Number: 54200210025
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–N–PR–494

Site 3
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77200320031
Status: Unutilized
Reason: Secured Area

Site 4
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77200320032
Status: Unutilized
Reason: Secured Area

Tennessee

Brooks Bend
Cordell Hull Dam and Reservoir
Highway 85 to Brooks Bend Road
Gainesboro Co: Jackson TN 38562–
Location: Tracts 800, 802–806, 835–837, 900–902, 1000–1003, 1025
Landholding Agency: COE
Property Number: 21199040413
Status: Underutilized
Reason: Floodway

Cheatham Lock and Dam
Highway 12
Ashland City Co: Cheatham TN 37015–
Location: Tracts E–513, E–512–1 and E–512–2
Landholding Agency: COE
Property Number: 21199040415
Status: Underutilized
Reason: Floodway

Tract 2321
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: South of Old Jefferson Pike
Landholding Agency: COE
Property Number: 31199010935
Status: Excess
Reason: Landlocked

Tract 6737
Blue Creek Recreation Area
Barkley Lake, Kentucky and Tennessee
Dover Co: Stewart TN 37058–
Location: U.S. Highway 79/TN Highway 761
Landholding Agency: COE
Property Number: 31199011478
Status: Underutilized
Reason: Floodway

Tracts 3102, 3105, and 3106
Brimstone Launching Area
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 31199011479
Status: Excess
Reason: Floodway

Tract 3507
Proctor Site
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551–
Location: TN Highway 52
Landholding Agency: COE
Property Number: 31199011480
Status: Unutilized
Reason: Floodway

Tract 3721
Obey
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 31199011481
Status: Unutilized
Reason: Floodway

Tracts 608, 609, 611 and 612
Sullivan Bend Launching Area
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 31199011482
Status: Underutilized
Reason: Floodway

Tract 920
Indian Creek Camping Area
Cordell Hull Lake and Dam Project
Granville Co: Smith TN 38564–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 31199011483
Status: Underutilized
Reason: Floodway

Tracts 1710, 1716 and 1703
Flynns Lick Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Whites Bend Road
Landholding Agency: COE
Property Number: 31199011484
Status: Underutilized
Reason: Floodway

Tract 1810
Wartrace Creek Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 31199011485
Status: Underutilized
Reason: Floodway

Tract 2524
Jennings Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 31199011486
Status: Unutilized
Reason: Floodway

Tracts 2905 and 2907
Webster
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 31199011487
Status: Unutilized
Reason: Floodway

Tracts 2200 and 2201
Gainesboro Airport
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 31199011488
Status: Underutilized
Reasons: Within airport runway clear zone; Floodway

Tracts 710C and 712C
Sullivan Island
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 31199011489
Status: Unutilized
Reason: Floodway

Tract 2403, Hensley Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 31199011490
Status: Unutilized
Reason: Floodway

Tracts 2117C, 2118 and 2120
Cordell Hull Lake and Dam Project
Trace Creek
Gainesboro Co: Jackson TN 38562–
Location: Brooks Ferry Road
Landholding Agency: COE
Property Number: 31199011491
Status: Unutilized
Reason: Floodway

Tracts 424, 425 and 426
Cordell Hull Lake and Dam Project
Stone Bridge
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 31199011492
Status: Unutilized
Reason: Floodway

Tract 517
J. Percy Priest Dam and Reservoir
Suggs Creek Embayment
Nashville Co: Davidson TN 37214–
Location: Interstate 40 to S. Mount Juliet Road
Landholding Agency: COE
Property Number: 31199011493
Status: Underutilized
Reason: Floodway

Tract 1811
West Fork Launching Area
Smyrna Co: Rutherford TN 37167–
Location: Florence road near Enon Springs Road
Landholding Agency: COE

Property Number: 31199011494
Status: Underutilized
Reason: Floodway

Tract 1504
J. Perry Priest Dam and Reservoir
Lamon Hill Recreation Area
Smyrna Co: Rutherford TN 37167–
Location: Lamon Road
Landholding Agency: COE
Property Number: 31199011495
Status: Underutilized
Reason: Floodway

Tract 1500
J. Perry Priest Dam and Reservoir
Pools Knob Recreation
Smyrna Co: Rutherford TN 37167–
Location: Jones Mill Road
Landholding Agency: COE
Property Number: 31199011496
Status: Underutilized
Reason: Floodway

Tracts 245, 257, and 256
J. Perry Priest Dam and Reservoir
Cook Recreation Area
Nashville Co: Davidson TN 37214–
Location: 2.2 miles south of Interstate 40 near Saunders Ferry Pike
Landholding Agency: COE
Property Number: 31199011497
Status: Underutilized
Reason: Floodway

Tracts 107, 109 and 110
Cordell Hull Lake and Dam Project
Two Prong
Carthage Co: Smith TN 37030–
Location: US Highway 85
Landholding Agency: COE
Property Number: 31199011498
Status: Unutilized
Reason: Floodway

Tracts 2919 and 2929
Cordell Hull Lake and Dam Project
Sugar Creek
Gainesboro Co: Jackson TN 38562–
Location: Sugar Creek Road
Landholding Agency: COE
Property Number: 31199011500
Status: Unutilized
Reason: Floodway

Tracts 1218 and 1204
Cordell Hull Lake and Dam Project
Granville—Alvin Yourk Road
Granville Co: Jackson TN 38564–
Landholding Agency: COE
Property Number: 31199011501
Status: Unutilized
Reason: Floodway

Tract 2100
Cordell Hull Lake and Dam Project
Galbreaths Branch
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 31199011502
Status: Unutilized
Reason: Floodway

Tract 104 et. al.
Cordell Hull Lake and Dam Project
Horshoe Bend Launching Area
Carthage Co: Smith TN 37030–
Location: Highway 70 N
Landholding Agency: COE
Property Number: 31199011504
Status: Underutilized
Reason: Floodway

Tracts 510, 511, 513 and 514
J. Percy Priest Dam and Reservoir Project
Lebanon Co: Wilson TN 37087–
Location: Vivrett Creek Launching Area, Alvin Sperry Road
Landholding Agency: COE
Property Number: 31199120007
Status: Underutilized
Reason: Floodway

Tract A–142, Old Hickory Beach
Old Hickory Blvd.
Old Hickory Co: Davidson TN 37138–
Landholding Agency: COE
Property Number: 31199130008
Status: Underutilized
Reason: Floodway

Tract D, 7 acres
Cheatham Lock & Dam
Nashville Co: Davidson TN 37207–
Landholding Agency: COE
Property Number: 31200020006
Status: Underutilized
Reason: Floodway

Tract F–608
Cheatham Lock & Dam
Ashland Co: Cheatham TN 37015–
Landholding Agency: COE
Property Number: 31200420021
Status: Unutilized
Reason: Floodway

Tracts G702–G706
Cheatham Lock & Dam
Ashland Co: Cheatham TN 37015–
Landholding Agency: COE
Property Number: 31200420022
Status: Unutilized
Reason: Floodway

6 Tracts
Shutes Branch Campground
Lakewood Co: Wilson TN
Landholding Agency: COE
Property Number: 31200420023
Status: Unutilized
Reason: Floodway

51 acres
Volunteer Army Ammo Plant
Chattanooga Co: Hamilton TN 37422–
Landholding Agency: GSA
Property Number: 54200440014
Status: Surplus
Reason: Contamination
GSA Number: 4DTN05943V

11 acres
Volunteer Army Ammo Plant
Chattanooga Co: Hamilton TN 37422–
Landholding Agency: GSA
Property Number: 54200440015
Status: Surplus
Reason: Contamination
GSA Number: 4DTN05943W

Texas

Tracts 104, 105–1, 105–2 & 118
Joe Pool Lake
Co: Dallas TX
Landholding Agency: COE
Property Number: 31199010397
Status: Underutilized
Reason: Floodway

Part of Tract 201–3
Joe Pool Lake
Co: Dallas TX
Landholding Agency: COE
Property Number: 31199010398
Status: Underutilized
Reason: Floodway

Part of Tract 323
Joe Pool Lake
Co: Dallas TX
Landholding Agency: COE
Property Number: 31199010399
Status: Underutilized
Reason: Floodway

Tract 702–3
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 31199010401
Status: Unutilized
Reason: Floodway

Tract 706
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 31199010402
Status: Unutilized
Reason: Floodway

Virginia

275.390 acres
adjacent/Ft. Lee Military Rsv.
Petersburg Co: Prince George VA
Landholding Agency: GSA
Property Number: 54200430017
Status: Surplus
Reason: Secured Area
GSA Number: 4–GR–VA–545E

Washington

2.8 acres
Tract P–1003
Kennewick Co: Benton WA 99336–
Landholding Agency: COE
Property Number: 31200240020
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

West Virginia

Morgantown Lock and Dam
Box 3 RD #2
Morgantown Co: Monongahelia WV 26505–
Landholding Agency: COE
Property Number: 31199011530
Status: Unutilized
Reason: Floodway

London Lock and Dam
Route 60 East
Rural Co: Kanawha WV 25126–
Location: 20 miles east of Charleston, W. Virginia
Landholding Agency: COE
Property Number: 31199011690
Status: Unutilized
Reason: .03 acres; very narrow strip of land

Portion of Tract #101
Buckeye Creek
Sutton Co: Braxton WV 26601–
Landholding Agency: COE
Property Number: 31199810006
Status: Excess
Reason: Inaccessible

Wisconsin

Land
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Location: Vacant land within plant boundaries.

Landholding Agency: GSA
Property Number: 21199013783

Status: Excess
Reason: Secured Area

GSA Number: GSA–WI

[FR Doc. 05–2892 Filed 2–17–05; 8:45 am]

BILLING CODE 4210–29–P

Federal Register

Friday,
February 18, 2005

# Part III

# Department of Veterans Affairs

## 38 CFR Part 36

## Loan Guaranty: Loan Servicing and Claims Procedures Modifications; Proposed Rule

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 36**

**RIN 2900–AL65**

## Loan Guaranty: Loan Servicing and Claims Procedures Modifications

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) Loan Guaranty regulations related to several aspects of the servicing and liquidating of guaranteed housing loans in default, and submitting of guaranty claims by loan holders. Specific topics addressed include: Increased authority of servicers to implement loss-mitigation options, incentive payments to servicers for successful alternatives to foreclosure implemented, establishing a system of measuring and ranking servicer performance, permitting loan holders to review liquidation appraisals, requiring holders to calculate the net value of the security property prior to foreclosure, establishing a timeframe for when foreclosure of a defaulted loan would be expected to have been completed, limiting the amount of interest and other fees and charges that may be included in a guaranty claim, establishing attorneys fees allowed to be included in the guaranty claim, establishing a deadline for the submission of guaranty claims, modifying the requirements for title evidence for properties conveyed to VA following foreclosure, modifying the requirements for how long a holder must maintain records relating to loans for which VA has paid a claim on the guaranty, and eliminating the requirement for the submission of legal procedural papers to VA.

**DATES:** Comments must be received on or before April 19, 2005.

**ADDRESSES:** Written comments may be submitted by: mail or hand-delivery to Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; e-mail to *VAregulations@mail.va.gov;* or, through *http://www.Regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AL65.'' All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Richard P. Fyne, Assistant Director for Loan Management (261), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, at 202–273–7380, e-mail *lgyrfyne@vba.va.gov.*

**SUPPLEMENTARY INFORMATION:** Under 38 U.S.C. chapter 37, VA guarantees loans made by private lenders to veterans for the purchase, construction, and refinancing of homes owned and occupied by veterans.

In connection with this program, VA is conducting an internal, in-depth review of the entire Loan Administration process. ''Loan Administration''ludes the servicing of existing loans, dealing with loans in default and loans being terminated, and the processing of claims by loan holders under the guaranty after defaulted loans have been foreclosed or otherwise terminated. Loan Administration also includes efforts by VA and private loan holders to assist homeowners whose loans are in default to cure the default, retain their home if possible, or find other means short of foreclosure. VA hopes to revise the Loan Administration process to reflect changes in the loan servicing industry in recent years, as well as advances in technology. VA is moving toward placing greater reliance on private-sector servicing in accordance with VA guidelines, with VA using advanced technology to oversee holder actions.

VA is now proposing a number of changes to current procedures, including: giving servicers increased authority to implement loss-mitigation alternatives to foreclosure and paying servicers an incentive bonus for each successful loss-mitigation intervention alternative to foreclosure implemented; establishing a performance-based tier-ranking system for servicers; permitting qualified loan holders to review liquidation appraisals and establish the fair market value of the property; requiring loan holders to calculate the net value of properties securing loans prior to foreclosure; establishing timeframes for when VA would expect holders, exercising reasonable diligence, should be able to complete the foreclosure of defaulted loans; limiting the amount of interest and other fees and charges that may be included in a guaranty claim; establishing reasonable and customary attorney fees allowed to be claimed under the guaranty; establishing a deadline for holders to submit claims under the guaranty and to request reconsideration of denied claims; modifying the requirements for title evidence submitted to VA when the holder is conveying the property to VA following the liquidation sale; modifying the requirements for how long a holder must maintain records relating to loans for which VA has paid a claim on the guaranty; modifying the requirements for holders to report key events with regard to loans being serviced; and repealing the requirement for holders to provide VA with procedural papers in legal or equitable proceedings related to a loan on the security property.

### Loss Mitigation Options/Alternatives to Foreclosure

VA has always stressed the importance of loan holders and servicers finding alternatives to foreclosure. Under current regulations, however, holders generally need VA consent before they could accept a deed-in-lieu of foreclosure or approve a compromise sale. Further, holders have limited authority to modify existing loans without prior approval. VA is proposing to delegate more authority to servicers to approve these foreclosure alternatives by removing many existing restrictions on holders with regard to such alternatives to foreclosure, publishing clear rules for how holders may use such alternatives, and establishing a hierarchy of alternatives to use in determining which alternative should be considered and under what conditions they should be pursued.

### Loan Modification

VA is proposing to modify § 36.4314 by removing restrictive and confusing conditions and providing clear and understandable rules to apply when considering whether or not to modify a loan to avoid termination. The industry has indicated that the current regulation is not in line with industry practices and this has resulted in both under use of this alternative to foreclosure and improper use in some cases.

VA is also proposing to make a conforming amendment to § 36.4311(c). That section currently prohibits a loan holder from charging an interest rate in excess of the rate reported by the lender when the loan was made, on any advance or in the event of delinquency or default. The proposed amendment would make an exception to that prohibition to allow such an increased interest rate as permitted under the proposed amendments to § 36. 4314.

### Refunding

VA is proposing to amend § 36.4318 by adding language that would require servicers to provide VA with the necessary loan transfer documents, including all loan assignments, within

60 days from receipt of VA's decision to refund the loan and further provides for a penalty that may be imposed on servicers who continually fail to provide loan transfer documents timely. VA anticipates that the number of loans refunded by VA will be dramatically reduced because of the revisions being made to the loan modification authority and feels that 60 days is a reasonable amount of time for servicers to obtain and provide the documents required to VA.

VA also proposes to amend § 36.4330 relating to records retention. See the discussion under the heading ''Records Retention and Post-Audit,'' below.

**Deeds-in-Lieu of Foreclosure and Compromise Sales**

Under § 36.4324(a), a holder currently may not, without the prior consent of the VA, release a lien on the property securing the loan. There are, however, circumstance where VA believes that it is in the best interests of all concerned to permit a loan holder to take prompt action and allow a transfer of title to the property securing the loan to resolve a serious default short of actual foreclosure.

One such case would be to allow the holder to accept a deed to the property tendered by the obligor. Another situation is what VA refers to as a ''compromise sale.'' This is when the property cannot be sold for an amount that will generate proceeds sufficient to repay the entire loan balance. Under current VA procedures, the holder must obtain prior VA approval to accept a deed-in-lieu of foreclosure or conduct a compromise sale.

VA believes the delays caused by VA needing to review and approve such transactions in advance have resulted, in a number of cases, in missed opportunities to resolve defaults in a quick, cost-efficient manner. VA further believes that holders, given appropriate guidelines, can make proper decisions on approving deeds-in-lieu and compromise sales.

Accordingly, VA is proposing paragraphs (f), (g), and (h) to the new 38 CFR 36.4319a. These paragraphs will delegate authority to servicers to approve a compromise sale of the property or accept a deed-in-lieu of foreclosure and will specify the conditions under which servicers may exercise that authority.

Under the proposed § 36.4319a(f), a holder would be permitted to approve a compromise sale if the holder determines the loan is insoluble, the net sale proceeds will equal or exceed the net value of the property as computed by the holder, and that the estimated guaranty payment it would receive following the compromise sale would not exceed the guaranty payment following an actual foreclosure. In addition, the holder would be required to ensure that the current owner of the property will not share in any of the sales proceeds. Finally, certain obligors will be required to execute a repayment agreement before the holder may approve the compromise sale. (*See* discussion of the proposed § 36.4319a(h), below.)

In the event all conditions specified in this proposed paragraph (f) cannot be met, but the holder believes a compromise sale would be in the best interest of the veteran and the Secretary, the holder may request advance approval from VA for a compromise sale.

Under the proposed § 36.4319a(g), holders would be permitted to accept deeds-in-lieu of foreclosure. VA regards compromise sales as preferable to deeds-in-lieu of foreclosure. Under a compromise sale, the property will be sold at approximately the fair market price, and VA will not be required to incur the expenses of acquiring, managing, and reselling the property. Therefore, the proposed paragraph (g) would require that, before a holder may accept a deed-in-lieu, the holder must consider a compromise sale and find it is not practical. As with compromise sales, the holder would be required to estimate that the guaranty payment it would receive following the deed-in-lieu would not exceed the guaranty payment following an actual foreclosure. In addition, the holder would be required to determine that the current owner can convey clear and marketable title of the property to VA. Finally, certain obligors will be required to execute a repayment agreement before the holder may approve the deed-in-lieu. (*See* discussion of the proposed § 36.4319a(h), below.)

Also, as with compromise sales, in the event all conditions specified in this proposed paragraph (g) cannot be met, but the holder believes a deed-in-lieu would be in the best interest of the veteran and the Secretary, the holder may request advance approval from VA for accepting a deed-in-lieu.

VA also proposes to add a new § 36.4319a(h) regarding repayment agreements. Under current § 36.4323, which is not being modified in this regard by this proposed rule, certain individuals are deemed to be liable to the Government if VA is required to make a payment under the guaranty. Generally, veterans whose loans have closed on or before December 31, 1989, and individuals who have been approved to assume a veteran's loan so the veteran may be released from further liability on the loan under 38 U.S.C. 3713 and 3714 have such liability. The proposed paragraph (h) defines the term ''liable obligor'' to include such individuals. The proposed paragraph (h) would require liable obligors to execute an agreement to repay VA 50 percent of the debt that would otherwise be assessed under existing § 36.4323. Reducing the obligor's debt to VA should help induce liable obligors to cooperate with holders in compromise sales and deeds-in-lieu.

The repayment agreement would require that the first payment would be due on the first day of the first month which is one year after the deed-in-lieu is executed or the compromise sale is closed. For example, if the deed-in-lieu were executed October 23, 2004, the first payment would be due November 1, 2005. The obligation would bear interest as established by the Secretary under 38 U.S.C. 5315(b)(2). That statute mandates collecting interest on VA benefit debts. Interest would accrue from the date the first payment was due. The agreement would require equal monthly payments, with the total debt repaid within 5 years after the first payment was due.

The signing of the required repayment agreement would not preclude a veteran from seeking to have the debt waived by VA pursuant to 38 U.S.C. 5302.

Finally, the proposed paragraph (h) would require a written notice, sent by VA to the obligor by certified mail, return receipt requested, of the actual amount of the debt, the rate of interest, the required monthly payment, the rate of interest, and the right of veterans to request waiver. This notice will be sent after VA pays the guaranty claim because the amount paid under the guaranty establishes the debt. In this case, the debt would normally be 50 percent of such claim payment, plus interest.

VA is also proposing to add a new definition to 38 CFR 36.4301 for the term ''compromise sale.'' This term will mean a sale to a third party for an amount less than is sufficient to repay the unpaid balance on the loan where the holder has agreed in advance to release the lien in exchange for the proceeds of such sale. In addition, VA is proposing a conforming amendment to § 36.4324.

**Servicer Tier Rankings and Loss-Mitigation Incentive Payments**

In newly proposed 38 CFR 36.4316 VA proposes to rank servicers into four tiers, depending on their performance, with tier one being the highest rated and

tier four the lowest. VA is modeling the tier ranking system after that used by the Federal Home Loan Mortgage Corporation (FHLMC), also known as Freddie Mac. Specific criteria are not yet established. VA is soliciting comments on criteria to be used in developing the tier rankings. A servicer's performance and tier ranking will not be publicly disclosed.

For at least the first year, all servicers will be presumed to be in tier two, and eligible for loss-mitigation incentives paid for that level.

After VA has collected data under the new reporting requirements (see discussion under ''Revised Reporting Requirements,'' below) for six months, VA intends to review the data and develop the criteria for ranking servicers. Those criteria will then be published in the **Federal Register** for notice and comment. VA expects that the computer system for such reporting will be operational by Summer 2005, and proposed rules for tier ranking will be published in early calendar year 2006. Those projected dates could be subject to adjustment due to technical delays in the development of the new system.

Once VA has adopted final rules for tier rankings, VA will monitor and grade servicer performance on a quarterly basis, and annually adjust the tier ranking depending on the servicer's performance over the past four calendar quarters using those standards. All servicers will remain in tier two until their performance has been evaluated for four calendar quarters after final tier ranking rules have been adopted.

VA is also proposing to add a new 38 CFR 36.4317 which provides for making incentive payments to loan servicers in tier ranks one through three upon their successful completion of certain foreclosure avoidance, loss-mitigation options. Currently, loan servicers receive incentive payments from the Department of Housing and Urban Development, Fannie Mae, Freddie Mac, and some private mortgage insurance companies for implementing various foreclosure-avoidance procedures on loans in serious default. As explained below, VA currently pays such incentives under limited circumstances.

In July 1995, VA administratively instituted the Servicer Loss Mitigation Program (SLMP). Participation in SLMP has been voluntary. Under SLMP, VA pays participating servicers an incentive for deeds-in-lieu of foreclosure and compromise sales. SLMP currently requires servicers to obtain VA consent before completing either of these alternatives to foreclosure.

VA has received anecdotal evidence that some servicers place less emphasis on widespread use of foreclosure-avoidance measures on VA loans due to the fact that VA normally does not pay the incentives which have become the industry standard.

A major goal of the VA housing loan program is to assist veterans in obtaining home financing, and doing so with the least risk of loss upon default to both the veteran and VA as guarantor of the loan and, ultimately, to the Federal Treasury. VA strives to avoid foreclosure whenever reasonably possible. If a means can be found to keep a veteran and the veteran's family in the home or, if that is not possible, to terminate the loan without foreclosure, VA wishes to pursue that alternative. This will be less costly to both VA and the veteran, will prevent the veteran's credit record from reflecting a foreclosure, and if necessary, allow the veteran a reasonable time to voluntarily vacate and move from the home.

Therefore, VA is now proposing to expand the incentive payment program by increasing the number of options for which incentives will be paid, increasing the number of servicers that may qualify for incentives, and formalizing the rules regarding the amount of the incentive payments, the timing of the payments, and the tests for qualifying for such payments.

Under the proposed § 36.4317, VA will pay any servicer in tiers one, two, and three an incentive payment for successfully completing any of the following loss-mitigation options: repayment plan, special forbearance, loan modification, compromise sale, and deed-in-lieu of foreclosure. Only one incentive payment will be made with respect to a default required to be reported to the Secretary under the proposed new § 36.4315a(d). That section would require reporting a default to VA within 5 business days after a loan has been delinquent for 61 days.

The amount of the incentive payment is set forth in a chart contained in the proposed § 36.4317(b), and will depend upon the servicer's tier ranking and the type of loss-mitigation action. The incentive payment will range from $1,000 (to a servicer in tier one for a compromise sale) to $120 (for a servicer in tier three for a repayment plan or special forbearance).

The criteria for when a loss-mitigation option will be considered successfully completed are contained in the proposed § 36.4317(c). A repayment plan would be deemed successful when four consecutive payments under the plan have been made or when the total delinquency has been repaid, whichever occurs sooner. Special forbearance will be deemed successful when the loan reinstates. A loan modification would be deemed completed when the modification agreement is signed and the loan reinstates. Finally, a compromise sale or deed-in-lieu of foreclosure will be deemed successful when the servicer submits a claim under the guaranty.

Finally, § 36.4317(d) provides that incentive payments for successful repayment plans, special forbearance, and loan modifications will be made to eligible servicers monthly. Payments for compromise sales and deeds-in-lieu of foreclosure will be paid with the guaranty claim.

No incentive payment will be made to a servicer in tier four. While, as stated above, the exact criteria for ranking servicers are still being developed, VA anticipates that tier four will be reserved for servicers whose performance has been significantly and repeatedly below acceptable VA and industry standards. VA does not believe additional rewards should be provided to a servicer whose performance has been consistently below an acceptable level. The successful completion of loss-mitigation options by tier four servicers will, however, be considered in future rankings. Thus tier four servicers will have an incentive to successfully complete these options.

**Revised Reporting Requirements**

VA is also proposing to significantly revise the requirements for holders to report the status of all guaranteed loans in their portfolio and also to report significant events in the servicing and termination of such loans.

Currently, § 36.4315(a) requires the holder to notify VA within 45 days after the debtor is 60 days in default on a payment (in effect, not later than 105 days after the borrower fails to make a payment due). This section also requires reporting within 45 days after the obligor has failed to pay real estate taxes when due and such taxes have remained unpaid for at least 180 days, or the obligor has been in default on any other obligation under the loan for at least 90 days after receiving notice from the lender to comply with such requirement.

Currently, § 36.4316 establishes conditions under which servicers may, at their option, file the notice prescribed in § 36.4317, Notice of Intention to Foreclose. This section, as well as the related § 36.4317, are being eliminated in their entirety because they will no longer be necessary under the reporting

requirements defined in the new § 36.4315(a).

VA is proposing to delete the current default and foreclosure reporting requirements cited in paragraph (a) of § 36.4315, and §§ 36.4316, 36.4317. VA is proposing to add a new § 36.4315a which will establish the new servicer reporting requirements for all outstanding guaranteed loans.

This new section will require all holders to report information electronically to VA by use of a computer. VA is currently developing a computer-based system for this purpose. It is contemplated that holders will have the option of using a variety of methods to input data to VA's system. These include:

Data file exchange.

Direct system interface.

Direct input to VA through the Internet.

More specific information regarding the use of this system will be provided later through industry releases, conferences, and training provided by VA prior to implementation. Holders will need to obtain a user identification and password from VA. Procedures for this will be announced at a later date.

The existing paragraph (b) of § 36.4315, pertaining to acceptance of partial payments by a holder, will remain in a renamed § 36.4315, with minor, non-substantive editorial revisions.

**Procedural Papers**

Currently, paragraph (a) of § 36.4319 requires that, when a loan holder initiates or becomes a party to a legal or equitable proceeding involving a guaranteed housing loan or the property securing such loan, the holder provide VA with copies of all legal procedural papers related to such action. Paragraph (b) of that section requires the holder to provide VA with a copy of the notice of sale with respect to the property securing such loans at least 30 days prior to the liquidation sale or within 5 days after first publication, whichever is later. Paragraphs (c) through (e) of that section relate to service of such papers when the Secretary is a party to a legal proceeding.

VA believes the requirement to provide VA with all such papers when VA is not a party to the litigation imposes an unnecessary paperwork burden on holders and their counsel. The vast majority of papers filed in legal proceedings are ordinarily of little benefit to VA. Should VA have a need to review certain documents, VA can make a specific request to the holder for copies of any specific documents VA needs to review. In addition, under the proposed reporting requirements, discussed above, holders would be required to inform VA within 5 business days after any bankruptcy or other legal, equitable, or administrative proceeding is filed that would materially affect the loan termination, the lien, or the security property.

Accordingly, VA is proposing to delete paragraphs (a), (b), and (c) of § 36.4319. VA is further proposing to rewrite the existing paragraph (d) of § 36.4319, which would become paragraph (a), by requiring that any legal process in an action to which VA is a party, prior to VA entering an appearance, shall be served on the VA Regional Counsel, the Attorney General, and the United States Attorney having jurisdiction over the area where the court is located. Currently, this paragraph requires service on the Loan Guaranty Officer. VA believes these pleadings should be served on VA's counsel rather than the program official. Service on the Attorney General and United States Attorney are required by the Federal Rules of Civil Procedure. The existing paragraph (e), relating to service of papers after the Secretary's attorney in a legal proceeding has entered an appearance, is being redesignated as paragraph (b).

Paragraph (f) of § 36.4319 does not pertain to procedural papers. It is being deleted for the reasons explained under the heading, Time for Loan Termination and Limit on Interest and Charges, below.

**Calculation of Net Value**

Under the governing statute, 38 U.S.C. 3732(c)(3), when VA receives a notice that a guaranteed loan in default is about to be terminated, VA is required to compute the ''net value'' of the property securing the guaranteed loan. The term ''net value'' is defined in 38 CFR 36.4301. Generally, ''net value'' is the fair market value of the property minus the costs VA estimates it would incur to acquire and dispose of the property. Those costs are computed using the methodology contained in that definition. Currently, VA calculates the net value and provides this value in writing to the holder along with instructions regarding the holder's bid at the liquidation sale. Under detailed formulae contained in 38 U.S.C. 3732(c), the relationship between the veteran's total indebtedness at time of foreclosure, the net value of the property, and the amount that the holder bids or receives at the foreclosure sale determines the amount that VA will pay the loan holder on a guaranty claim and whether or not the holder has the option to convey the property to VA following foreclosure.

The computation of the net value for a specific property involves a simple mathematical computation. All that is required is knowing the fair market value of the property and the percentage factor used by VA to represent the cost to VA of acquiring and disposing of the property. Multiplying the fair market value by the cost factor produces the amount to subtract from the fair market value and arrive at the net value. That percentage is determined annually by VA pursuant to 38 CFR 36.4301 (definition of net value) and published in the **Federal Register**. Currently, that factor is 11.87 percent. If the property has a fair market value of $100,000, the net value would be calculated as follows:

| | |
|---|---|
| Fair market value | $100,000 |
| Cost factor (11.87 percent of $100,000) | (11,870) |
| Net Value | 88,130 |

Program participants have complained that VA has not been providing bidding instructions in a timely fashion. Program participants have also advised that delays on the part of the agency have resulted in delayed or postponed foreclosure sales and ultimately increased costs of loan termination to VA, the veteran, and the loan holder.

Accordingly, VA is proposing to add a new § 36.4319a, entitled ''Loan Termination.'' This new section will require loan holders to calculate the net value of the security property for each loan being terminated. Under the proposed rule, at least 30 days prior to the scheduled or anticipated date of the liquidation sale, the loan holder must request that VA assign an appraiser to conduct a liquidation appraisal.

Under existing regulations, § 36.4301, the term ''liquidation sale'' includes voluntary deeds-in-lieu of foreclosure. VA is proposing to amend the definition of ''liquidation sale'' to clarify that such term includes a ''compromise sale'' (see the discussion under the heading, ''Deeds-in-lieu of Foreclosure and Compromise Sales,'' above). Following a compromise sale, the holder will submit a claim under the guaranty to VA for the unpaid balance on the loan.

The liquidation appraisal will ordinarily be valid for 6 months. VA may, however, specify a shorter validity period on the appraisal if rapidly-changing market conditions make such shorter period in the best fiscal interests of the United States.

At this point, one of two scenarios will occur. VA is proposing to permit certain loan holders, within guidelines being established by VA, to review the appraisal report and determine the fair

market value of the property (see the discussion under the heading, Servicer Appraisal Processing Program, below).

If the holder is not eligible to participate in the Servicer Appraisal Processing Program (SAPP), VA will review the liquidation appraisal report and determine the fair market value of the property. VA will then inform the holder of such fair market value in writing.

Once the holder has either been advised of or determined the fair market value of the security property, the holder will then calculate the net value using the published percentage-factor. The holder will then determine what to bid on the property at the liquidation sale, taking into account the net value of the property the holder has calculated, the obligor's total indebtedness, and the formulae contained in 38 U.S.C. 3732(c).

The loan holder's accounting records will contain sufficient information to enable the holder to determine the total indebtedness. VA also proposes to insert in § 36.4301 a definition of the term ''Total Indebtedness.'' For purposes of 38 U.S.C. 3732(c), ''Total Indebtedness'' will mean the sum of the unpaid principal on the loan as of the date of the liquidation sale, accrued unpaid interest, subject to the maximum interest allowable (which is discussed below under the heading Time for Loan Termination and Limit on Interest and Charges) and fees and charges permitted to be included in the guaranty claim by the regulations.

Because the statute contains clear guidance regarding how the guaranty is calculated and when the holder may convey the security to VA, there is no need for VA to provide bidding instructions in each case where there is an actual foreclosure proceeding or other liquidation sale. VA will, however, provide periodic training for all loan holders and servicers regarding net value calculation and bidding procedures.

VA is also proposing a clarifying amendment to § 36.4321 regarding claim payments when the holder accepts a voluntary conveyance of the property in lieu of foreclosure. Under the formulae contained in 38 U.S.C. 3732(c), in order for VA to compute the guaranty claim payable to the holder, it is necessary to know the amount for which the holder acquired the property at the liquidation sale. Unlike a traditional foreclosure sale, when a holder accepts such a voluntary conveyance there is no public bid or exchange of funds. Therefore, VA is proposing to add language to § 36.4321(c)(2) stating that, in the case of a voluntary conveyance in lieu of foreclosure, the holder shall be deemed to have acquired the property at the liquidation sale for the lesser of the net value of the property or the obligor's total indebtedness.

Editorial changes are also proposed to be made to § 36.4320 to reflect that the holder will be computing the net value and to remove unnecessary language that merely repeats, without further elaboration, the formulae contained in 38 U.S.C. 3732(c). In addition, VA is proposing to delete the provision in § 36.4320(c), which requires a holder to obtain advance approval from VA before accepting a deed-in-lieu of foreclosure.

**Servicer Appraisal Processing Program**

Under current procedures, prior to the liquidation sale loan holders request that VA assign an appraiser from the VA fee panel to perform a liquidation appraisal. VA then reviews this appraisal and determines the fair market value of the property. As explained above, this fair market value is used to calculate the net value of the property.

As discussed above, industry representatives have complained that VA does not furnish timely bidding information. VA believes that permitting holders to complete the net value computation will help alleviate this situation. VA recognizes, however, that delays can still occur when VA obtains and reviews the liquidation appraisal. VA has received suggestions that VA move to another method of valuing properties at liquidation, such as broker price opinions and automated valuation models. VA carefully considered such alternatives, and concluded not to adopt an alternative valuation method at this time. VA believes by randomly assigning the valuation to a member of VA's fee panel, the opportunity for fraud and undue influence is greatly reduced. Further, VA already has a panel of appraisers in place. VA will continue to monitor the work of its fee appraisers, and emphasize the necessity of performing liquidation appraisals in a timely manner.

Public Law 100–198, enacted December 21, 1987, authorized the Lender Appraisal Processing Program (LAPP) where VA could permit qualified lenders, under guidelines issued by VA, to review loan-origination appraisals, ensure adherence to VA-published minimum property requirements, and set the reasonable value of properties for purposes of determining the maximum loan VA could guarantee. VA's experience is that the LAPP has worked well and often expedites the loan-origination process.

Accordingly, VA is also proposing to establish a Servicer Appraisal Processing Program (SAPP), modeled after the LAPP guidelines, which are contained in § 36.4344.

Under the proposed SAPP, VA is proposing to delegate authority to qualified employees of the servicer to review liquidation appraisals and issue Notices of Value that establish the fair market value of the property for use when determining the net value of the property for liquidation purposes. The proposed SAPP will be similar to the current LAPP guidelines and will require the same qualifications for Staff Appraisal Reviewer approval.

**Time for Loan Termination and Limit on Interest and Charges**

In computing the guaranty claim, as explained above under the heading ''Calculation of Net Value,'' when VA computes the amount payable under the guaranty, one of the statutory factors affecting this calculation is the obligor's total indebtedness. Under the legal instruments evidencing the loan, an obligor's total debt would ordinarily include all accrued but unpaid interest through the date of the liquidation sale. In addition, § 36.4313 allows a holder to advance and include as part of the total indebtedness certain reasonable costs and charges. VA is permitted by 38 U.S.C. 3732(a)(3), however, to establish a date not later than the date of judgment or decree of foreclosure or sale, upon which the accrual of interest and other charges shall cease. Currently, § 36.4319(f) provides that if the holder does not bring appropriate action to terminate the loan within 30 days after being requested to do so by VA, than VA may fix a date after which interest and other charges will no longer accrue.

As part of the Loan Administration redesign process, VA has concluded that holders should be given a reasonably-objective standard for determining when the foreclosure of a defaulted loan would be expected to have been completed. VA further has concluded that the accrual of interest and other charges, for purposes of a guaranty claim, should cease after the holder has had such reasonable time to complete loan termination.

VA is therefore proposing to repeal the existing § 36.4319(f) which currently provides for an interest cut-off date.

VA is also proposing to add a new § 36.4319a that would require a holder of a loan in serious default to expeditiously and diligently pursue foreclosure as permitted under law once the decision to foreclose has been made. This section contains a table stating the length of time a holder, exercising reasonable diligence, should be able to complete the foreclosure in each State.

In formulating that table, VA will consider the published foreclosure timeframes for similar loans used by the U.S. Department of Housing and Urban Development (HUD), Fannie Mae, and Freddie Mac. VA will periodically review the continued reasonableness of such timeframes, and propose adjustments if needed, especially if changes in State law have a significant impact on the continued ability of holders to meet such timeframes.

VA is also proposing to require holders to notify VA five business days prior to the foreclosure of any loan where the veteran has substantial equity in the property securing the loan. Holders will determine the equity by subtracting the total indebtedness on the guaranteed loan plus the balance owed on other liens of record from the fair market value of the property securing the loan. If the equity equals at least 25% percent of the fair market value of the security, this notice will be required.

VA expects loan holders to aggressively work with veterans in default who have significant equity and attempt to find ways to avoid foreclosure. As discussed above, VA is also proposing to provide servicers incentives for the successful implementation of loss-mitigation alternatives to foreclosure options. VA believes these loss-mitigation servicing efforts are and will be generally successful. Nevertheless, VA is proposing to require this notice as a final effort to try to prevent a veteran needlessly losing substantial equity through foreclosure. This notice will enable VA to review the servicing history and ensure that every reasonable effort was made to avoid foreclosure.

Once the holder has given VA this notice, the holder may proceed with the foreclosure unless specifically instructed by VA to do otherwise. VA does not intend that this requirement will give veterans who have substantial equity in the property any special rights or treatment, or that the notice will automatically trigger any delay in the foreclosure. It merely provides VA the opportunity to take one last look and intervene in cases where VA, in its sole judgment, considers such action to be appropriate.

This proposal will also define the term ''business day'' to be Monday through Friday, inclusive, excluding Federal holidays.

In lieu of the current procedure where VA notifies holders on a case-by-case basis of a cut-off date after which interest and fees will no longer be paid, VA is proposing to amend § 36.4321 to provide that the maximum unpaid interest which will be allowed under a guaranty claim will be the lesser of total unpaid interest as of the liquidation sale or interest for the timeframe VA specified under the proposed § 36.4319a(a) plus 180 days. VA is also proposing to amend § 36.4313 to state that advances and property expenses accruing more than the number of months VA specifies for liquidation to be completed plus 180 days from the date of the first uncured default may not be included in the claim.

VA may, however, permit additional interest, fees, and charges if the holder was unable to complete the foreclosure due to bankruptcy of the debtor, appeals of the foreclosure judgments, forbearance in excess of 30 days granted at the request of VA, or other factors beyond the control of the holder. The determination of whether to permit additional interest and charges to be included in the claim will be made by those officials specified in § 36.4342(b). This rule will further provide that the Loan Guaranty Officer is authorized to redelegate the authority to make determinations to allow additional interest and other costs.

VA wishes to note that establishing a maximum amount of interest allowable in a claim is not intended to be a deadline for initiating foreclosure. VA will include sufficient time in the foreclosure completion timeframes to allow a holder exercising reasonable diligence to complete the foreclosure without losing the right to include in the guaranty claim all unpaid interest and otherwise-allowable fees and charges.

The proposed rule would also make editorial changes to paragraphs (b) and (c) of § 36.4321 consistent with this proposed rule.

**Attorneys Fees**

Currently, § 36.4313(b)(5) permits a holder that has foreclosed a VA-guaranteed loan to include as part of their guaranty claim a reasonable amount for legal services necessary to terminate the loan. The amount of attorney fees which may be included in the claim may not exceed the lesser of 10 percent of the outstanding indebtedness or $850. The current regulation also permits additional fees approved in advance by VA. By administrative circular, VA has given blanket consent to field offices permitting some additional fees for bankruptcy. In addition, the current rule restricts the combined total of attorney fees and trustee fees allowed by § 36.4313(b)(4) to $850.

It has been the position of VA that the allowance of legal fees was never intended to limit the amount the loan holder may pay for legal services. It merely limited the amount that VA would reimburse the holder. As a practical matter, however, VA has been advised, on numerous occasions, that many loan holders effectively limit what they will pay counsel for legal services in connection with the termination of VA guaranteed loans to what VA will reimburse the holder. The legal fees VA permits are often significantly less than fees for similar services permitted under other Federal housing programs or by federally-chartered market investors. VA believes that, in some instances, attorneys give less priority to work related to the termination of VA guaranteed loans than to loans where attorney fees are greater. That can lead to costly delays.

Under the proposed rule, § 36.4313 will be amended to permit holders to include in their claim legal fees not to exceed the reasonable and customary charge for such services in the State where the property is located. VA will publish at least annually following publication of the final rule in the **Federal Register** a schedule listing the reasonable and customary fees for various services such as foreclosure actions, deeds-in-lieu of foreclosure, and bankruptcies for each State. In formulating this schedule, VA will consider the published allowance for attorney fees permitted for single-family loan terminations by HUD, Fannie Mae, and Freddie Mac.

Upon publication of the final rule, the following schedule of allowable fees for services will be effective and will remain unless changed by publication in the **Federal Register** as stated in the above paragraph:

BILLING CODE 4191–02–P

| SCHEDULE OF ALLOWABLE ATTORNEY FEES BY JURISDICTION | | | |
|---|---|---|---|
| Jurisdiction | Non-Judicial Foreclosure | Judicial Foreclosure | Deed-in-Lieu of Foreclosure |
| Alabama | $550.00 | N/A | $350.00 |
| Alaska | $1,200.00 | N/A | $350.00 |
| Arizona | $625.00 | $625.00 | $350.00 |
| Arkansas | $600.00 | $750.00 | $350.00 |
| California | $600.00 | $600.00 | $350.00 |
| Colorado | $800.00 | N/A | $350.00 |
| Connecticut | N/A | $1,250.00 | $350.00 |
| Delaware | N/A | $950.00 | $350.00 |
| District of Columbia | $600.00 | N/A | $350.00 |
| Florida | N/A | $1,200.00 | $350.00 |
| Georgia | $600.00 | N/A | $350.00 |
| Guam | $1,200.00 | N/A | $350.00 |
| Hawaii | N/A | $1,850.00 | $350.00 |
| Idaho | $600.00 | N/A | $350.00 |
| Illinois | N/A | $1,100.00 | $350.00 |
| Indiana | N/A | $1,000.00 | $350.00 |
| Iowa | $550.00 | $850.00 | $350.00 |
| Kansas | N/A | $850.00 | $350.00 |
| Kentucky | N/A | $850.00 | $350.00 |
| Louisiana | N/A | $900.00 | $350.00 |
| Maine | N/A | $1,250.00 | $350.00 |
| Maryland | $800.00 | N/A | $350.00 |
| Massachusetts | N/A | $1,250.00 | $350.00 |
| Michigan | N/A | $650.00 | $350.00 |
| Minnesota | $650.00 | $800.00 | $350.00 |
| Mississippi | $550.00 | N/A | $350.00 |
| Missouri | $650.00 | N/A | $350.00 |
| Montana | $600.00 | N/A | $350.00 |
| Nebraska | $600.00 | $850.00 | $350.00 |
| Nevada | $600.00 | $600.00 | $350.00 |
| New Hampshire | $900.00 | N/A | $350.00 |
| New Jersey | N/A | $1,300.00 | $350.00 |
| New Mexico | N/A | $900.00 | $350.00 |
| New York | N/A | $1,250.00 | $350.00 |
| North Carolina | $550.00 | N/A | $350.00 |
| North Dakota | $650.00 | $900.00 | $350.00 |
| Ohio | N/A | $1,100.00 | $350.00 |
| Oklahoma | N/A | $900.00 | $350.00 |
| Oregon | $675.00 | N/A | $350.00 |
| Pennsylvania | N/A | $1,250.00 | $350.00 |
| Puerto Rico | N/A | $1,100.00 | $350.00 |
| Rhode Island | $900.00 | N/A | $350.00 |
| South Carolina | N/A | $850.00 | $350.00 |
| South Dakota | $650.00 | $850.00 | $350.00 |
| Tennessee | $550.00 | N/A | $350.00 |
| Texas | $550.00 | $550.00 | $350.00 |
| U.S. Virgin Islands | N/A | $1,100.00 | $350.00 |
| Utah | $600.00 | N/A | $350.00 |
| Vermont | N/A | $950.00 | $350.00 |
| Virginia | $600.00 | N/A | $350.00 |
| Washington | $675.00 | N/A | $350.00 |
| West Virginia | $550.00 | N/A | $350.00 |
| Wisconsin | N/A | $1,100.00 | $350.00 |
| Wyoming | $600.00 | N/A | $350.00 |

**SCHEDULE OF REIMBURSABLE FEES FOR OBTAINING BANKRUPTCY RELEASES DIRECTLY RELATED TO LOAN TERMINATION.**
**(These are in addition to the allowable attorney fees shown above.)**

| Jurisdiction | Chapter 7 Bankruptcy | Chapter 13 Bankruptcy | Each Additional Release Obtained For Multiple Filings |
|---|---|---|---|
| Alabama | $450.00 | $650.00 | $250.00 |
| Alaska | $450.00 | $650.00 | $250.00 |
| Arizona | $450.00 | $650.00 | $250.00 |
| Arkansas | $450.00 | $650.00 | $250.00 |
| California | $450.00 | $650.00 | $250.00 |
| Colorado | $450.00 | $650.00 | $250.00 |
| Connecticut | $450.00 | $650.00 | $250.00 |
| Delaware | $450.00 | $650.00 | $250.00 |
| District of Columbia | $450.00 | $650.00 | $250.00 |
| Florida | $450.00 | $650.00 | $250.00 |
| Georgia | $450.00 | $650.00 | $250.00 |
| Guam | $450.00 | $650.00 | $250.00 |
| Hawaii | $450.00 | $650.00 | $250.00 |
| Idaho | $450.00 | $650.00 | $250.00 |
| Illinois | $450.00 | $650.00 | $250.00 |
| Indiana | $450.00 | $650.00 | $250.00 |
| Iowa | $450.00 | $650.00 | $250.00 |
| Kansas | $450.00 | $650.00 | $250.00 |
| Kentucky | $450.00 | $650.00 | $250.00 |
| Louisiana | $450.00 | $650.00 | $250.00 |
| Maine | $450.00 | $650.00 | $250.00 |
| Maryland | $450.00 | $650.00 | $250.00 |
| Massachusetts | $450.00 | $650.00 | $250.00 |
| Michigan | $450.00 | $650.00 | $250.00 |
| Minnesota | $450.00 | $650.00 | $250.00 |
| Mississippi | $450.00 | $650.00 | $250.00 |
| Missouri | $450.00 | $650.00 | $250.00 |
| Missouri | $450.00 | $650.00 | $250.00 |
| Montana | $450.00 | $650.00 | $250.00 |
| Nebraska | $450.00 | $650.00 | $250.00 |
| Nevada | $450.00 | $650.00 | $250.00 |
| New Hampshire | $450.00 | $650.00 | $250.00 |
| New Jersey | $450.00 | $650.00 | $250.00 |
| New Mexico | $450.00 | $650.00 | $250.00 |
| New York | $450.00 | $650.00 | $250.00 |
| North Carolina | $450.00 | $650.00 | $250.00 |
| North Dakota | $450.00 | $650.00 | $250.00 |
| Ohio | $450.00 | $650.00 | $250.00 |
| Oklahoma | $450.00 | $650.00 | $250.00 |
| Oregon | $450.00 | $650.00 | $250.00 |
| Pennsylvania | $450.00 | $650.00 | $250.00 |
| Puerto Rico | $450.00 | $650.00 | $250.00 |
| Rhode Island | $450.00 | $650.00 | $250.00 |
| South Carolina | $450.00 | $650.00 | $250.00 |
| South Dakota | $450.00 | $650.00 | $250.00 |
| Tennessee | $450.00 | $650.00 | $250.00 |
| Texas | $450.00 | $650.00 | $250.00 |
| U.S. Virgin Islands | $450.00 | $650.00 | $250.00 |
| Utah | $450.00 | $650.00 | $250.00 |
| Vermont | $450.00 | $650.00 | $250.00 |
| Virginia | $450.00 | $650.00 | $250.00 |
| Washington | $450.00 | $650.00 | $250.00 |
| West Virginia | $450.00 | $650.00 | $250.00 |
| Wisconsin | $450.00 | $650.00 | $250.00 |
| Wyoming | $450.00 | $650.00 | $250.00 |

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The rule will retain the limit that the combined total of attorney fees and trustee fees may not exceed the maximum allowance for attorney fees.

**Submitting Claims Under the Guaranty**

Under current regulations, the holder does not have any deadline for filing a claim with respect to a terminated guaranteed housing loan.

The Federal Credit Reform Act of 1990, 2 U.S.C. 661, requires all Federal agencies to determine the actual cost of making and guaranteeing loans. For budgetary purposes, the cost is attributed to the ''cohort year'' in which the loan is guaranteed or made. For example, all costs related to a loan guaranteed by VA in Fiscal Year 2002 are attributed to the funds appropriated for that year, regardless of when a particular loan is terminated or when a specific cost is actually paid. Agencies are required to re-estimate the costs annually of all loans guaranteed or made for each cohort year. The fact that a certain number of loans for a particular cohort year were terminated and the Government was required to pay a claim or acquire a property is important information needed to make the annual re-estimate.

To ensure accuracy in the Federal budget process, VA needs to know within a reasonable time that specific loans for particular cohort years have been terminated and that costs will be incurred.

VA recognizes that holders cannot file a claim immediately upon termination because the holders need time to receive all bills and reconcile their accounts. VA believes, however, that holders should be able to ascertain all necessary information and submit a claim within 1 year of the completion of the loan termination process.

Accordingly, VA is proposing to amend § 36.4321 to require a holder to submit a guaranty claim electronically within 1 year of the completion of the liquidation sale. For purposes of this requirement, the liquidation sale will be considered completed when the last act required under state law is taken to either make the liquidation sale final, or obtain a judgment, a confirmation, or an approval of the sale, excluding any redemption period.

When the holder accepts a voluntary conveyance in lieu of foreclosure, the liquidation sale will be deemed completed when the owner executes a deed to the holder or the holder's designee. In the case of a compromise sale, the liquidation sale will be deemed completed on the date of settlement.

With respect to any loan where the liquidation sale was completed prior to the effective date of the final rule, the guaranty claim must be submitted within 1 year after the effective date of the final rule.

If a holder files a claim within this one-year period and new information subsequently comes to light, this proposal would also permit supplemental claims based on this new information, provided that the supplemental claims are filed within this one-year window. No claims will be considered if they are filed after this one-year period has elapsed.

This section will also permit a holder to request that the Loan Guaranty Officer reconsider any item in the claim that was denied, provided that such a request for reconsideration is made electronically within 30 days after the holder is advised that one or more items in their claim have been denied. This rule will further provide that the Loan Guaranty Officer is authorized to redelegate the authority to make a determination on a reconsideration.

**Records Retention and Post-Audit**

In order to expedite claim payment, VA will not ordinarily require the routine submission and review of supporting documentation, such as copies of bills and receipts, prior to payment of guaranty claims. In order to ensure the fiscal integrity of the program, VA will, however, perform a full review, on a post-audit basis, of a random sample of claims filed by each servicer to ensure that amounts claimed are proper and fully supported. The size of the sample audited and the frequency of audits may be increased if VA finds a greater frequency of errors in claim submissions by a particular holder. VA anticipates that the size of the sample and the frequency of audit would be reduced for servicers in tier one, and increased for servicers in tiers three and four. In all cases, however, the size and frequency of audit will be based on a statistically valid sampling methodology, and the size of the sample and the frequency of audit would be immediately adjusted if significant errors or irregularities were discovered.

Likewise, VA will not require holders to submit back-up documentation regarding their credit underwriting when holders modify existing loans under the proposed revision to § 36.4314. However, VA will review the back-up documentation for a sample of modified loans as part of the routine post-audit process.

Accordingly, in order to ensure VA is able to perform such audits and ensure the fiscal integrity of the loan guaranty program, VA is proposing to amend § 36.4330, which pertains to maintenance of records. Currently, this section requires holders to maintain records of payments received on a loan and disbursements chargeable to such loan until the Secretary is no longer liable as guarantor of such loan. It also requires the lender to retain copies of all loan origination records for at least two years after loan closing. This section also grants VA the right to inspect, examine, or audit these records at a reasonable time and place.

VA is proposing to modify that section to require that, if the Secretary pays a claim on a guaranty, the records currently required to be maintained by § 36.4330(a) relating to payments received and disbursements chargeable to the loan be maintained electronically until 3 years after the Secretary made such claim payment.

Pursuant to the proposed amendments to § 36.4314, VA is also proposing to require holders who modify loans to maintain the records supporting their decision to modify the loan for 3 years after the modification agreement is executed. Such records would include credit reports, verifications of income, employment, assets, liabilities, and other factors affecting the obligor's credit worthiness, work sheets, and any other documents supporting the holder's decision to modify the loan.

**Title Evidence**

VA is proposing to standardize the documentation required as evidence of acceptable title to the Secretary. Currently, the documentation required may vary significantly depending on the property jurisdiction. In many cases, VA is requiring servicers to obtain title policies insuring the Secretary following the foreclosure. VA's experience has not demonstrated that obtaining title insurance is cost effective and this requirement is therefore being eliminated. VA is proposing that title evidence presented for conveyance of a property be standardized across all jurisdictions and reducing the amount of documentation required. VA will accept as evidence of title conveyance: a copy of the original mortgage, deed of trust, or other security instrument used for the terminated guaranteed loan, a copy of the deed or document evidencing transfer of interest and title at the foreclosure sale, and a Special Warranty Deed conveying title to the Secretary. The holder will be deemed to warrant marketability of the title to the property for 3 years after transfer to VA.

VA is proposing to add a provision that, when property is conveyed to VA, title should be conveyed to the ''Secretary of Veterans Affairs, an

Officer of the United States.'' The name of the current incumbent Secretary should not be included unless State law requires naming a real person. This complies with internal guidance currently contained in VA operating manuals.

VA is also proposing to delete, as obsolete, the language in § 36.4320(h)(5) (redesignated as paragraph (c)(5) in this proposed rule) stating that a violation of a restriction based on race, color, creed, or national origin will not cause the conveyance of the property to be unacceptable to VA. Court decisions and fair housing laws enacted since the current rule was originally issued shortly after World War II have made clear that any deed restrictions or recorded covenants purporting to restrict the ownership or occupancy of housing based upon race, color, religion, national origin, or any other prohibited classification are absolutely void and unenforceable, and any attempt to enforce such a restriction or otherwise discriminate in the sale, rental, financing, or providing of brokerage services with regard to residential real property is unlawful. Therefore, VA sees no need to continue to refer to such unfortunate historical relics in the title regulations.

**Miscellaneous Servicing Procedures**

VA is also proposing to amend § 36.4346 which pertains to servicing procedures for holders.

VA proposes to amend paragraph (c) of that section to require the holder to provide an annual statement of interest paid, and taxes disbursed within 30 days following the end of the calendar year. This rule currently requires such statement within 60 days of the end of the calendar year. This amendment will conform § 36.4346 to the requirements of 12 U.S.C. 2601, *et. seq.*, the Real Estate Settlement Procedures Act (RESPA). Because VA assumes holders are now complying with RESPA requirements, VA does not believe this proposed change will have any impact on holders.

VA is also proposing to amend paragraph (g)(1) of that section. That paragraph sets forth minimum collection actions holders must undertake when a guaranteed loan is in default. VA is proposing to delete the current requirement that the holder send a written notice to any borrower if a loan installment payment is not received within 17 days after the due date. The current rule requires that this notice be mailed no later than the 20th day of the delinquency.

VA is also proposing to require holders to send a new letter to certain delinquent borrowers. This new letter would be required to be sent if, within the first 6 months following the loan closing or the execution of a modification agreement under the proposed revision to § 36.4314, the borrower is 45 days delinquent on a loan payment, or, in the case of any other default, a payment is 75 days delinquent. This letter must be mailed within 5 business days after the payment is delinquent for the time period stated in the preceding sentence. The letter shall contain at least the following information:

(1) A toll-free telephone number and, if available, an e-mail address for contacting the servicer;

(2) Explain the loss mitigation options that may be available to the borrower; and

(3) Emphasize that the intent of loan servicing is to retain home ownership whenever possible.

In addition, this letter must contain the following language:

> The delinquency of your mortgage loan is a serious matter that could result in the loss of your home. If you are the veteran whose entitlement was used to obtain this loan, you can also lose your entitlement to a future VA home loan guaranty. If you are not already working with us to resolve the delinquency, please call us to discuss your workout options. You may be able to make special payment arrangements that will reinstate your loan. You may also qualify for a repayment plan or loan modification.
>
> VA has guaranteed a portion of your loan and wants to ensure that you receive every reasonable opportunity to bring your loan current and retain your home. VA can also answer any questions you have regarding your entitlement. If you have access to the Internet and would like to obtain more information, you may access the VA Web site at *http://www.va.gov*. You may also learn where to speak to a VA Loan Administration representative by calling 1–800–827–1000.

In addition, VA is proposing to amend the last sentence of paragraph (i)(2) of § 36.4346, which concerns procedures for when a holder learns that the property securing a guaranteed loan may have been abandoned. Currently, this provision requires that, with respect to a loan more than 30 days delinquent, if the holder confirms that the property is abandoned, the holder must so notify VA within 15 days. VA is proposing to revise this provision to require the holder to report to VA within 5 business days of confirming that the property has been abandoned or subjected to extraordinary waste or hazard, and to immediately initiate action to protect the property and terminate the loan.

Minor editorial and conforming amendments are also being made to this section.

**Processing Release of Liability**

VA is also proposing to authorize all holders or their servicing agent who are authorized to process loans under the automatic processing authority to process releases of liability for loans originated prior to March 1, 1988. Authority has already been given to those certain holders or their servicing agents to process releases of liability for loans originating after March 1, 1988.

**Paperwork Reduction Act of 1995**

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), a collection of information is set forth in the provisions of §§ 36.4314, 36.4315a, 36.4317, 36.4318, 36.4319, 36.4320, 36.4321, 36.4323, 36.4324, and 36.4344a.

OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Director, Regulations Management (00REG1)), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AL65.''

*Title:* Loan Guaranty—Loan Servicing and Claims Procedures Modifications.

*Summary of Collection of Information:* Under these proposed regulatory amendments, parties servicing VA guaranteed loans must comply with the following program changes (broken down by regulation):

- Section 36.4314 ''Under this section, VA proposes requirements that loan servicers must apply to process loan modifications. Current provisions are ambiguous as to when servicers are required to process documentation of loan modifications.
- Section 36.4315a ''Proposed changes to this section would increase the reporting burden for (a) current loans, (b) loss mitigation actions, and (c) foreclosure alternatives considered for delinquent loans and certain specific loan events (*e.g.*, servicing transfer) as they may occur. While these proposed changes would most likely result in an increase in the number of defaults being reported, due to changes in reporting processes attributable to technological advances, the current reporting burden

for § 36.4315a(d) with regard to default reporting would be reduced from 10 minutes per loan to about 1 second per loan. As a result, the overall burden imposed by this section would be significantly reduced.

• Section 36.4317—This section proposes to establish an incentive system to encourage servicers to perform certain loss mitigation and foreclosure avoidance actions instead of VA performing these actions. Elimination of the currently-required Notice of Intention to Foreclose would eliminate an annual reporting burden of 15,075 hours.

• Section 36.4318—This proposed change provides for the possible temporary suspension of property acquisition and claim payments, at the discretion of the Secretary, for certain servicers who continually fail to provide the loan transfer legal documents to VA in a timely manner. VA expects to exercise its authority to refund a loan only infrequently because of proposed changes discussed elsewhere in this publication. Therefore, we estimate that there will be a 95% reduction in the number of refunding cases completed annually. Since the refunding request carries certain paperwork burdens, estimated at 5 minutes per case, we estimate that there will be a net decrease in this burden by 197 hours.

• Section 36.4319—Proposed changes to this section would result in a significant reduction in the reporting and recordkeeping burden to the public. First, under existing requirements, loan servicers are required to provide a copy of all legal notices or filings to the Secretary in all legal proceedings, including bankruptcy and foreclosure. VA proposes to eliminate this requirement. In addition, this proposal would also eliminate the requirement that a servicer send VA a completed VA FL 26–567 in every potential loan termination. The net decrease in the public's reporting and recordkeeping burden is estimated at just over 26,000 hours.

• Section 36.4320—This section proposes a modification in the way in which servicers may file an election to convey a property to VA and reduces the amount of information VA currently obtains from a servicer when properties are conveyed to VA. As a result of this proposed change, the net reporting burden would be decreased by 2,500 hours annually.

• Section 36.4321—This proposal would change the manner in which claims are filed from paper submission to electronic data transfer, would reduce the amount of data and documentation required for servicers to file claims, and would limit the amount of time a servicer has to file a claim under guaranty. This proposal would not require any additional data collection beyond what is currently being collected, but would change the transfer media from paper to electronic. VA estimates that this change would reduce the annual net reporting burden by 22,297 hours.

• Section 36.4323—The proposed amendment to this section would extend authority to servicers who are authorized to process loans under the automatic processing authority to process releases of liability for loans originated prior to March 1, 1988. The change also allows servicers to collect processing fees at the same rate as authorized for processing releases of liability for loans originating after March 1, 1988. Current processes require servicers to complete and submit a statement of account to VA on each case (VA FL 26–559). This OMB-approved form letter carries a respondent burden of 10 minutes. Since this form letter will no longer be required, the existing respondent burden would be reduced. However, since servicers would have to process releases of liabilities under this proposal, there will be an increased number of occurrences. We estimate an annual increased respondent burden of 2,067 hours.

• Section 36.4324—Pursuant to the proposed change to this section, VA would delegate authority to servicers to process partial releases without prior VA approval if specific conditions are met. Currently, servicers must provide VA with paper copies of all documents required for VA to make the decision. Under the proposed process, the servicer will not be obtaining and forwarding those documents to VA since the servicer will be making the decision. In those cases in which the servicer would have to obtain an appraisal and review and make a decision, there will be a new respondent burden. We anticipate an increased annual burden of 160 hours.

• Section 36.4344a—Proposed changes to this section would extend authority to those servicers currently authorized to process origination appraisals under the Lender Appraisal Processing Program (LAPP) to process liquidation appraisals under the new Servicer Appraisal Processing Program (SAPP). All requirements currently in place for LAPP will also be in place for SAPP. During Fiscal Year 2003 VA processed a total of 43,504 liquidation appraisals. We estimate that 75% of those appraisals (32,628) would be able to be processed by servicers meeting the eligibility criteria and estimate the processing and reporting time at one hour per case. This would result in an estimated annual burden of 32,628 hours.

*Description of Need for Information and Proposed Use of Information:* The collections of information are necessary to meet the program requirements for servicing VA guaranteed home loans.

*Description of Likely Respondents:* Companies who service housing loans guaranteed or insured by VA.

*Estimated Number of Respondents:* 150.

*Estimated Frequency of Responses:* 2,539,200.

*Estimated Average Burden Per Collection:* 1 minute.

*Estimated Total Annual Reporting and Record Keeping Burden:* 42,320.

The Department considers comments by the public on proposed collections of information in—

• Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;

• Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;

• Enhancing the quality, usefulness, and clarity of the information to be collected; and

• Minimizing the burden of the collections 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.

**Unfunded Mandates**

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This final rule would have no such effect on State, local, or tribal governments, or the private sector.

**Executive Order 12866**

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

**Regulatory Flexibility Act**

The Secretary hereby certifies that this proposed rule would not have a

significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The vast majority of VA loans are serviced by very large financial companies. Only a handful of small entities service VA loans and they service only a very small number of loans. This proposal, which only impacts veterans, other individuals obligors with guaranteed loans, and companies that service VA loans, will have very minor impact on a very small number of small entities servicing such loans. Therefore, pursuant to 5 U.S.C. 605(b), the proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance Program number is 64.114.

**List of Subjects in 38 CFR Part 36**

Condominiums, Handicapped, Housing, Indians, Individuals with disabilities, Loan programs-housing and community development, Loan programs-Indians, Loan programs-veterans, Manufactured homes, Mortgage insurance, Reporting and record keeping requirements, Veterans.

Approved: March 1, 2004.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

**Editorial Note:** This document was received at the Office of the Federal Register February 14, 2005.

For the reasons set out in the preamble, 38 CFR part 36 is proposed to be amended as set forth below.

## PART 36—LOAN GUARANTY

1. The authority citation for part 36 continues to read as follows:

**Authority:** 38 U.S.C. 501, 3701–3704, 3707, 3710–3714, 3719, 3720, 3729, 3762, unless otherwise noted.

2. Section 36.4301 is amended by:

A. Adding the term ''Compromise sale''.

B. Revising the term ''Holder'' (the authority citation remains unchanged).

C. Adding a sentence at the end of the term ''Liquidation Sale''.

D. Removing the term ''Specified amount''.

E. Adding the term ''Total Indebtedness''.

The revisions and additions read as follows:

### § 36.4301 Definitions.

* * * * *

*Compromise sale.* A sale to a third party for an amount less than is sufficient to repay the unpaid balance on the loan where the holder has agreed in advance to release the lien in exchange for the proceeds of such sale.

* * * * *

*Holder.* The lender or any subsequent assignee or transferee of the guaranteed obligation or the authorized servicing agent (also referred to as ''the servicer'') of the lender or of the assignee or transferee.

* * * * *

*Liquidation sale.* * * * This term also includes a compromise sale.

* * * * *

*Total indebtedness:* For purposes of 38 U.S.C. 3732(c), the veteran's ''total indebtedness'' shall be the sum of: the unpaid principal on the loan as of the date of the liquidation sale, accrued unpaid interest permitted by § 36.4321(a), and fees and charges permitted to be included in the guaranty claim by § 36.4313.

* * * * *

3. Section 36.4311 is amended by revising paragraph (c) to read as follows. The authority citation following paragraph (c) remains unchanged.

### § 36.4311 Interest rates.

* * * * *

(c) Except as provided in § 36.4314, interest in excess of the rate reported by the lender when requesting evidence of guaranty or insurance shall not be payable on any advance, or in the event of any delinquency or default: Provided, that a late charge not in excess of an amount equal to 4 percent on any installment paid more than 15 days after due date shall not be considered a violation of this limitation.

* * * * *

4. Section 36.4313 is amended by:

A. Revising paragraph (b)(5).

B. Adding paragraph (f).

The revision and addition read as follows:

### § 36.4313 Advances and other charges.

* * * * *

(b) * * *

(5)(i) Fees for legal services actually performed, not to exceed the reasonable and customary fees for such services in the State where the property is located, as determined by the Secretary.

(ii) In determining what constitutes the reasonable and customary fees for legal services, the Secretary shall review allowances for legal fees in connection with the foreclosure of single-family housing loans, including bankruptcy-related services, issued by HUD, Fannie Mae, and Freddie Mac. The Secretary shall publish annually in the **Federal Register** a table setting forth the amounts determined to be reasonable and customary for such fees.

(iii) In no event may the combined total paid for legal fees under paragraph (b)(5)(i) of this section and trustee's fees pursuant to paragraph (b)(4) of this section exceed the applicable maximum allowance for legal fees established under paragraph (b)(5)(ii) of this section.

* * * * *

(f)(1) Fees and charges otherwise allowable by this section that accrue after the date specified in paragraph (f)(2) of this section may not be included in a claim under the guaranty.

(2) The date referenced in paragraph (f)(1) of this section will be computed by adding to the date of the first uncured default the reasonable period that the Secretary has determined, pursuant to § 36.4319a(a) of this part, it should have taken to complete the foreclosure, plus 180 days. There will also be added to the time period specified in the previous sentence such additional time as the Secretary determines was reasonably necessary to complete the foreclosure if the Secretary determines the holder was unable to complete the foreclosure within the time specified in that section due to Bankruptcy proceedings, appeal of the foreclosure by the debtor, the holder granting forbearance in excess of 30 days at the request of the Secretary, or other factors beyond the control of the holder.

(Authority: 38 U.S.C. 3703(c))

5. Section 36.4314 is revised to read as follows:

### § 36.4314 Loan modifications.

(a) Subject to the provisions of this section, the terms of any guaranteed loan may be modified by written agreement between the holder and the borrower, without prior approval of the Secretary, if all of the following conditions are met:

(1) The loan is in default or default is imminent.

(2) The event or circumstances that caused the default has been or will be resolved and it is not expected to re-occur.

(3) The obligor is considered to be a reasonable credit risk, based on a review by the holder of the obligor's creditworthiness under the criteria specified in § 36.4337, including a current credit report. The fact of the recent default will not preclude the holder from determining the obligor is now a satisfactory credit risk provided the holder determines that the obligor is able to resume regular mortgage installments when the modification becomes effective based upon a review of the obligor's current and anticipated income, expenses, and other obligations as provided in § 36.4337.

(4) At least 12 months must have elapsed since the closing date of the loan.

(5) The current owner occupies the property securing the loan and is obligated to repay the loan.

(6) All current owners of the property are parties to, and have agreed to the terms of, the loan modification.

(7) The loan will be reinstated to performing status by virtue of the loan modification.

(b) A loan can be modified no more than once in a 3-year period and no more than three times during the life of the loan.

(c) All modified loans must bear a fixed-rate of interest, which may not exceed the lesser of—

(1) A rate which is 100 basis points above the interest rate in effect on this loan just prior to the execution of the modification agreement, or

(2) The Government National Mortgage Association (GNMA) current month coupon rate that is closest to par (100) in effect at the close of business on the business day immediately preceding the date the modification agreement is executed by the obligor plus 50 basis points.

(d) The unpaid balance of the modified loan may be re-amortized over the remaining life of the loan. The loan term may extend the maturity date to the shorter of—

(1) 360 months from the due date of the first installment required under the modification, or

(2) 120 months after the original maturity date of the loan.

(e) Only unpaid principal, accrued interest, and deficits in the taxes and insurance impound accounts may be included in the modified indebtedness. Late fees and other charges may not be capitalized.

(f) Holders will ensure the first lien status of the modified loan. No current owner of the property will be released from liability as a result of executing the modification agreement without prior approval from VA. Releasing a current owner obligor from liability without prior approval will release the Secretary from liability under the guaranty.

(g) The dollar amount of the guaranty may not exceed the greater of the original guaranty amount of the loan being modified or 25 percent of the loan being modified subject to the statutory maximum specified at 38 U.S.C. 3703(a)(1)(B).

(h) The obligor may not receive any cash back from the modification.

(Authority: 38 U.S.C. 3703(c)(1))

6. Section 36.4315 is revised to read as follows:

**§ 36.4315 Acceptability of partial payments.**

A partial payment is a remittance on a loan in default (as defined in § 36.4301) of any amount less than the full amount due under the terms of the loan and security instruments at the time the remittance is tendered.

(a) Except as provided in paragraph (b) of this section, or upon the express waiver of the Secretary, the mortgage holder shall accept any partial payment and either apply it to the mortgagor's account or identify it with the mortgagor's account and hold it in a special account pending disposition. When partial payments held for disposition aggregate a full monthly installment, including escrow, they shall be applied to the mortgagor's account.

(b) A partial payment may be returned to the mortgagor, within 10 calendar days from date of receipt of such payment, with a letter of explanation only if one or more of the following conditions exist:

(1) The property is wholly or partially tenant-occupied and rental payments are not being remitted to the holder for application to the loan account;

(2) The payment is less than one full monthly installment, including escrows and late charge, if applicable, unless the lesser payment amount has been agreed to under a documented repayment plan;

(3) The payment is less than 50 percent of the total amount then due, unless the lesser payment amount has been agreed to under a documented repayment plan;

(4) The payment is less than the amount agreed to in a documented repayment plan;

(5) The amount tendered is in the form of a personal check and the holder has previously notified the mortgagor in writing that only cash or certified remittances are acceptable;

(6) A delinquency of any amount has continued for at least 6 months since the account first became delinquent and no written repayment plan has been arranged;

(7) Foreclosure has been commenced by the taking of the first action required for foreclosure under local law; or

(8) The holder's lien position would be jeopardized by acceptance of the partial payment.

(c) A failure by the holder to comply with the provisions of this paragraph may result in a partial or total loss of guaranty or insurance pursuant to § 36.4325(b), but such failure shall not constitute a defense to any legal action to terminate the loan.

(Authority: 38 U.S.C. 3703(c)(1))

7. Section 36.4315a is added to read as follows:

**§ 36.4315a Servicer reporting requirements.**

(a)(1) Servicers of loans guaranteed by the Secretary shall report the information required by this section to the Secretary electronically. The Secretary shall assign a user identification and password for access to each entity currently servicing loans guaranteed under 38 U.S.C., chapter 37 on [effective date of final rule to be inserted]. Each report to the Secretary required by this section shall include the VA-assigned Servicer Identification Number.

(2) Any other servicer may apply for a Servicer Identification Number and password by following the procedures at *http://www.homeloans.va.gov*.

(b) Not later than the fifth business day of each month each servicer shall report to the Secretary the following information for each loan guaranteed by the Secretary currently being serviced by that entity:

(1) The VA loan number;

(2) The servicer's loan number;

(3) The original veteran's name and social security number;

(4) The unpaid principal balance; and

(5) The next payment due date.

(c) Servicers shall report to the Secretary within five business days after any of the following events occur:

(1) Transfer of servicing;

(2) Loan is assumed by another party;

(3) An obligor has been released from liability;

(4) Property taxes and hazard insurance has been paid;

(5) Loans have been modified pursuant to § 36.4314;

(6) Any obligor on the loan requests or is deemed to be entitled to relief with regard to the loan under the Servicemembers Civil Relief Act;

(7) Any obligor files a petition under the Bankruptcy Code, and when any significant events impacting the guaranteed loan or the security therefore occurs in a pending bankruptcy, including but not limited to a contested action, the approval of a plan, any hearing on relief from the automatic stay, the granting of a discharge to the debtor, dismissal of the bankruptcy case, and other orders of the court;

(8) The holder receives notice of any legal, equitable, or administrative proceeding that might materially affect the termination of the loan, the lien, or the security for the loan;

(9) The holder has released the lien on a part of the security for the loan pursuant to § 36.4324; or

(10) The loan has been paid in full.

(d) The holder shall report to the Secretary within 5 business days after any loan has been delinquent for 61 days. This report will include the:

(1) Information specified in paragraphs (b)(1) through (b)(3) of this section;

(2) Date of first payment on the loan;

(3) Date of last unpaid installment;

(4) Names and social security numbers of present owners of the property;

(5) Mailing address of present owners if different from the property;

(6) Current or last known address of the original veteran;

(7) Interest rate on the loan;

(8) Amount and details of the current required installment; *i.e.*, how much is allocated for principal and interest, how much for taxes, how much for insurance, and how much for any other purpose;

(9) Late charges due;

(10) Total delinquency amount, and how much is allocated for each item specified in paragraph (d)(8) of this section;

(11) Summary of servicing actions taken since the loan went into default, including dates of actions, actions taken, and description of results or responses by obligors;

(12) Property occupancy status;

(13) Dates of property inspections and the results and findings of such inspections;

(14) Income and credit information for all current obligors;

(15) Obligor's contact information, including home and work phone numbers and e-mail addresses, if known; and

(16) Reason(s) the obligor(s) defaulted.

(e)(1) With respect to any default reported pursuant to paragraph (d) of this section, the servicer shall provide updates to the Secretary within five business days after any of the following events occur:

(i) Contact with the borrower;

(ii) Default cured;

(iii) A repayment plan is under consideration by the servicer;

(iv) A repayment plan has been denied by the servicer;

(v) A repayment plan has been approved by the servicer;

(vi) A partial payment has been returned to the borrower;

(vii) A loan modification is under consideration by the servicer;

(viii) A loan modification has been denied by the servicer;

(ix) A loan modification has been approved by the servicer;

(x) The servicer determines the loan default is insoluble;

(xi) The servicer considers, denies, or approves any other loss mitigation options defined in § 36.4317 of this part;

(xii) The servicer referred the loan to legal counsel for foreclosure;

(xiii) The date of a judicial foreclosure proceeding or a liquidation sale has been set;

(xiv) The liquidation sale was held; and

(xv) Any other event or occurrence that materially affects the loan or the security property over the course of servicing the default.

(2) Such report shall include the information specified in paragraphs (b)(1) through (b)(3) of this section, plus a brief description of the event or action taken, the date such action was taken or event occurred, a statement of the reasons why the holder approved or rejected a particular course of action, the results of any contact with the obligor, judicial proceeding, the terms of any repayment plan or loan modification, and any other material fact concerning such event or occurrence.

(f) When the holder determines that equity of at least 25% exists (see § 36.4319a(e)), the holder shall report its equity calculations to the Secretary at least 5 business days prior to the foreclosure date. The equity calculations will include the fair market value of the property, the total indebtedness on the loan guaranteed by the Secretary, and the unpaid balance of all other liens of record on the property.

(g) The servicer shall report to the Secretary not later than 15 calendar days after the liquidation sale was held. Such report shall include the information specified in paragraphs (b)(1) through (b)(3) of this section, plus a brief description of the results of the sale, including the amount of sale proceeds, whether the holder acquired the property, and, if the holder acquired the property, whether the holder elects to convey the property to the Secretary pursuant to § 36.4320.

(Authority: 38 U.S.C. 3703(c))

8. Section 36.4316 is revised to read as follows:

**§ 36.4316 Servicer Tier Ranking—Temporary Procedures.**

(a) The Secretary shall assign each servicer to a ''Tier Ranking'' based upon the servicer's performance in servicing guaranteed loans. There shall be four tiers, known as tier one, tier two, tier three, and tier four, with tier one being the highest rated and tier four the lowest. Effective July 1, 2005, every servicer of loans guaranteed by the Secretary shall be presumed to be in servicer tier two, and shall remain in tier two until the date specified in paragraph (c)(2) of this section.

(b) For purposes of this section, the term ''calendar quarter'' shall mean the 3-month periods ending on March 31, June 30, September 30, and December 31.

(c)(1) No later than 30 days after the last business day of the first calendar quarter occurring after the rules for determining tier rankings take effect, and then not later than 30 days after the last business day of each subsequent calendar quarter, the Secretary shall provide each servicer with an evaluation of their performance under such criteria.

(2) No later than 45 days after the last business day of the fourth calendar quarter during which the Secretary evaluates the performance of servicers, and then annually thereafter, VA shall advise each servicer of its tier ranking.

(3) Any entity which begins servicing guaranteed loans after the first calendar quarter occurring after rules for determining tier rankings take effect shall be presumed to be in tier two. The Secretary will evaluate the performance of such servicer as provided in paragraph (c)(1) of this section. The Secretary will advise such servicer of its tier ranking at the time other servicers are advised of their tier rankings pursuant to paragraph (c)(2) of this section, provided the servicer has received evaluations for at least four calendar quarters.

(d) The quarterly evaluation and tier ranking of a servicer shall be deemed to be confidential and privileged and shall not be disclosed by the Secretary to any other party.

(Authority: 38 U.S.C. 3703(c))

9. Section 36.4317 is revised to read as follows:

**§ 36.4317 Servicer Loss-Mitigation Options and Incentives.**

(a) The Secretary will pay a servicer in tiers one, two, or three an incentive payment for each of the following successful loss-mitigation options completed: repayment plans, special forbearance, loan modification, compromise sale, and deed-in-lieu of foreclosure. Only one incentive payment will be made with respect to any default required to be reported to the Secretary pursuant to § 36.4315a(d). No incentive payment will be made to a servicer in tier four.

(b) The amount of the incentive payment is as follows:

| Tier ranking | Repayment plan | Special forbearance | Loan modification | Compromise sale | Deed-in-lieu of foreclosure |
|---|---|---|---|---|---|
| One | $200 | $200 | $500 | $1,000 | $250 |
| Two | 160 | 160 | 400 | 800 | 200 |
| Three | 120 | 120 | 300 | 600 | 150 |
| Four | 0 | 0 | 0 | 0 | 0 |

(c) For purposes of this section, a loss-mitigation option will be deemed successfully completed as follows:

(1) With respect to a repayment plan, when four consecutive payments under such plan have been made or the total amount of the delinquency has been paid, whichever is earlier;

(2) With respect to special forbearance, when the loan reinstates;

(3) With respect to a loan modification, when the modification is executed and the loan reinstates;

(4) With respect to a compromise sale, when the claim under guaranty is filed; or

(5) With respect to a deed-in-lieu of foreclosure, when the claim under guaranty is filed.

(d) Incentive payments with respect to repayment plans, special forbearances and loan modifications shall be made monthly. For all other successful loss-mitigation options, incentives shall be paid in the final claim payment.

(Authority: 38 U.S.C. 3703(c))

10. Section 36.4318 is amended by:

A. In paragraph (a), removing ''§ 36.4317'' and adding, in it place, ''§ 36.4315a(d)''; and removing ''within 30 days thereafter''.

B. Adding paragraph (c).

The addition reads as follow:

**§ 36.4318 Refunding of loans in default.**

* * * * *

(c) Servicers must deliver to the Secretary all legal documents, including but not limited to proper loan assignments, required to evidence proper loan transfer within 60 days from receipt of notice that VA has decided to refund a loan under this section. Servicers exhibiting a continued failure to provide timely loan transfer documentation may, at the discretion of the Secretary and upon delivery of notice to the servicer, be subject to temporary suspension of all property acquisition and claim payments until all deficiencies identified in the notice provided to the servicer have been corrected.

(Authority: 38 U.S.C. 3703(c) and 3732(a))

11. Section 36.4319 is amended by:

A. Revising paragraph (a) and adding an authority citation.

B. Removing paragraphs (b), (c), (d), and (f).

C. Redesignating paragraph (e) as paragraph (b).

The revision reads as follows:

**§ 36.4319 Service of process.**

(a) In any legal or equitable proceeding (including probate and bankruptcy proceedings) arising from a loan guaranteed, insured, or made, or a property acquired by the Secretary pursuant to title 38, U.S.C., chapter 37, to which the Secretary is a party, original process and any other process prior to appearance, proper to be served on the Secretary, shall be delivered to the VA Regional Counsel having jurisdiction over the area in which the court is situated. Copies of such process will also be served on the Attorney General of the United States and the United States Attorney having jurisdiction over that area. Within the time required by applicable law, or rule of court, the Secretary will cause appropriate special or general appearance to be entered in the case by an authorized attorney.

(Authority: 38 U.S.C. 3703(c) and 3720(a))

* * * * *

12. Section 36.4319a is added to read as follows:

**§ 36.4319a Loan Termination.**

(a) For purposes of this part, the Secretary has determined that a holder, using reasonable diligence, will need the time set forth in the following table to complete a foreclosure:

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| Jurisdiction | Procedure | Final Event | Timeframe |
|---|---|---|---|
| | | | |
| Alabama | Sale W/Publication | Trustee's Sale | 60 Days |
| Alaska | Non-Judicial | Trustee's Sale | 120 Days |
| Arizona | Non-Judicial | Trustee's Sale | 120 Days |
| Arkansas | Judicial W/Personal Service | Commissioner's Sale | 120 Days |
| | Non-Judicial | Sheriff's Sale | 90 Days |
| California | Non-Judicial | Trustee's Sale | 140 Days |
| Colorado | Non-Judicial | Public Trustee's Sale | 150 Days |
| Connecticut | Judicial - Strict Foreclosure | Judicial Order | 180 Days |
| | Foreclosure By Sale | Committee Deed | 180 Days |
| Delaware | Judicial | Sheriff's Sale | 240 Days |
| District of Columbia | Non-Judicial | Sale | 60 Days |
| Florida | Judicial | Confirmation | 180 Days |
| Georgia | Non-Judicial | Sale | 60 Days* |
| | *(First Tuesday of the month which is more than 30 and less than 60 days after referral) | | |
| Guam | Non-Judicial | Sheriff's Sale | 180 Days |
| Hawaii | Judicial | Confirmation | 180 Days |
| Idaho | Non-Judicial | Sale | 180 Days |
| Illinois | Judicial | Sheriff's Sale | 270 Days |
| Indiana | Judicial | Sheriff's Sale | 270 Days |
| Iowa | Judicial | Sheriff's Sale | 180 Days |
| Kansas | Judicial | Sheriff's Sale | 140 Days |
| Kentucky | Judicial | Confirmation of Sale | 150 Days |
| Louisiana | Judicial by Executor Process | Sheriff's Sale | 180 Days |
| Maine | Judicial | Sale | 300 Days |
| Maryland | Non-Judicial W/Ratification | Trustees Sale | 60 Days |
| Massachusetts | Judicial Order | Sale And Deed | 240 Days |
| Michigan | Non-Judicial | Sheriff's Sale | 105 Days |
| Minnesota | Non-Judicial | Sheriff's Sale | 90 Days |
| Mississippi | Non-Judicial | Trustee's Sale | 60 Days |
| Missouri | Non-Judicial | Trustee's Sale | 60 Days |
| Montana | Non-Judicial | Trustee's Sale | 150 Days |
| Nebraska | Judicial (Mortgage) | Confirmation | 180 Days |
| | Non-Judicial (Deed of Trust) | Sheriff's Sale | 105 Days |
| Nevada | Non-Judicial | Trustee's Sale | 140 Days |
| New Hampshire | Non-Judicial | Sale and Deed | 120 Days |
| New Jersey | Judicial | Sheriff's Sale | 300 Days |
| New Mexico | Judicial | Confirmation | 180 Days |
| New York | | | |
| *Western Counties | Judicial | Referee's Sale | 240 Days |
| Eastern Counties | Judicial | Referee's Sale | 270 Days |
| North Carolina | Non-Judicial | 10 Days after Sheriff's Sale | 90 Days |
| North Dakota | Judicial | Sheriff's Sale | 150 Days |
| Ohio | Judicial | Confirmation | 360 Days |
| Oklahoma | Judicial | Confirmation | 210 Days |
| Oregon | Non-Judicial | Trustee's Sale | 150 Days |
| Pennsylvania** | | | |
| Western Counties | Judicial | Sheriff's Sale | 180 Days |
| Eastern Counties | Judicial | Sheriff's Sale | 240 Days |
| Puerto Rico | Judicial | Confirmation | 240 Days*** |
| Rhode Island | Non-Judicial | Sale and Deed | 120 Days |
| South Carolina | Judicial | Sale | 180 Days |
| South Dakota | Judicial | Sheriff's Sale | 140 Days |
| | Non-Judicial | Sheriff's Sale | 90 Days |
| Tennessee | Non-Judicial | Trustee's Sale | 60 Days |
| Texas | Non-Judicial | Trustee's Sale | 60 Days |
| Utah | Non-Judicial | Trustee's Sale | 150 Days |
| Vermont | Judicial | Certificate of Non-Redemption | 300 Days |
| Virginia | Non-Judicial | Trustee's Sale | 60 Days |
| Washington | Non-Judicial | Trustee's Sale | 150 Days |
| West Virginia | Non-Judicial | Trustee's Sale | 60 Days |
| Wisconsin | Judicial – Abandoned | Confirmation | 210 Days |
| | Judicial – Tenant Occupied | Confirmation | 240 Days |
| | Judicial – Owner Occupied | Confirmation | 330 Days |
| Wyoming | Non-Judicial | Sheriff's Sale | 90 Days |

*Western Counties of New York are: Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Steuben, Wayne Wyoming, and Yates.. The remaining counties are in Eastern New York.

** Eastern Pennsylvania of are: Adams, Berks, Bradford, Bucks, Cameron, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York. The remaining counties are in Western Pennsylvania.

***360 days in Carolina Court & VI.

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(b)(1) At least 30 days prior to the scheduled or anticipated date of the liquidation sale, the holder must request that VA assign an appraiser to conduct a liquidation appraisal. This appraisal will be requested by means of the Department of Veterans Affairs Internet-based Appraisal System (''TAS''). The Internet address (URL) for TAS is: *http://tas.vba.va.gov*.

(2) If the holder (or its authorized servicing agent) has been approved by the Secretary to process liquidation appraisals under § 36.4344a, the appraiser shall forward the liquidation appraisal report directly to the holder for a determination of the fair market value of the property pursuant to § 36.4344a of this part.

(3) If the holder (or its authorized servicing agent) has not been approved by the Secretary to process liquidations appraisals under § 36.4344a, the Secretary shall review the appraisal and determine the fair market value of the property. The Secretary will provide the holder with a statement of the fair market value.

(4)(i) Except as provided in paragraph (b)(4)(ii) of this paragraph, a liquidation appraisal or statement of fair market value issued pursuant to paragraph (b)(3) of this section will be valid for 6 months.

(ii) The Secretary may specify in writing a shorter validity period, not less than 90 days, for a liquidation appraisal or statement of fair market value if rapidly-changing market conditions in the area where the property is located make such shorter validity period in the best fiscal interests of the United States.

(c) Prior to the liquidation sale, the holder shall compute the net value of the property securing the guaranteed loan by subtracting the estimated costs to the Secretary for the acquisition and disposition of the property from the fair market value, as determined under paragraph (b) of this section. Those costs will be calculated using the percentage derived by the Secretary and published in the **Federal Register** pursuant to § 36.4301.

(d) If the holder learns of any material damage to the property occurring after the appraisal and prior to the liquidation sale, the impact of such damage on the fair market value must be determined in consultation with the fee appraiser, and the net value adjusted accordingly.

(e)(1) In any case where the veteran's or other obligor's equity in the property securing the loan is equal to at least 25 percent of the fair market value of the property, the holder shall notify the Secretary of the equity calculations at least 5 business days prior to the foreclosure date. Such notice will be given as an electronic event update or by e-mail if the event update will not occur in time to meet the 5 business day requirement.

(2) For purposes of this paragraph:

(i) ''Business day'' means Monday through Friday, inclusive, excluding the legal public holidays specified in 5 U.S.C. 6103(a).

(ii) ''Equity'' means the fair market value of a property, as determined pursuant to paragraph (b)(2) or (b)(3) of this section, minus the sum of:

(A) The total indebtedness on the loan guaranteed by the Secretary; and

(B) The unpaid balance of all other liens of record on the property.

(iii) ''Foreclosure date'' means the date of the scheduled judicial or nonjudicial foreclosure sale (e.g., sheriff's or trustee's sale).

(f)(1) A holder may approve a compromise sale of the property securing the loan without the prior approval of the Secretary provided that:

(i) The holder has determined the loan is insoluble;

(ii) The net proceeds from the compromise sale must equal or exceed the net value of the property securing the loan as computed by the holder pursuant to paragraph (c) of this section;

(iii) The holder has determined that the estimated guaranty payment it would receive following the compromise sale would not exceed the estimated guaranty payment it would receive following foreclosure;

(iv) The current owner of the property securing the loan will not receive any proceeds from the sale of the property; and

(v) If the current owner is a liable obligor, the owner executes the repayment agreement required by paragraph (h) of this section.

(2) A holder may request advance approval from the Secretary for a compromise sale notwithstanding that all of the conditions specified in paragraph (f)(1) of this section cannot be met if the holder believes such compromise sale would be in the best interests of the veteran and the Secretary.

(g)(1) A holder may accept a deed voluntarily tendered by the current owner of the property securing the loan in lieu of conducting a foreclosure without the prior approval of the Secretary provided that:

(i) The holder has determined the loan is insoluble;

(ii) The holder has computed the net value of the property securing the loan pursuant to paragraph (c) of this section;

(iii) The holder has considered a compromise sale pursuant to paragraph (f) of this section and determined such compromise sale is not practical;

(iv) The holder has determined that the estimated guaranty payment it would receive following the deed-in-lieu of foreclosure would not exceed the estimated guaranty payment it would receive following foreclosure;

(v) The holder has determined the current owner of the property can convey clear and marketable title to the property that would meet the standard stated in paragraph (c)(5) of § 36.4320; and

(vi) If the current owner is a liable obligor, the owner executes the repayment agreement required by paragraph (h) of this section.

(2) A holder may request advance approval from the Secretary for a deed-in-lieu of foreclosure notwithstanding that all of the conditions specified in paragraph (g)(1) of this section cannot be met if the holder believes such deed-in-lieu would be in the best interests of the veteran and the Secretary.

(h)(1) For purposes of this paragraph and paragraphs (f)(1)(v) and (g)(1)(vi) of this section, the term ''liable obligor'' means:

(i) A veteran whose entitlement was used to obtain or assume the loan, if the loan was closed or assumed on or before December 31, 1989;

(ii) An individual who is obligated by contract to assume all of the obligations of a veteran who was released from liability on the loan pursuant to 38 U.S.C. 3713; or

(iii) An individual who the Secretary approved to assume the loan pursuant to 38 U.S.C. 3714.

(2)(i) Each liable obligor who disposes of the property by a compromise sale or deed-in-lieu of foreclosure must execute an agreement to repay to the Secretary 50 percent of the amount that would otherwise be due to the Secretary pursuant to § 36.4323.

(ii) The repayment agreement shall require the first payment to be made on the first day of the first month which is more than one year from the date of the deed-in-lieu or the closing of the compromise sale. The agreement shall require equal monthly payments sufficient to repay the entire balance due within 5 years after the first payment is due.

(iii) The obligation shall bear interest at the rate determined by the Secretary pursuant to 38 U.S.C. 5315(b)(2) in effect on the date of the notice described in paragraph (h)(2)(iv) of this section. Interest shall accrue from the date the first payment is due.

(iv) Upon payment of the guaranty claim to the holder, the Secretary shall send by certified mail, return receipt

requested, a notice to the liable obligor of the amount of the debt due under this paragraph, the date the first payment will be due, the amount of the required monthly payments, and the applicable interest rate.

(v) The execution of the repayment agreement will not preclude a veteran from seeking waiver of the debt pursuant to 38 U.S.C. 5302. The notice required by paragraph (h)(2)(iv) of this section shall include a statement of the right of the veteran to seek waiver and a description of the procedures for submitting an application for waiver.

(Authority: 38 U.S.C. 3703(c), 5302, 5315)

13. Section 36.4320 is revised to read as follows:

**§ 36.4320 Election to convey security.**

(a) If the holder acquires the property that secured the guaranteed loan at the liquidation sale or through acceptance of a deed-in-lieu of foreclosure and if, under 38 U.S.C. 3732(c), the Secretary may accept conveyance of the property, the holder must notify the Secretary by electronic means no later than 15 days after the date of liquidation sale or execution of the deed to the holder by the homeowners that the holder elects to convey the property to the Secretary. The Secretary will not accept conveyance of the property if the holder fails to notify the Secretary of its election within such 15 days.

(b) The holder, in accounting to the Secretary in connection with the conveyance of any property pursuant to this section, may include as a part of the indebtedness all actual expenses or costs of the proceedings, paid by the holder, within the limits defined in § 36.4313. In connection with the conveyance or transfer of property to the Secretary the holder may include in accounting to the Secretary the following expense items if actually paid by the holder, in addition to the consideration payable for the property under 38 U.S.C. 3732(c):

(1) State and documentary stamp taxes as may be required.

(2) Amount expended for taxes, special assessments, including such payments which are specified in paragraph (d)(4) of this section.

(3) Recording fees.

(4) Any other expenditure in connection with the property which are approved by the Secretary.

(c) The conveyance or transfer of any property to the Secretary pursuant to this section shall be subject to the following provisions:

(1) The notice of the holder's election to convey the property to the Secretary shall state the amount of the holder's successful bid and shall state the insurance coverage then in force, specifying for each policy, the name of the insurance company, the hazard covered, the amount, and the expiration date. With respect to a voluntary conveyance to the holder in lieu of foreclosure, the amount of the holder's successful bid shall be deemed to be the lesser of the net value of the property or the total indebtedness.

(2) Coincident with the notice of election to convey or transfer the property to the Secretary or with the acquisition of the property by the holder, following such notice, whichever is later, the holder shall request endorsements on all insurance policies naming the Secretary as an assured, as his/her interest may appear. Such insurance policies shall be forwarded to the Secretary at the time of the conveyance or transfer of the property to the Secretary or as soon after that time as feasible. If insurers cancel policies, holders must properly account for any unearned premiums refunded by the insurer.

(3) Occupancy of the property by anyone properly in possession by virtue of and during a period of redemption, or by anyone else unless under a claim of title which makes the title sought to be conveyed by the holder of less dignity or quality than that required by this section, shall not preclude the holder from conveying or transferring the property to the Secretary. Except with the prior approval of the Secretary, the holder shall not rent the property to a new tenant, nor extend the term of an existing tenancy on other than a month-to-month basis.

(4) The notice shall provide property tax information to include all taxing authority property identification numbers. Any taxes, special assessments or ground rents due and payable within 30 days after date of conveyance or transfer to the Secretary must be paid by the holder.

(5)(i) Each conveyance or transfer of real property to the Secretary pursuant to this section shall be acceptable if:

(A) The holder thereby covenants or warrants against the acts of the holder and those claiming under the holder (*e.g.*, by special warranty deed); and

(B) It vests in the Secretary or will entitle the Secretary to such title as is or would be acceptable to prudent lending institutions, informed buyers, title companies, and attorneys, generally, in the community in which the property is situated.

(ii) Any title will not be unacceptable to the Secretary by reason of any of the limitations on the quantum or quality of the property or title stated in § 36.4350(b) of this part: Provided, That

(A) At the time of conveyance or transfer to the Secretary there has been no breach of any conditions affording a right to the exercise of any reverter.

(B) With respect to any such limitations which came into existence subsequent to the making of the loan, full compliance was had with the requirements of § 36.4324. The acceptability of a conveyance or transfer pursuant to the requirements of this paragraph will be established by delivery to the Secretary of the following evidence of title showing that title to the property of the quality specified in this paragraph is or will be vested in the Secretary:

(*1*) A copy of the deed or document evidencing transfer of interest and title at the liquidation sale;

(*2*) A copy of the deed conveying the property to the Secretary; and

(*3*) A copy of the mortgage, deed of trust, or other security instrument for the guaranteed loan which was terminated.

(6)(i) The holder will be deemed to warrant to the Secretary that the Secretary has received the quality of title specified in paragraph (c)(5)(i)(B) of this section. Such warranty shall be limited to any defect identified by the Secretary to the holder within 36 months after the acceptance by the Secretary of a conveyance or transfer by the holder.

(ii) The Secretary may make a claim against a holder with regard to the warranty specified in paragraph (c)(5)(i)(A) of this section or any other express warranty provided by the holder without any time limit.

(7) As between the holder and the Secretary, the responsibility for any loss due to damage to or destruction of the property or due to personal injury sustained in respect to such property shall be governed by the provisions of this paragraph and paragraph (c)(11) of this section. Ordinary wear and tear excepted, the holder shall bear such risk of loss from the date of acquisition by the holder to the date such risk of loss is assumed by the Secretary. Such risk of loss is assumed by the Secretary from the date of receipt of the holder's election to convey or transfer the property to the Secretary. The amount of any loss chargeable to the holder may be deducted from the amount payable by the Secretary at the time the property is transferred. In any case where pursuant to the VA regulations rejection of the title is legally proper, the Secretary may surrender custody of the property as of the date specified in the Secretary's notice to the holder. The Secretary's

assumption of such risk shall terminate upon such surrender.

(8) The conveyance should be made to ''Secretary of Veterans Affairs, an Officer of the United States.'' The name of the incumbent Secretary should not be included unless State law requires naming a real person.

(9) The holder shall not be liable to the Secretary for any portion of the paid or unpaid taxes, special assessments, ground rents, insurance premiums, or other similar items. The holder shall be liable to the Secretary for all penalties and interest associated with taxes not timely paid by the holder prior to conveyance.

(10) The Secretary shall be entitled to all rentals and other income collected from the property and to any insurance proceeds or refunds subsequent to the date of acquisition by the holder.

(11) In respect to a property which was the security for a condominium loan guaranteed or insured under 38 U.S.C. 3710(a)(6) the responsibility for any loss due to damage to or destruction of the property or due to personal injury sustained in respect to such property shall in no event pass to the Secretary until the Secretary expressly assumes such responsibility or until conveyance of the property to the Secretary, whichever first occurs. The holder shall have the right to convey such property to the Secretary only if the property (including elements of the development or project owned in common with other unit owners) is undamaged by fire, earthquake, windstorm, flooding or boiler explosion. The absence of a right in the holder to convey such property which is so damaged shall not preclude a conveyance, if the Secretary agrees in a given case to such a conveyance upon completion of repairs within a specified period of time and such repairs are so completed and the conveyance is otherwise in order.

(d) Except as provided in paragraph (c)(6) of this section, the provisions of this section shall not be in derogation of any rights which the Secretary may have under § 36.4325. The Under Secretary for Benefits, or the Director, Loan Guaranty Service, may authorize any deviation from the provisions of this section, within the limitations prescribed in 38 U.S.C. Chapter 37, which may be necessary or desirable to accomplish the objectives of this section if such deviation is made necessary by reason of any laws or practice in any State or Territory or the District of Columbia:

*Provided, That* no such deviation shall impair the rights of any holder not consenting to the deviation with respect to loans made or approved prior to the date the holder is notified of such action.

(Authority: 38 U.S.C. 3732, Pub. L. 100–527)

14. Section 36.4321 is revised to read as follows:

**§ 36.4321 Guaranty claims; subsequent accounting.**

(a) Subject to the limitation that the total amounts payable shall in no event exceed the amount originally guaranteed, the amount payable on a claim for the guaranty shall be the percentage of the loan originally guaranteed applied to the sum of:

(1) The unpaid principal as of the date of the liquidation sale;

(2) Allowable expenses/advances; and

(3) The lesser of:

(i) The unpaid interest as of the date of the liquidation sale; or,

(ii) The unpaid interest for the reasonable period that the Secretary has determined, pursuant to § 36.4319a(a), it should have taken to complete the foreclosure, plus 180 days.

(iii) The unpaid interest allowed pursuant to paragraph (a)(2)(ii) of this section shall be increased if the Secretary determines the holder was unable to complete the foreclosure within the time specified in such paragraph due to Bankruptcy proceedings, appeal of the foreclosure by the debtor, the holder granting forbearance in excess of 30 days at the request of the Secretary, or other factors beyond the control of the holder.

(b) Deposits or other credits or setoffs legally applicable to the indebtedness shall be applied in reduction of the indebtedness on which the claim is based. Any escrowed or earmarked funds not subject to superior claims of third persons must likewise be so applied.

(c)(1) Credits accruing from the proceeds of a liquidation sale shall be reported to the Secretary incident to claim submission, and the amount payable on the claim shall in no event exceed the remaining balance of the indebtedness.

(2) The amount payable under the guaranty shall be computed applying the formulae in 38 U.S.C. 3732(c). With respect to a voluntary conveyance to the holder in lieu of foreclosure, the holder shall be deemed to have acquired the property at the liquidation sale for the lesser of the net value of the property or the total indebtedness.

(d)(1)(i) Except as provided in paragraph (d)(1)(ii) of this section, holders shall file a claim for payment under the guaranty electronically no later than 1 year after the completion of the liquidation sale. For purposes of this section, the liquidation sale will be considered completed when:

(A) The last act required under State law is taken to either make the liquidation sale final, or obtain a judgment, a confirmation, or an approval of the sale, but excluding any redemption period permitted under State law;

(B) If a holder accepts a voluntary conveyance of the property in lieu of foreclosure, the date of execution of the deed to the holder or the holder's designee; or

(C) In the case of a sale of the property to a third party for an amount less than is sufficient to repay the unpaid balance on the loan where the holder has agreed in advance to release the lien in exchange for the proceeds of such sale, the date of settlement of such sale.

(ii) With respect to any liquidation sale completed prior to [*effective date of final rule to be inserted*], all claims must be submitted no later than 1 year following [*effective date of final rule to be inserted*].

(2) If additional information becomes known to a holder after the filing of a guaranty claim, the holder may file a supplemental claim provided that such supplemental claim is filed within the time period specified in paragraph (d)(1) of this section.

(3) No claim under a guaranty shall be payable unless it is submitted within the time period specified in paragraph (d)(1) of this section.

(4) A claim shall be submitted to VA electronically on the VA Loan Electronic Reporting Interface system. The following information must be included in the claim:

(i) Total payments received on the loan;

(ii) Amount applied to interest;

(iii) Prepayments and other amounts applied to principal,

(iv) Itemized liquidation expenses;

(v) Itemized advances;

(vi) Remaining balance in the tax and insurance escrow account; and

(vii) Any additional unapplied credits.

(5) Supporting documents will not be submitted with the claim, but must be retained by the servicer and are subject to inspection as provided in § 36.4330 of this title.

(e) In the event that VA does not approve payment of any item submitted under a guaranty claim, VA shall notify the holder electronically what items are being denied and the reasons for such denial. The holder may, within 30 days after the date of such denial notification, submit an electronic request to VA that one or more items that were denied be reconsidered. The holder must present

any additional information justifying payment of items denied.

(f) Determinations under paragraphs (a)(3) and (e) of this section and paragraph (f)(2) of § 36.4313 may be made by any employee designated by § 36.4342(b). Authority is hereby granted to the Loan Guaranty Officer to redelegate authority to make such determinations.

(Authority: 38 U.S.C. 3703(c))

15. Section 36.4323 is amended by adding paragraph (i) immediately after the authority citation at the end of paragraph (h) to read as follows:

**§ 36.4323 Subrogation and indemnity.**

* * * * *

(i) If a veteran requests a release of liability under paragraph (f) of this section, or if a borrower requests a release of liability pursuant to § 36.4308(c)(1)(vii), a holder or its authorized servicing agent described in the first sentence of § 36.4303(l)(1)(i) of this part is authorized to and must make all decisions regarding the credit-worthiness of the transferee, subject to the right of a transferee to appeal any denial to the Secretary within 30 days of being notified in writing of the denial by the holder or servicer. The procedures and fees specified in §§ 36.4303(l)(1)(i) and 36.4312(d)(8) applicable to decisions under 38 U.S.C. 3714 shall also apply to decisions specified in this paragraph.

(Authority: 38 U.S.C. 3703(c) and 3713)

16. Section 36.4324 is amended by:

A. Revising paragraph (a).

B. Removing paragraphs (c) and (e).

C. Redesignating paragraphs (d) and (f) as paragraphs (c) and (d), respectively.

D. In newly redesignated paragraph (d), removing ''§ 36.4317'' and adding, in its place, ''§ 36.4315a''.

The revision reads as follows:

**§ 36.4324 Release of security.**

(a)(1) Except upon full payment of the indebtedness, or except as provided in paragraph (a)(2) of this section or in paragraphs (f) and (g) of § 36.4319a, the holder shall not release a lien or other right in or to real property held as security for a guaranteed or insured loan, or grant a fee or other interest in such property, without prior approval of the Secretary.

(2) The holder may, without the prior approval of the Secretary, release the lien on a portion of the property securing the loan provided:

(i) The holder has obtained an appraisal from the Secretary showing the value of the security prior to the partial release of the lien and the value of the security on which the lien will remain;

(ii) The portion of the property still subject to the lien is fit for dwelling purposes; and

(iii) The loan-to-value ratio after the partial release of the lien:

(A) Will be not more than 80 percent; or

(B) If the loan-to-value ratio after the partial release of the lien is 80 percent or higher, any proceeds received as consideration from the partial release of the lien shall be applied to the unpaid loan balance.

* * * * *

17. Section 36.4325 is amended by:

A. Revising paragraph (b)(5).

B. Removing paragraph (b)(6).

C. Redesignating paragraphs (b)(7) through (b)(11) as paragraphs (b)(6) through (b)(10), respectively.

The revision reads as follows:

**§ 36.4325 Partial or total loss of guaranty or insurance.**

* * * * *

(b) * * *

(5) Any notice required by § 36.4315a,

* * * * *

18. In § 36.4330, paragraph (a) is revised to read as follows:

**§ 36.4330 Maintenance of records.**

(a)(1) The holder shall maintain a record of the amounts of payments received on the obligation and disbursements chargeable thereto and the dates thereof, including copies of bills and receipts for such disbursements. These records shall be maintained until the Secretary ceases to be liable as guarantor or insurer of the loan, or, if the Secretary has paid a claim on the guaranty, until 3 years after such claim was paid. For the purpose of any accounting with the Secretary or computation of a claim, any holder who fails to maintain such record and, upon request, make it available to the Secretary for review shall be presumed to have received on the dates due all sums which by the terms of the contract are payable prior to date of claim for default, or to have not made the disbursement for which reimbursement is claimed, and the burden of going forward with evidence and of ultimate proof of the contrary shall be on such holder.

(2) The holder shall maintain records supporting their decision to approve any loss mitigation option specified in § 36.4317(a). Such records shall be retained a minimum of 3 years from the date of such decision and shall include, but not be limited to, credit reports, verifications of income, employment, assets, liabilities, and other factors affecting the obligor's credit worthiness, work sheets, and other documents supporting the holder's decision.

(3) For any loan where the claim on the guaranty was paid on or after October 1, 2005, or action described in paragraph (a)(2) of this section taken after October 1, 2004, holders shall submit any documents described in paragraph (a)(1) or (a)(2) of this section to the Secretary in electronic form. For purposes of this paragraph, electronic form shall mean an image of the original document in .jpg, .gif, or .pdf format. Notwithstanding the foregoing, any holder whose total loan portfolio has an average outstanding principal balance of less than $10,000,000 per year may submit copies of documents in paper form.

* * * * *

19. Section 36.4344a is added to read as follows:

**§ 36.4344a Servicer appraisal processing program.**

*(a) Delegation of authority to servicers to review liquidation appraisals and determine net value.* (1) To be eligible for delegation of authority to review VA liquidation appraisals and determine the reasonable value for liquidation purposes on properties secured by VA guaranteed or insured loans, a lender must—

(i) Have automatic processing authority under 38 U.S.C. 3702(d), and

(ii) Employ one or more Staff Appraisal Reviewers (SAR) acceptable to the Secretary.

(2) To qualify as a servicer's staff appraisal reviewer an applicant must be a full-time member of the servicer's permanent staff and may not be employed by, or perform services for, any other mortgagee. The individual must not engage in any private pursuits in which there will be, or appear to be, any conflict of interest between those pursuits and his/her duties, responsibilities, and performance as a Servicer Appraisal Processing Program (SAPP) staff appraisal reviewer. Three years of appraisal related experience is necessary to qualify as a servicer's staff appraisal reviewer. That experience must demonstrate knowledge of, and the ability to apply industry-accepted principles, methods, practices and techniques of appraising, and the ability to competently determine the value of property. The individual must demonstrate the ability to review the work of others and to recognize deviations from accepted appraisal principle, practices, and techniques, error in computations, and unjustifiable and unsupportable conclusions.

(3) Servicers that have a staff appraisal reviewer determined acceptable to VA, will be authorized to review liquidation appraisals and make reasonable value determinations for liquidation purposes on properties that are the security for VA guaranteed or insured loans. Additionally, servicers must satisfy initial VA office case review requirements prior to being allowed to determine reasonable value without VA involvement. The initial office case review requirement must be satisfied in the VA regional loan center in whose jurisdiction the servicer's staff appraisal reviewer is located before the SAPP authority may be utilized by that servicer in any other VA office's jurisdiction. To satisfy the initial office case review requirement, the first five cases of each servicer staff appraisal reviewer involving properties in the regional office location where the staff appraisal reviewer is located will be processed by him or her up to the point where he or she has made a reasonable value determination and fully drafted, but not issued, the servicer's notice of value. At that point, and prior to loan termination, each of the five cases will be submitted to the VA regional loan center having jurisdiction over the property. After a staff review of each case, VA will issue a notice of value which the servicer may use to compute the net value of the property for liquidation purposes. If these five cases are found to be acceptable by VA, the servicer's staff appraisal reviewer will be allowed to fully process subsequent appraisals for properties regardless of jurisdictional location without prior submission to VA and issuance by VA of a notice of value. Where the servicer's reviewer cannot readily meet the jurisdictional review requirement, the SAR applicant may request that VA expand the geographic area of consideration. VA will accommodate such requests if practicable. The initial office case review requirement may be expanded by VA if acceptable performance has not been demonstrated. After satisfaction of the initial office case review requirement, routine reviews of SAPP cases will be made by VA staff based upon quality control procedures established by the Undersecretary for Benefits. Such review will be made on a random sampling or performance related basis.

(4) Certifications required from the servicer will be specified with particularity in the separate instructions issued by the Secretary, as noted in § 36.4344a(b).

(b) *Instructions for SAPP Procedures.* The Secretary will publish separate instructions for processing appraisals under the Servicer Appraisal Processing Program. Compliance with these regulations and the separate instructions issued by the Secretary is deemed by VA to be the minimum exercise of due diligence in processing SAPP cases. Due diligence is considered by VA to represent that care, as is to be properly expected from, and ordinarily exercised by, a reasonable and prudent servicer who would be dependent on the property as security to protect its investment.

(c) *Adjustment of value recommendations.* The amount of authority to upwardly adjust the fee appraiser's estimated market value during the servicer staff appraisal reviewer's initial review of the appraisal report or to subsequently process an appeal of the servicer's established reasonable value will be specified in the separate instructions issued by VA as noted in § 36.4344a(b). The amount specified must not in any way be considered an administrative adjustment figure which may be applied indiscriminately and without valid basis or justification.

(1) *Adjustment during initial review.* Any adjustment during the staff appraisal reviewer's initial review of the appraisal report must be fully and clearly justified in writing on the appraisal report form or, if necessary, on an addendum. The basis for the adjustment must be adequate and reasonable by professional appraisal standards. If real estate market or other valid data was utilized in arriving at the decision to make the adjustment, such data must be attached to the appraisal report. All adjustments, comments, corrections, justifications, etc., to the appraisal report must be made in a contrasting color, be clearly legible, and signed and dated by the staff appraisal reviewer.

(2) *Processing appeals.* The authority provided under 38 U.S.C. 3731(d) which permits a lender to obtain a VA fee panel appraiser's report which VA is obligated to consider in an appeal of the established reasonable value shall not apply to cases processed under the authority provided by this section. All appeals of VA fee appraiser's estimated market values or servicer's reasonable value determinations above the amount specified in the separate instructions issued by VA must be submitted, along with the servicer's recommendations, if any, to VA for processing and final determination. Unless otherwise authorized in the separate instructions servicers must also submit appeals, regardless of the amount, to VA in all cases where the staff appraisal reviewer has made an adjustment during their initial review of the appraisal report to the fee appraiser's market value estimate. The fee appraiser's estimated market value or servicer's reasonable value determination may be increased only when such increase is clearly warranted and fully supported by real estate market or other valid data considered adequate and reasonable by professional appraisal standards and the servicer's staff appraisal reviewer clearly and fully justifies the reasoning and basis for the increase in writing on the appraisal report form or an addendum. The staff appraisal reviewer must date and sign the written justification and must cite within it the data used in arriving at the decision to make the increase. All such data shall be attached to the appraisal report form and any addendum.

(d) *Indemnification.* When the Secretary has incurred a loss as a result of a payment of claim under guaranty and in which the Secretary determines an increase made by the servicer under § 36.4344a(c) was unwarranted, or arbitrary and capricious, the lender shall indemnify the Secretary to the extent the Secretary determines such loss was caused or increased, by the increase in value.

(e) *Affiliations.* A servicer affiliated with a real estate firm, builder, land developer or escrow agent as a subsidiary division, or in any other entity in which it has a financial interest or which it owns may not use the authority for any cases involving the affiliate unless the servicer demonstrates to the Secretary's satisfaction that the servicer and its affiliate(s) are essentially separate entities that operate independently of each other, free of all cross-influences (*e.g.*, a formal corporate agreement exists which specifically sets forth this fact).

(f) *Quality control plans.* The servicer must have an effective self-policing or quality control system to ensure the adequacy and quality of their SAPP staff appraisal reviewer's processing and, that its activities do not deviate from high standards of integrity. The quality control system must include frequent, periodic audits that specifically address the appraisal review activity. These audits may be performed by an independent party, or by the servicer's independent internal audit division which reports directly to the firm's chief executive officer. The servicer must agree to furnish findings and information under this system to VA on demand. While the quality control personnel need not be appraisers, they should have basic familiarity with appraisal theory and techniques and the

ability to prescribe appropriate corrective action(s) in the appraisal review process when discrepancies or problems are identified. The basic elements of the system will be described in separate instructions issued by the Secretary. Copies of the lender's quality control plan or self-policing system evidencing appraisal related matters must be provided to the VA office of jurisdiction with the servicer's application of SAPP authority.

(g) *Fees.* The Secretary will require servicers to pay a $100.00 application fee for each SAR the servicer nominates for approval. The application fee will also apply if the SAR begins work for another servicer.

(h) *Withdrawal of servicer authority.* The authority for a servicer to determine reasonable value may be withdrawn by the Loan Guaranty Officer when proper cause exists. A servicer's authority to make reasonable value determinations shall be withdrawn when the servicer no longer meets the basic requirements for delegating the authority, or when it can be shown that the servicer's reasonable value determinations have not been made in accordance with VA regulations, requirements, guidelines, instructions or applicable laws, or when there is adequate evidence to support reasonable belief by VA that a particular unacceptable act, practice, or performance by the servicer or the servicer's staff has occurred. Such acts, practices, or performance include, but are not limited to: Demonstrated technical incompetence (*i.e.*, conduct which demonstrates an insufficient knowledge of industry accepted appraisal principles, techniques and practices; or the lack of technical competence to review appraisal reports and make value determinations in accordance with those requirements); substantive or repetitive errors (*i.e.*, any error(s) of a nature that would materially or significantly affect the determination of reasonable value or condition of the property; or a number or series of errors that, considered individually, may not significantly impact the determination of reasonable value or property condition, but which when considered in the aggregate would establish that appraisal reviews or SAPP case processing are being performed in a careless or negligent manner), or continued instances of disregard for VA requirements after they have been called to the servicer's attention.

(1) Withdrawal of authority by the Loan Guaranty Officer may be either for an indefinite or a specified period of time. For any withdrawal longer than 90 days a reapplication for servicer authority to process appraisals under these regulations will be required. Written notice will be provided at least 30 days in advance of withdrawal unless the Government's interests are exposed to immediate risk from the servicer's activities in which case the withdrawal will be effected immediately. The notice will clearly and specifically set forth the basis and grounds for the action. There is no right to a formal hearing to contest the withdrawal of SAPP processing privileges. However, if within 15 days after receiving notice the servicer requests an opportunity to contest the withdrawal, the servicer may submit, in person, in writing, or through a representative, information and argument to the Loan Guaranty Officer in opposition to the withdrawal. The Loan Guaranty Officer will make a recommendation to the Regional Loan Center Director who shall make the determination as to whether the action should be sustained, modified or rescinded. The servicer will be informed in writing of the decision.

(2) The servicer has the right to appeal the Regional Loan Center Director's decision to the Undersecretary for Benefits. In the event of such an appeal, the Undersecretary for Benefits will review all relevant material concerning the matter and make a determination that shall constitute final agency action. If the servicer's submission of opposition raises a genuine dispute over facts material to the withdrawal of SAPP authority, the servicer will be afforded an opportunity to appear with a representative, submit documentary evidence, present witnesses and confront any witness the Veterans Benefits Administration presents. The Undersecretary for Benefits will appoint a hearing officer or panel to conduct the hearing. When such additional proceedings are necessary, the Undersecretary for Benefits shall base the determination on the facts as found, together with any information and argument submitted by the servicer.

(3) In actions based upon a conviction or civil judgment, or in which there is no genuine dispute over material facts, the Undersecretary for Benefits shall make a decision on the basis of all the information in the administrative record, including any submission made by the servicer.

(4) Withdrawal of the SAPP authority will require that VA make subsequent determinations of reasonable value for the servicer. Consequently, VA staff will review each appraisal report and issue a Notice of Value which can then be used by the servicer to compute the net value of properties for liquidation purposes.

(5) Withdrawal by VA of the servicer's SAPP authority does not prevent VA from also withdrawing automatic processing authority or taking debarment or suspension action based upon the same conduct of the servicer.

(Authority: 38 U.S.C. 3732)

20. Section 36.4346 is amended by:

A. In paragraph (c), removing ''60 days'' and adding, in its place, ''30 days'.

B. Removing paragraph (g)(1)(i).

C. Redesignating paragraphs (g)(1) (ii) through (iv) as paragraphs (g)(1) (i) through (iii), respectively.

D. In newly redesignated paragraph (g)(1)(i), removing ''the written delinquency notice'' and adding, in its place, ''the initial late payment notice''.

E. Adding new paragraph (g)(1)(iv).

F. Adding a sentence at the end of paragraph (i)(2).

G. Removing paragraph (k); and redesignating paragraphs (l) and (m) as paragraphs (k) and (l), respectively.

The additions read as follows:

**§ 36.4346 Servicing procedures for holders.**

* * * * *

(g) * * *

(1) * * *

(iv)(A) A letter to the borrower if payment has not been received—

(*1*) In the case of a default occurring within the first 6 months following loan closing or the execution of a modification agreement pursuant to § 36.4314, within 45 days after such payment was due; or

(*2*) In the case of any other default, within 75 days after such payment was due.

(B) The letter required by paragraph (g)(1)(iv)(A) must be mailed no later than 5 business days after the payment is delinquent for the time period stated in paragraph (g)(1)(iv)(A) and shall—

(*1*) Provide the borrower with a toll-free telephone number and, if available, an e-mail address for contacting the servicer.

(*2*) Explain loss mitigation options available to the borrower.

(*3*) Emphasize that the intent of servicing is to retain home ownership whenever possible;

(*4*) Contain the following language:

The delinquency of your mortgage loan is a serious matter that could result in the loss of your home. If you are the veteran whose entitlement was used to obtain this loan, you can also lose your entitlement to a future VA home loan guaranty. If you are not already working with us to resolve the delinquency, please call us to discuss your workout options. You may be able to make special payment arrangements that will reinstate your loan. You may also qualify for a repayment plan or loan modification.

VA has guaranteed a portion of your loan and wants to ensure that you receive every reasonable opportunity to bring your loan current and retain your home. VA can also answer any questions you have regarding your entitlement. If you have access to the Internet and would like to obtain more information, you may access the VA Web site at *http://www.va.gov*. You may also learn where to speak to a VA Loan Administration representative by calling 1–800–827–1000.

* * * * *

(i) * * *

(2) * * * With respect to any loan more than 30 days delinquent, if the property is abandoned or has been or may be subjected to extraordinary waste or hazard, these facts must be reported to the Secretary within 5 business days and immediate action should be initiated by the servicer to protect the property and terminate the loan once the abandonment or waste or hazard has been confirmed.

* * * * *

[FR Doc. 05–3084 Filed 2–17–05; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday,
February 18, 2005

# Part IV

# The President

**Presidential Determination No. 2005–20 of February 10, 2005—Waiving Prohibition on Use of Fiscal Year 2005 Economic Support Funds With Respect to Jordan**

**Executive Order 13372—Clarification of Certain Executive Orders Blocking Property and Prohibiting Certain Transactions**

**Federal Register**
Vol. 70, No. 33
Friday, February 18, 2005

# Presidential Documents

**Title 3—**

## The President

**Presidential Determination No. 2005–20 of February 10, 2005**

## Waiving Prohibition on Use of Fiscal Year 2005 Economic Support Funds with Respect to Jordan

**Memorandum for the Secretary of State**

Consistent with the authority vested in me by section 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (the ''Act''), Division D of Public Law 108–447, I hereby:

- Determine that it is important to the national security interests of the United States to waive, for a period of 6 months from the date of this determination, the prohibition of section 574(a) of the Act with respect to Jordan; and
- Waive the prohibition with respect to this country for that period.

You are authorized and directed to report this determination to the Congress, and to arrange for its publication in the **Federal Register**.

W

THE WHITE HOUSE,
*Washington, February 10, 2005.*

[FR Doc. 05–3384
Filed 2–17–05; 8:57 am]
Billing code 4710–10–P

# Presidential Documents

**Executive Order 13372 of February 16, 2005**

## Clarification of Certain Executive Orders Blocking Property and Prohibiting Certain Transactions

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act, as amended (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code,

I, GEORGE W. BUSH, President of the United States of America, in order to clarify the steps taken in Executive Order 12947 of January 23, 1995, as amended by Executive Order 13099 of August 20, 1998; and Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, in particular with respect to the implementation of section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)), hereby order:

**Section 1.** Section 4 of Executive Order 13224 is hereby amended to read as follows:

''**Sec. 4.** I hereby determine that the making of donations of the type of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)), by, to, or for the benefit of, any persons determined to be subject to this order would seriously impair my ability to deal with the national emergency declared in this order, and would endanger Armed Forces of the United States that are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances, and I hereby prohibit such donations as provided by section 1 of this order. Furthermore, I hereby determine that the Trade Sanctions Reform and Export Enhancement Act of 2000 (Title IX, Public Law 106–387) shall not affect the imposition or the continuation of the imposition of any unilateral agricultural sanction or unilateral medical sanction on any person determined to be subject to this order because imminent involvement of the Armed Forces of the United States in hostilities is clearly indicated by the circumstances.''

**Sec. 2.** Section 3 of Executive Order 12947 is hereby amended to read as follows:

''**Sec. 3.** I hereby determine that the making of donations of the type of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)), by, to, or for the benefit of, any person whose property or interests in property are blocked pursuant to section 1 of this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by section 1.''

**Sec. 3.** (a) The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and the UNPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

(b) Nothing contained in this order shall relieve a person from any requirement to obtain a license or other authorization in compliance with applicable laws and regulations.

(c) Amendments to Executive Orders made by this order shall take effect as of the date of this order.

**Sec. 4.** This order is not intended to, and does not, create any right, benefit, or privilege, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, entities, officers, employees, or agents, or any other person.

**Sec. 5.** This order shall be transmitted to the Congress and published in the **Federal Register**.

W

THE WHITE HOUSE,
*Washington, February 16, 2005.*

[FR Doc. 05–3385
Filed 2–17–05; 8:57 am]
Billing code 3195–01–P

# Reader Aids

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This is the first in a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

A cumulative List of Public Laws for the second session of the 108th Congress will appear in the issue of January 31, 2005.

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.

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