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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 05–005–1]

Citrus Canker; Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the citrus canker regulations by updating the list of areas in the State of Florida quarantined because of citrus canker. To reflect the detection of citrus canker in an area adjacent to but outside of one current quarantined area in Florida, as well as in additional counties, we are expanding the boundaries of one existing quarantined area and adding several new areas to the list of quarantined areas. We are also removing a portion of one county from the list of quarantined areas because regular surveys have shown it to have been free of citrus canker for at least 2 years. These actions are necessary to prevent the spread of citrus canker into noninfested areas of the United States and to relieve restrictions that are no longer warranted.

DATES: This interim rule is effective February 25, 2005. We will consider all comments that we receive on or before April 26, 2005.

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

- EDOCKET: Go to *http://www.epa.gov/feddocket* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the ''View Open APHIS Dockets'' link to locate this document.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 05–005–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 05–005–1.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the instructions for locating this docket and submitting comments.

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

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

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Evans-Goldner, Assistant Staff Officer, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737–1236, (301) 734–7228.

SUPPLEMENTARY INFORMATION:

Background

Citrus canker is a plant disease that affects plants and plant parts, including fresh fruit, of citrus and citrus relatives (Family *Rutaceae*). Citrus canker can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. It can also cause lesions on the fruit of infected plants, which render the fruit unmarketable, and cause infected fruit to drop from the trees before reaching maturity. The aggressive A (Asiatic) strain of citrus canker can infect susceptible plants rapidly and lead to extensive economic losses in commercial citrus-producing areas.

The regulations to prevent the interstate spread of citrus canker are contained in 7 CFR 301.75–1 through 301.75–16 (referred to below as the regulations). The regulations restrict the interstate movement of regulated articles from and through areas quarantined because of citrus canker and provide for the designation of survey areas around quarantined areas. Survey areas undergo close monitoring by Animal and Plant Health Inspection Service (APHIS) and State inspectors for citrus canker and serve as buffer zones against the disease.

Under § 301.75–4(c) of the regulations, any State or portion of a State where an infestation is detected will be designated as a quarantined area and will retain that designation until the area has been free from citrus canker for 2 years.

Paragraph (d) of § 301.75–4 provides that less than an entire State will be designated as a quarantined area only if certain conditions are met. The State must, with certain specified exceptions, enforce restrictions on the intrastate movement of regulated articles from the quarantined area that are at least as stringent as those being enforced on the interstate movement of regulated articles from the quarantined area. The State must also undertake the destruction of all infected plants and trees. Under the regulations in § 301.75–6(c), within 7 days after confirmation that a plant or tree is infected, the State must provide written notice to the owner that the plant or tree must be destroyed. The owner then has 45 days in which to destroy the infected plant or tree. These State-conducted eradication activities within quarantined areas are an integral element of a cooperative State/Federal citrus canker program that, when successfully completed, will result in the eradication of citrus canker and the removal of an area's designation as a quarantined area.

Quarantined Areas

New infestations of citrus canker have been detected on properties adjacent to but outside of one current quarantined area in Florida, and in three additional areas. Therefore, we are amending the list of quarantined areas in § 301.75–4(a) by:

- Expanding the DeSoto B quarantined area in DeSoto County from 4.5 square miles to 15 square miles;
- Adding the Burnt Store (2.25 square miles) and the Farabee Grade (11.5 square miles) quarantined areas in Charlotte County; and

• Adding the Collier quarantined area (4 square miles) in Collier and Hendry Counties.

The State of Florida has placed these new areas under State quarantine and is enforcing restrictions on the intrastate movement of regulated articles from these quarantined areas. We have determined that Florida's restrictions on the intrastate movement of regulated articles from the quarantined areas are at least as stringent as those on the interstate movement of regulated articles from the quarantined areas. Therefore, as provided in § 301.75–4(d), we are designating areas less than the entire State as quarantined areas. An exact description of the quarantined areas can be found in the rule portion of this document.

Areas Removed From Quarantine

In this interim rule, we are removing a portion of Manatee County from the list of quarantined areas. As previously noted, the regulations provide that any State or portion of a State where an infestation is detected will be designated as a quarantined area and will retain that designation until the area has been free from citrus canker for 2 years. Regular and complete surveys of the area we are removing from the list of quarantined areas have been conducted approximately every 90 days over a period of at least 2 years since citrus canker was first detected. The area has been free of citrus canker for a period of at least 2 years and may thus be removed from the list of quarantined areas.

The necessary surveys for citrus canker have been conducted by APHIS and State inspectors, including surveys of citrus trees located in both commercial groves and at residential properties. In addition, any wild citrus known to be present in the area has also been surveyed. Although not required as a condition of declaring eradication in an area, in this case all abandoned citrus orchards have also been removed. Abandoned citrus groves present a challenge in conducting surveys; thus the removal of these groves increases our confidence that citrus canker is no longer present in this area.

Therefore, we are amending the regulations by removing the Duette quarantined area (7.75 square miles) in Manatee County, FL, from the list of quarantined areas in § 301.75–4(a). This action removes restrictions on the interstate movement of regulated articles from and through this area of Florida.

Miscellaneous

In addition to the changes to the quarantined areas discussed above, we are also amending the entries for Hendry County and Lee County in § 301.75–4(a) to correct several instances in which latitude is presented as longitude and vice versa.

Immediate Action

Immediate action is necessary to help prevent the spread of citrus canker to noninfected areas of the United States. This rule will also remove restrictions on the interstate movement of regulated articles from the portion of Manatee County, FL, that we are removing from the list of quarantined areas. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (*see* **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This emergency situation makes timely compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a regulatory flexibility analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

Executive Order 12988

This 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.

National Environmental Policy Act

An environmental assessment and finding of no significant impact were prepared in April 1999 for the citrus canker eradication program. We have reviewed the environmental assessment and finding of no significant impact in light of the amendments made by this rule to the list of quarantined areas and have determined that the analysis and conclusions in those documents are still applicable, especially because the adjustments in this rule are minor. The assessment provides a basis for the conclusion that implementation of the citrus canker eradication program will not have a significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment and finding of no significant impact may be viewed on the Internet at *http://www.aphis.usda.gov/ppq/enviro_docs/cc.html*. Copies of the environmental assessment and finding of no significant impact are also available for public inspection in our reading room. (Information on the location and hours of the reading room is provided under the heading **ADDRESSES** at the beginning of this interim rule). In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 7 CFR Part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority section for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.75–4, paragraph (a) is amended as follows:

■ a. By adding, in alphabetical order, an entry for Charlotte County and an entry for Collier and Hendry Counties to read as set forth below.

■ b. In the entry for DeSoto County, by revising paragraph (2) to read as set forth below.

■ c. In the entry for Hendry County, in paragraph (1), by removing the words ''longitude N.'' and adding the words ''latitude N.'' in their place, and by removing the words ''latitude W.'' and adding the words ''longitude W.'' in their place.

■ d. In the entry for Lee County, in paragraph (1), by removing the words ''longitude N.'' all three times they appear and adding the words ''latitude N.'' in their place, and by removing the words ''latitude W.'' all three times they appear and adding the words ''longitude W.'' in their place, and by revising paragraph (2) to read as set forth below.

■ e. By removing the entry for Manatee County.

§ 301.75–4 Quarantined areas.

(a) * * *

* * * * *

Charlotte County. (1) Burnt Store quarantined area. That portion of the county bounded by a line drawn as follows: Beginning at a point on the northern boundary of sec. 3, T. 42 S., R. 23 E. at latitude N. 26.858513, longitude W. −82.004911; then west along the northern boundaries of secs. 3 and 4, T. 42 S., R. 23 E. approximately 1.25 miles to Burnt Store Road (State Highway 765); then south along the centerline of Burnt Store Road approximately 1.5 miles to a point at latitude N. 26.835843, longitude W. −82.021439; then east from that point 1 mile to the southwest corner of the property at 13285 Green Gulf Boulevard; then east along the southern boundary of the property at 13285 Green Gulf Boulevard to the centerline of Green Gulf Boulevard; then north along the centerline of Green Gulf Boulevard to Mushroom Drive; then east along the centerline of Mushroom Drive to Sulky Drive; then northwest along the centerline of Sulky Drive to Monte Cristo Boulevard; then east along the centerline of Monte Cristo Boulevard to Panatella Drive; then north along the centerline of Panatella Drive to Treadmill Drive; then east along the centerline of Treadmill Drive to Path Avenue; then north along the centerline of Path Avenue to Barcelona Drive; then north along the centerline of Barcelona Drive to Tribune Boulevard; then west along the centerline of Tribune Boulevard to Del Rio Drive; then northeast, north, and west-northwest along the centerline of Del Rio Drive to Borax Avenue; then west along the centerline of Borax Avenue to San Souci Drive; then north along the centerline of Sans Souci Drive to Green Gulf Boulevard; then west along the centerline of Green Gulf Boulevard to a point at latitude N. 26.857943, longitude W. −82.004532; then northwest from that point along the western boundary of the property at 27046 Green Gulf Boulevard to the point of beginning.

(2) Farabee Grade quarantined area. That portion of the county bounded by a line drawn as follows: Beginning at the northeast corner of sec. 1, T. 40 S., R. 26 E.; then west 3 miles to the northwest corner of sec. 3, T. 40 S., R. 26 E.; then south 1 mile to the northeast corner of sec. 9, T. 40 S., R. 26 E.; then west 1 mile to the northwest corner of sec. 9, T. 40 S., R. 26 E.; then south 1 mile to the southwest corner of sec. 9, T. 40 S., R. 26 E.; then east 1 mile to the northwest corner of sec. 15, T. 40 S., R. 26 E.; then south 1 mile to the southwest corner of sec. 15, T. 40 S., R. 26 E.; then east 3 miles to the southeast corner of sec. 13, T. 40 S., R. 26 E.; then north 0.5 mile to a point at latitude N. 26.9966539, longitude W. −81.661941; then east 1 mile, bisecting sec. 18, T. 40 S., R. 27 E., to a point at latitude N. 26.9967719, longitude W. −81.6456869; then north 1.5 miles to the northeast corner of sec. 7, T. 40 S., R. 27 E.; then west 1 mile to the northwest corner of sec. 7, T. 40 S., R. 27 E.; then north 1 mile to the point of beginning.

Collier and Hendry Counties. Collier quarantined area. That portion of the counties bounded by a line drawn as follows: Beginning at a point on the northern boundary of sec. 31, T. 47 S., R. 31 E. in Hendry County at latitude N. 26.355297, longitude W. −81.260533; then west along the northern boundary of sec. 31, T. 47 S., R. 31 E., crossing County Road 858 into Collier County and continuing west along the northern boundary of sec. 36, T. 47 S., R. 30 E. to the northwest corner of sec. 36; then south from the northwest corner of sec. 36 along the western boundary of sec. 36, T. 47 S., R. 30 E. to a point at latitude N. 26.347806, longitude W. −81.284875; then west from that point to a point on the western boundary of sec. 35, T. 47 S., R. 30 E. at latitude N. 26.347239, longitude W. −81.303263; then south from that point to the southwest corner of sec. 35, T. 47 S., R. 30 E.; then east from the southwest corner of sec. 35, T. 47 S., R. 30 E. along the southern boundary of sec. 35, T. 47 S., R. 30 E. to a point at latitude N. 26.340264, longitude W. −81.291183; then south from that point to a point on the southern boundary of sec. 2, T. 48 S., R. 30 E. at latitude N. 26.325925, longitude W. −81.290672; then east from that point along the southern boundaries of secs. 2 and 1, T. 48 S., R. 30 E., crossing County Road 858 into Hendry County and continuing east along the southern boundary of sec. 6, T. 48 S., R. 31 E. to a point at latitude N. 26.326083, longitude W. −81.259617; then north from that point to the point of beginning.

DeSoto County. * * *

(2) DeSoto B quarantined area. That portion of the county bounded by a line drawn as follows: Beginning at the northeast corner of sec. 11, T. 37 S., R. 25 E., then east along the northern boundaries of sec. 12, T. 37 S., R. 25 E. and secs. 7 and 8, T. 37 S., R. 26 E. to the northeast corner of sec. 8, T. 37 S., R. 26 E.; then south along the eastern boundary of sec. 8, T. 37 S., R. 26 E. to the northwest corner of sec. 16; T. 37 S., R. 26 E.; then east along the northern boundary of sec. 16, T. 37 S., R. 26 E. to the northeast corner of sec. 16, T. 37 S., R. 26 E.; then south along the eastern boundary of sec. 16, T. 37 S., R. 26 E. to the southeast corner of sec. 16, T. 37 S., R. 26 E.; then west along the southern boundary of sec. 16, T. 37 S., R. 26 E. for approximately 0.5 mile; then south into sec. 21, T. 37 S., R. 26 E. for approximately 0.5 mile; then west through secs. 21, 20, and 19, T. 37 S., R. 26 E. to the western boundary of sec. 19, T. 37 S., R. 26 E.; then north along the western boundary of sec. 19, T. 37 S., R. 26 E. to the southeast corner of sec. 13, T. 37 S., R. 25 E.; then west along the southern boundary of sec. 13, T. 37 S., R. 25 E. to the southwest corner of sec. 13, T. 37 S., R. 25 E.; then south along the eastern boundary of sec. 23, T. 37 S., R. 25 E. approximately 0.5 mile; then west 1 mile to the western boundary of sec. 23, T. 37 S., R. 25 E.; then north approximately 0.5 mile to the northeast corner of sec. 22, T. 37 S., R. 25 E.; then west approximately 0.5 mile along the northern boundary of sec. 22, T. 37 S., R. 25 E. to Mare Branch; then northwest along Mare Branch approximately 2,750 feet; then west approximately 1,221 feet to the western

boundary of sec. 15, T. 37 S., R. 25 E.; then north along the western boundary of sec. 15, T. 37 S., R. 25 E. to the northwest corner of sec. 15, T. 37 S., R. 25 E.; then west approximately 1,710 feet to the southwest corner of Multiblocks (MB) 52, 62, and 63; then north approximately 1,221 feet to the northwest corner of MB 52, 62, and 63; then east approximately 366 feet to the southwest corner of MB 51, 60, and 61; then north approximately 6,716 feet, crossing McIntyre Road and continuing to the midpoint of sec. 4, T. 37 S., R. 25 E.; then east approximately 1,221 feet to the western boundary of sec. 3, T. 37 S., R. 25 E.; then north approximately 977 feet to the southwest corner of MB 1, 17, 18, 19, and 20; then east approximately 2,442 feet; then north approximately 1,710 feet to the northern boundary of sec. 3, T. 37 S., R. 25 E.; then east to the northeast corner of sec. 2, T. 37 S., R. 25 E.; then south to the northeast corner of sec. 11, T. 37 S., R. 25 E., the point of beginning.

* * * * *

Lee County. * * *

(2) Pine Island quarantined area. That portion of the county bounded by a line drawn as follows: Beginning on the eastern Pine Island shoreline at a point on Cubles Drive at latitude N. 26.639400, longitude W. −82.106568; then south from that point along the eastern Pine Island shoreline to a point defined by latitude N. 26.619100, longitude W. −82.105556; then west from that point to Birdsong Lane; then west on Birdsong Lane to Stringfellow Road; then north on Stringfellow Road to latitude N. 26.619628, longitude W. −82.118863; then west from that point to latitude N. 26.319436, longitude W. −82.123956; then north from that point to latitude N. 26.624970, longitude W. −82.123990; then west from that point to latitude N. 26.624978, longitude W. −82.124627; then north from that point to latitude N. 26.626005, longitude W. −82.124567; then west from that point to latitude N. 26.626088, longitude W. −82.125245; then north from that point to latitude N. 26.634922, longitude W. −82.125165; then east from that point to Harry Street; then north on Harry Street to latitude N. 26.649310, longitude W. −82.125209; then east from that point to Stringfellow Road; then north on Stringfellow Road to Sailfish Road; then east on Sailfish Road to Marlin Road; then north on Marlin Road to Porpoise Road; then east on Porpoise Road to Dolphin Road; then north on Dolphin Road to Tarpon Road; then east on Tarpon Road to a point on Cristi Way at latitude N. 26.638367, longitude W. −82.118612; then north from that point to latitude N. 26.638860, longitude W. −82.118562; then east from that point to a point on Sherwood Road at latitude N. 26.638865, longitude W. −82.109475; then north from that point to the intersection of Sherwood Road and Cubles Drive; then east on Cubles Drive to the point of beginning.

* * * * *

Done in Washington, DC, this 18th day of February 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–3685 Filed 2–24–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM302; Special Conditions No. 25–286–SC]

Special Conditions: Cessna Aircraft Company Model 501 Airplanes; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Cessna Aircraft Company Model 501 airplanes modified by Garrett Aviation Services. These airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of Electronic Flight Displays with Engine Indication and Flight Information Systems. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity-radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is February 16, 2005. Comments must be received on or before March 28, 2005.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM302, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM302.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2799; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that notice and opportunity for prior public comment is impracticable because these procedures would significantly delay certification of the airplanes and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance; however, we invite interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions in light of the comments received.

If you want the FAA to acknowledge receipt of your comments on these special conditions, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On August 11, 2004, Garrett Aviation Services, 1200 North Airport Drive,

Capital Airport, Springfield, IL 62707, applied for a supplemental type certificate (STC) to modify Cessna Aircraft Company Model 501 airplanes. These models are currently approved under Type Certificate No. A27CE. These Cessna airplane models are small transport category airplanes. The Cessna Model 501 is powered by two Pratt & Whitney Aircraft of Canada, Ltd., JT15D–1A or JT15D–1B turbofans; has a maximum takeoff weight of 11,850 pounds, and operates with one to two-pilot crews and holds up to 9 passengers. The modification incorporates the installation of the IDS–3000 Integrated Display System with EIS–3000 Engine Indication System and IFIS–5000 Integrated Flight Information System. The avionics/electronics and electrical systems installed in these airplanes have the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplanes.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Garrett Aviation Services must show that the Cessna Aircraft Company Model 501 airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A27CE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The certification basis for the Cessna Model 501 series airplanes include part 23 of 14 CFR effective February 1, 1965, as amended by amendments 23–1 through 23–16 except as follows: delete §§ 23.45 through 23.77, 23.831, 23.1091(c)(2), 23.1303, 23.1323, 23.1441 through 23.1449, 23.1581 through 23.1583(f), and 23.1583(h) through 23.1587. Add §§ 23.1385 as amended through 23–20, and part 25 of 14 CFR effective February 1, 1965, as amended by amendments 25–1 through 25–17; §§ 25.1195, 25.1199 and 25.1203 as amended by amendments 25–1 through 25–37; §§ 25.101 through 25.125, 25.831, 25.934, 25.1091(d)(2), 25.1197, 25.1201, 25.1303, 25.1305(a)(7), 25.1323, 25.1439 through 25.1453, 25.1581 through 25.1583(c)(3), and §§ 25.1583(e) through 25.1587.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for modified Cessna Aircraft Company Model 501 airplanes, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Cessna Model 501 airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should Garrett Aviation Services apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A27CE to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

As noted earlier, the Cessna Aircraft Company Model 501 airplanes modified by Garrett Aviation Services will incorporate electronic displays with Engine Indication and Flight Information systems that will perform critical functions. These systems may be vulnerable to high-intensity radiated fields external to the airplane. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards for the protection of this equipment from the adverse effects of HIRF. Accordingly, this system is considered to be a novel or unusual design feature.

Discussion

There is no specific regulation that addresses protection requirements for electronic and electrical systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electronics and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Cessna Model 501 airplanes modified by Garrett Aviation Services. These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, and the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance is shown with either HIRF protection special condition paragraph 1 or 2 below:

1. A minimum threat of 100 volts rms (root-mean-square) per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the field strengths identified in the table below for the frequency ranges indicated. Both peak and average field strength components from the table are to be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the

Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to the Cessna Aircraft Company Model 501 airplanes. Should Garrett Aviation Services apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A27CEU to incorporate the same or similar novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on the Cessna Model 501 airplanes modified by Garrett Aviation Services. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for these airplanes has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. Because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Cessna Aircraft Company Model 501 airplanes modified by Garrett Aviation Services.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electronic and electrical system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions:* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on February 16, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–3614 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20108; Directorate Identifier 2005–NM–006–AD; Amendment 39–13985; AD 2005–04–13]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3–60 Series Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Short Brothers Model SD3–60 series airplanes. This AD requires, for certain airplanes, repetitive inspections for cracking of the balance weight brackets of the elevator trim tabs, and replacement of any cracked bracket with a new or reworked bracket that conforms to the approved design standard. This AD also provides for an optional terminating action for the repetitive inspections. This AD is prompted by reports indicating that balance weight brackets have been found cracked on both the left and right elevator trim tabs. We are issuing this AD to prevent failure of the balance weight bracket for the elevator trim tab, which could cause loss of the balance weight. This could result in incorrect trim during takeoff and landing, and reduced controllability of the airplane.

DATES: Effective March 14, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of March 14, 2005.

We must receive comments on this AD by April 26, 2005.

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

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

For service information identified in this AD, contact Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. 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*.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–20108; the directorate identifier for this docket is 2005-NM–006-AD.

Examining the Docket

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

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington

98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain Short Brothers Model SD3–60 series airplanes. The CAA advises that balance weight brackets have been found cracked on both the left and right elevator trim tabs. Investigation revealed that the cracked brackets do not conform to the approved design standard. This nonconformity substantially reduces the expected fatigue life of the brackets, causing premature cracking and failure. This condition, if not corrected, could lead to loss of the balance weight. This could result in incorrect trim during takeoff and landing, and reduced controllability of the airplane.

Other Relevant Rulemaking

We have previously issued AD 2004–13–08, amendment 39–13690 (69 FR 38813, June 29, 2004). That AD applies to all Short Brothers Model SD3–60 series airplanes. That AD requires repetitive inspections for cracking of the welded joints of the balance weight brackets for the elevator trim tabs, and replacement of any cracked bracket with a new or serviceable bracket. That AD provides for eventual replacement of uncracked brackets as terminating action for the repetitive inspections.

AD 2004–13–08 refers to Short Brothers Service Bulletin SD360–55–20, dated June 26, 2003, as the applicable source of service information for the required actions. CAA notified us that operators may have installed the defective balance weight brackets that are the subject of this new AD while accomplishing Short Brothers Service Bulletin SD360–55–20.

Relevant Service Information

Short Brothers has issued Alert Service Bulletin SD360–55-A21, dated December 16, 2004. Short Brothers Alert Service Bulletin SD360–55-A21 describes procedures for performing repetitive dye penetrant inspections for cracking of the subject balance weight brackets. Short Brothers Alert Service Bulletin SD360–55-A21 also describes procedures for replacing balance weight brackets with new balance weight brackets that conform to the approved design standard, which is mandatory for any cracked balance weight bracket. Short Brothers Alert Service Bulletin SD360–55-A21 also describes procedures for refitting balance weights, covers, and trim tabs following any inspection or replacement.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The CAA mandated Short Brothers Alert Service Bulletin SD360–55-A21 and issued British emergency airworthiness directive G–2004–0032, dated December 30, 2004, to ensure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Determination and Requirements of This AD

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. We have examined the CAA's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are issuing this AD to prevent failure of the balance weight bracket for the elevator trim tab, which could cause loss of the balance weight. This could result in incorrect trim during takeoff and landing, and reduced controllability of the airplane. This AD requires, for certain airplanes, accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the AD and the Service Bulletin.''

Differences Between the AD and the Service Bulletin

The service bulletin specifies that operators may contact the manufacturer for disposition of certain conditions when refitting balance weights; for those conditions, this proposed AD would require operators to obtain further instructions from the FAA or the CAA (or its delegated agent).

The service bulletin specifies that subject parts must be returned to Short Brothers. This AD does not require that action.

Differences Between the AD and the British Emergency Airworthiness Directive

British emergency airworthiness directive G–2004–0032 requires replacing all subject balance weight brackets with new or reworked brackets that conform to the approved design standard. The British emergency airworthiness directive recommends that this replacement be accomplished before the accumulation of 1,750 flight hours since installation of the balance weight bracket. This AD provides for replacement of uncracked subject balance weight brackets as an option that, if accomplished, would constitute terminating action for the requirements of this AD.

British emergency airworthiness directive G–2004–0032 applies to Model SD3–60 series airplanes on which subject balance weight brackets were installed in accordance with the original issue of Short Brothers Service Bulletin SD360–55–20. This AD applies to all Model SD3–60 series airplanes. We have determined it is necessary to include all Model SD3–60 series airplanes in the applicability of this AD to ensure that no subject balance weight bracket will be installed in the future on any Model SD3–60 series airplane.

Interim Action

We consider this AD interim action. We are currently considering requiring the replacement of all subject balance weight brackets with new or reworked brackets that conform to the approved design standard, which would constitute terminating action for the repetitive inspections required by this AD. However, the planned compliance time for the replacement would allow enough time to provide notice and opportunity for prior public comment on the merits of the modification.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–20108; Directorate Identifier 2005-NM–006-AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We will post all comments we receive, without change, to *http://*

dms.dot.gov, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov*.

Authority for this Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–04–13 Short Brothers PLC: Amendment 39–13985. Docket No. FAA–2005–20108; Directorate Identifier 2005-NM–006-AD.

Effective Date

(a) This AD becomes effective March 14, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Short Brothers Model SD3–60 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by reports indicating that balance weight brackets have been found cracked on both the left and right elevator trim tabs. The FAA is issuing this AD to prevent failure of the balance weight bracket for the elevator trim tab, which could cause loss of the balance weight. This could result in incorrect trim during takeoff and landing, and reduced controllability of the airplane.

Compliance

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

Service Bulletin Reference

(f) The following information applies to the service bulletin referenced in this AD:

(1) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of Short Brothers Alert Service Bulletin SD360–55-A21, dated December 16, 2004.

(2) Although the service bulletin specifies to return subject parts to the manufacturer, this AD does not include that requirement.

Repetitive Inspections

(g) For airplanes equipped with balance weight brackets of the elevator trim tabs having part number SD3–07–6011xA, and having a serial number beginning with ''X3'' or ''X4': Prior to the accumulation of 250 flight hours since installation of the subject balance weight bracket of the elevator trim tab, or within 30 flight hours after the effective date of this AD, whichever is later, do a dye penetrant inspection for cracking of the balance weight brackets for the left and right elevator trim tabs, in accordance with the service bulletin.

(1) For a balance weight bracket on which no cracking is found: Do paragraph (i) of this AD, and repeat the inspection thereafter at intervals not to exceed 250 flight hours until paragraph (h) of this AD is accomplished.

(2) For a balance weight bracket on which any cracking is found: Before further flight, replace the bracket with a new or reworked balance weight bracket that conforms to the approved design standard in accordance with the service bulletin, and do paragraph (i) of this AD.

Optional Terminating Action

(h) For airplanes equipped with balance weight brackets of the elevator trim tabs having part number SD3–07–6011xA, and having a serial number beginning with ''X3'' or ''X4': Replacement of any subject balance weight bracket with a new or reworked balance weight bracket that conforms to the approved design standard, in accordance with the service bulletin, constitutes terminating action for the repetitive inspections required by paragraph (g) of this AD for the replaced bracket.

Refitting

(i) For airplanes equipped with balance weight brackets of the elevator trim tabs having part number SD3–07–6011xA, and having a serial number beginning with X3 or X4: Before further flight following any inspection or replacement of a bracket in accordance with this AD: Refit the balance weights, covers, and trim tabs, in accordance with the service bulletin. Where the service bulletin specifies to contact the manufacturer for disposition of certain conditions while refitting, obtain further disposition instructions from the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority (CAA) (or its delegated agent).

Parts Installation

(j) For all airplanes: As of the effective date of this AD, no person may install, on any airplane subject to this AD, a balance weight bracket having part number SD3–07–6011xA, and having a serial number beginning with ''X3'' or'' X4,'' unless the bracket is also marked ''Rework batch number R-Bxxxxx'' (where ''xxxxx'' is a number).

Alternative Methods of Compliance (AMOCs)

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

Related Information

(l) British emergency airworthiness directive G–2004–0032, dated December 30, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(m) You must use Short Brothers Alert Service Bulletin SD360–55-A21, dated December 16, 2004, 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 this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. You can review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW, room PL–401, Nassif Building, Washington, DC; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on February 11, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–3268 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19752; Directorate Identifier 2004–NM–170–AD; Amendment 39–13984; AD 2005–04–12]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B 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 Saab Model SAAB SF340A and SAAB 340B series airplanes. This AD requires repetitive inspections for wear of the brushes and leads and for loose rivets of the direct current (DC) starter generator, and related investigative/corrective actions if necessary. This AD is prompted by reports of premature failures of the DC starter generator prior to scheduled overhaul. We are issuing this AD to prevent failure of the starter generator, which could cause a low voltage situation in flight and result in increased pilot workload and reduced redundancy of the electrical powered systems.

DATES: This AD becomes effective April 1, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of April 1, 2005.

ADDRESSES: For service information identified in this AD, contact Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. 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–2004–19752; the directorate identifier for this docket is 2004–NM–170–AD.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR Part 39 with an AD for certain Saab Model SAAB SF340A and SAAB 340B series airplanes. That action, published in the **Federal Register** on December 1, 2004 (69 FR 69836), proposed to require repetitive inspections for wear of the brushes and leads and for loose rivets of the direct current starter generator, and related investigative/corrective actions if necessary.

Comments

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

Conclusion

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

Interim Action

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

Costs of Compliance

This AD will affect about 170 airplanes of U.S. registry. The required actions will take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $11,050, per inspection cycle, 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

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–04–12 SAAB Aircraft AB: Amendment 39–13984. Docket No. FAA–2004–19752; Directorate Identifier 2004–NM–170–AD.

Effective Date

(a) This AD becomes effective April 1, 2005.

Applicability

(b) This AD applies to Saab Model SAAB SF340A series airplanes having serial numbers 004 through 159 inclusive, and Model SAAB 340B series airplanes having serial numbers 160 through 367 inclusive; certificated in any category; on which Saab Service Bulletin 340–24–026 (Modification 2533) has not been implemented.

Unsafe Condition

(c) This AD was prompted by reports of premature failures of the direct current (DC) starter generator prior to scheduled overhaul. We are issuing this AD to prevent failure of the starter generator, which could cause a low voltage situation in flight and result in increased pilot workload and reduced redundancy of the electrical powered systems.

Compliance

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

Inspections for Wear of the DC Starter Generator Brushes and Leads

(e) For generators overhauled in accordance with Maintenance Review Board (MRB) Task 243104: Before 800 flight hours since the last overhaul or within 100 flight hours after the effective date of this AD, whichever occurs later, perform a general visual inspection for wear of the DC starter generator brushes and leads, in accordance with Saab Service Bulletin 340–24–035, dated July 5, 2004.

Note 1: For the purposes of this AD, a general visual inspection is ''a visual examination of a interior or exterior area, installation or assembly to detect obvious damage, failure or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normal available lighting conditions such as daylight, hangar lighting, flashlight or drop-light and may require removal or opening of access panels or doors. Stands, ladders or platforms may be required to gain proximity to the area being checked.''

Note 2: Saab Service Bulletin 340–24–035, dated July 5, 2004, references Goodrich Service Information Letter 23080–03X–24–01, dated July 1, 2004, as an additional source of service information.

(1) If the tops of the brush sets are above the top of the brush box, repeat the inspection at intervals not to exceed 800 flight hours.

(2) If the tops of the brush sets are below the top of the brush box, before further flight, measure the brushes and determine the remaining amount of brush life remaining, in accordance with the service bulletin.

(i) If the brush wear is within the limits specified in the service bulletin, repeat the inspection at intervals not to exceed 800 flight hours.

(ii) If the brush wear is outside the limits specified in the service bulletin, before further flight, replace the starter generator with a new or serviceable starter generator, in accordance with the service bulletin.

Inspections for Loose Rivets

(f) For generators overhauled in accordance with MRB Task 243104: Before 800 flight hours since last overhaul or within 100 flight hours after the effective date of this AD, whichever occurs later, perform a general visual inspection of each leading wafer brush for loose rivets, in accordance with Saab Service Bulletin 340–24–035, dated July 5, 2004. Repeat the inspections at intervals not to exceed 800 flight hours. If any rivet is loose, before further flight, replace the DC starter generator with a new or serviceable starter generator, in accordance with the service bulletin.

MRB Task 243103 or 243101

(g) For generators overhauled or with brush replacement accomplished in accordance with MRB Task 243103 or 243101, no action is required by this AD.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(i) Swedish airworthiness directive 1–196 R1, effective July 15, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use Saab Service Bulletin 340–24–035, dated July 5, 2004, including Attachment 1 (Goodrich Service Information Letter 23080–03X–24–01), dated July 1, 2004, 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 this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. 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 11, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–3281 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16534; Airspace Docket No. 03–ASO–19]

Establishment of Class D and E Airspace; Olive Branch, MS and Amendment of Class E Airspace; Memphis, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; confirmation of effective date.

SUMMARY: This action confirms the new effective date for the establishment of Class D and E4 airspace at Olive Branch, MS and the amendment of Class E5 airspace at Memphis, TN. The construction of a new Federal contract tower with a weather reporting system was delayed; therefore, the effective date of the establishment of Class D and E4 airspace and amendment of Class E5 airspace was also delayed.

DATES: The effective date of April 15, 2004, published on February 3, 2004, (69 FR 5009), and subsequently delayed indefinitely (69 FR 8555), is now 0901 UTC, May 12, 2005.

FOR FURTHER INFORMATION CONTACT: Mark D. Ward, Manager, Airspace and Operations Branch, Air Traffic Division,

Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

Docket No. 16534; Airspace Docket No. 03–ASO–19, published in the **Federal Register** on February 3, 2004 (69 FR 5009), established Class D and E4 airspace at Olive Branch, MS and amended Class E5 airspace at Memphis, TN. The construction of a federal contract tower with a weather reporting system at Olive Branch Airport made this action necessary. This action was originally scheduled to become effective on April 15, 2004; however, an unforeseen delay in beginning construction on the tower required the effective date of this action to be delayed. Construction is now nearing completion.

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) so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Confirmation of Effective Date

The effective date of Docket No. 16534; Airspace Docket No. 03–ASO–19 is hereby confirmed to be May 12, 2005.

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p.389; 49 U.S.C. 106(g); 14 CFR 11.69.

* * * * *

Issued in College Park, Georgia, on February 1, 2005.

Mark D. Ward,

Acting Area Director, Eastern EnRoute & Oceanic Operations, ATO–E.

[FR Doc. 05–3610 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 234

[Docket No. OST–2005–20331]

Reporting Directive Regarding Incidents Involving Animals During Air Transport

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Order.

SUMMARY: The Department is publishing the following reporting directive regarding the reporting requirements that are contained in the OST final rule on ''Reports by Carriers on Incidents Involving Animals During Air Transport.''

DATES: This order shall become effective after an OMB control number for the information collection requirements contained in the rule on ''Reports by Carriers on Incidents Involving Animals During Air Transport'' is assigned and announced in a separate document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Blane A. Workie, Supervisory Trial Attorney, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Office of the General Counsel, 400 7th Street, SW., Room 10424, Washington DC 20590, 202–366–9342 (voice), 202–366–7153 (fax), or *blane.workie@ost.dot.gov* (e-mail).

U.S. Department of Transportation, Office of the Secretary, Office of the General Counsel

[OST Docket 2005–20331]

Issued by the Department of Transportation, on the 15th day of February 2005.

In the Matter of a Reporting Directive on Incidents Involving Animals During Air Transport Issued Pursuant to 14 CFR 234.13; Order

The purpose of this order is to adopt a reporting directive to provide guidance to all U.S. air carriers that provide scheduled passenger air transportation regarding the new reporting requirements that are contained in the final rule on ''Reports by Carriers on Incidents Involving Animals During Air Transport'' and to answer questions that have been raised about the requirements in the rule.

Background

On February 14, 2005, the Department of Transportation (Department) published a final rule on ''Reports by Carriers on Incidents Involving Animals During Air Transport.'' 70 FR 7392. The rule, which applies to domestic and international scheduled-service transportation performed by U.S. air carriers with any size aircraft, adds a new § 234.13 to 14 CFR part 234.[1]

Section 234.13 requires each reporting air carrier to submit a report on any incidents involving the loss, injury, or death of an animal[2] during air transport[3] to the Department's Aviation Consumer Protection Division (ACPD) within 15 days of the end of each month. Each report must include the following information:

(1) Carrier and flight number;

(2) Date and time of the incident;

(3) Description of the animal, including name, if applicable;

(4) Identification of the owner(s) and/or guardian of the animal;

(5) Narrative description of the incident;

(6) Narrative description of the cause of the incident;

(7) Narrative description of any corrective action taken in response to the incident; and

(8) Name, title, address, and telephone number of the individual filing the report on behalf of the air carrier.

Section 234.13 also calls for the report to be submitted in the form and manner set forth in reporting directives issued by the Deputy General Counsel of the U.S. Department of Transportation. This reporting directive sets forth the form and manner in which carriers must submit the required data on loss, injury, or death of an animal during air transport. It is being issued as an order under the authority specified in 14 CFR 385.15(c).

Form and Manner of Reporting

All submissions must be made via e-mail to *animalreports@ost.dot.gov* except for situations where the carrier can demonstrate that it would suffer undue hardship if it were not permitted to submit the data by regular postal mail and ACPD has approved an exception. When submitting the information by postal mail under an exception, carriers

[1] The rule was originally published by the Department through its Federal Aviation Administration (FAA) on August 11, 2003 (68 FR 47798).

[2] Animal is defined in the rule as any warm or cold blooded animal which, at the time of transportation, is being kept as a pet in a family household in the United States.

[3] Under the rule, the air transport of an animal includes the entire period during which an animal is in the custody of an air carrier, from check-in or delivery of the animal prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.

must use the following address: Aviation Consumer Protection Division/ C–75, Room 4107, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

The report is to be submitted in Microsoft Word format. To protect identifiable personal information, reporting carriers must submit the required information in two separate documents. One document shall contain all of the required data elements, and the second shall be redacted and contain all of these elements with the exception of information regarding the identification of the owner(s) and/or guardian of the animal and the name, title, address, and telephone number of the individual filing the report on behalf of the air carrier.

Frequently Asked Questions

Since the original publication of the rule, several questions have been raised concerning the reporting requirements, answers to which are provided below:

1. *Which carriers must file a report on incidents involving the loss, injury, or death of an animal during air transport, and what transportation is subject to the reporting requirement?*

Based on the statute requiring the reports, a reporting carrier is defined as any U.S. air carrier that provides scheduled passenger air transportation. This definition includes commuter carriers and air taxis that provide scheduled service, whether or not they are classified as a commuter carrier. Carriers that provide both scheduled and non-scheduled service are only to report incidents that occur on (or that are associated with) a scheduled passenger flight.

2. *Are carriers required to report incidents involving the loss, injury or death of an animal transported on an all-cargo flight?*

No. But the loss, injury, or death of a pet that is shipped as cargo carried on a passenger flight is subject to this reporting requirement.

3. *Does the requirement to submit a report on incidents involving the loss, injury, or death of an animal during air transport apply to foreign carriers?*

No, foreign air carriers are not covered by the animal reporting requirement. However, U.S. carriers that provide scheduled passenger air transportation must report all incidents involving loss, injury or death of an animal during air transport even if the flight is between two foreign points.

4. *If there is an incident involving the loss, injury or death of an animal on a code-share flight, which carrier is required to report it?*

The operating airline is required to report such incidents, since it provides services on that flight. An incident that occurs on a flight that carries the code of a foreign carrier but that is operated by a U.S. carrier is subject to this reporting requirement and is to be reported by the U.S. carrier. A flight that carries the code of a U.S. carrier but is operated by a foreign carrier is not subject to this rule. Therefore, incidents that occur on such a flight need not be reported.

5. *What should be reported as the loss, injury, or death of an animal during air transport?*

Any incident, even if it was determined that the carrier was not at fault, resulting in the loss, injury or death of any warm or cold blooded animal that is being kept as a pet in a family household in the United States and that occurred during the time that the animal was in the custody of the air carrier must be reported.

6. *If a carrier has not taken corrective action in response to an incident involving the loss, injury, or death of an animal, how should a carrier address this fact in its report to ACPD?*

The carrier must state in its report that no corrective action was taken. A carrier may if it wishes explain the reason that no corrective action was taken.

7. *If a carrier does not know the cause of the loss, injury or death of an animal or believes that there were a number of causes, how should the carrier respond to the requirement to provide a narrative description of the cause of the incident?*

If the reason for the loss, injury or death of an animal is not known, the carrier can state that the cause is not known. If there are a number of factors that contributed to the loss, injury or death of an animal, the carrier must list all of the factors.

8. *When must carriers begin submitting reports to ACPD?*

Carriers are not required to begin submitting reports to ACPD until the Department obtains an Office of Management and Budget (OMB) control number for the reporting. OMB regulations implementing provisions of the Paperwork Reduction Act of 1995 specify that no person is required to respond to an information collection unless it displays a valid OMB control number. Once the Department receives OMB approval of this information collection request (ICR), it will announce this approval in a **Federal Register** notice with a specific compliance date.

9. *Where and how will ACPD publish the reports?*

ACPD will process each report and publish the information without any identifiable personal information, in its electronic version of the Air Travel Consumer Report. This publication is issued monthly, usually within the first week of each month. There is usually a 40-day lag in processing data (*e.g.*, a report issued in early November will contain data for September incidents). The publication can be found on-line at *http://airconsumer.ost.dot.gov*.

10. *Must carriers file a report in months when they do not experience a reportable loss, injury, or death of an animal?*

No. Negative reports should not be filed; carriers must file a report only for a month in which they had a reportable loss, injury, or death of an animal.

Accordingly,

1. We order all U.S. air carriers that provide scheduled passenger air transportation to submit a report on any incidents involving the loss, injury, or death of an animal during air transport to the Aviation Consumer Protection Division within 15 days of the end of each month in the form and manner set forth in this reporting directive;

2. This order shall be published in the **Federal Register**; and

3. This order shall become effective after an OMB control number for the information collection requirements contained in the rule on ''Reports by Carriers on Incidents Involving Animals During Air Transport'' is assigned and announced in a separate document in the **Federal Register**.

This action is taken under authority assigned in 14 CFR 385.15(c) of the Department's regulations.

Rosalind A. Knapp,

Deputy General Counsel.

[FR Doc. 05–3638 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9184]

RIN 1545–BC71

Real Estate Mortgage Investment Conduits

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations relating to the application of the unified partnership audit

procedures to disputes regarding the ownership of residual interests in a Real Estate Mortgage Investment Conduit (REMIC). These regulations will affect taxpayers that invest in REMIC residual interests.

DATES: These regulations apply after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Arturo Estrada, (202) 622–3900 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This regulation amends 26 CFR Part 1 under section 860F of the Internal Revenue Code (Code) relating to the application of the unified partnership audit procedures of subchapter C of chapter 63 of the Code to REMICs and the holders of residual interests. Section 860F(e) provides that a REMIC is treated as a partnership (and holders of residual interests in that REMIC shall be treated as partners) for purposes of subtitle F of the Code, which includes the unified partnership audit procedures. The taxable income of a holder of a REMIC residual interest is determined under the REMIC provisions of part IV of subchapter M, which require the holder to take into account its daily portion of the REMIC's taxable income or net loss for each day during the taxable year on which the holder holds its interest. Section 860C(a)(1). The provisions of subchapter K relating to the determination of the taxable income of a partnership and its partners do not apply to REMICs or the holders of REMIC residual interests. Section 860A(a).

Questions have arisen regarding whether the identity of the holder of a REMIC residual interest is treated as a partnership item for purposes of the unified partnership audit procedures. Questions also have arisen regarding the applicability of the unified partnership audit procedures when a determination is made under the REMIC regulations to disregard certain transfers of REMIC residual interests and continue to treat the transferor as the holder of the transferred REMIC residual interests. See §§ 1.860E–1(c) and 1.860G–3.

The IRS and Treasury Department have determined that the identity of a holder of a REMIC residual interest is more appropriately determined at the residual interest holder level than at the REMIC entity level.

Explanation of Provisions

The regulations provide that the determination of the identity of a holder of a REMIC residual interest is not a partnership item for purposes of the unified partnership audit procedures as applied to REMICs, whether or not such determination involves the application of a disregarded transfer rule. Unlike the identity of a partner in a partnership subject to subchapter K, the identity of the holder of a REMIC residual interest does not affect the calculation of the REMIC's taxable income or net loss.

Effective Date

These regulations apply after December 31, 1986. *See* § 1.860A–1(b)(1)(ii).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection requirement on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, this Treasury decision has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of these regulations is Arturo Estrada, Office of the Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read, in part, as follows:

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

Section 860F–4 issued under 26 U.S.C. 860G(e) and 26 U.S.C. 6230(k).* * *

■ **Par. 2.** In § 1.860F–4, paragraph (a) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 1.860F–4 REMIC reporting requirements and other administrative rules.

(a) * * * The identity of a holder of a residual interest in a REMIC is not treated as a partnership item with respect to the REMIC for purposes of subchapter C of chapter 63.

* * * * *

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: February 15, 2005.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 05–3697 Filed 2–24–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9182]

RIN 1545–BD31

Reorganizations Under Section 368(a)(1)(E) and Section 368(a)(1)(F)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations regarding reorganizations under section 368(a)(1)(E) and section 368(a)(1)(F) of the Internal Revenue Code. The regulations affect corporations and their shareholders.

DATES: *Effective Date:* These regulations are effective on February 25, 2005.

Applicability Date: These regulations apply to transactions occurring on or after February 25, 2005.

FOR FURTHER INFORMATION CONTACT: Robert B. Gray, at (202) 622–7550 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

On August 12, 2004, the IRS and Treasury Department published a notice of proposed rulemaking (REG–106889–04) in the **Federal Register** (69 FR 49836) proposing regulations regarding the requirements for a reorganization under section 368(a)(1)(E) and section 368(a)(1)(F) of the Internal Revenue Code (Code). Generally, a transaction must satisfy the continuity of interest and continuity of business enterprise requirements to qualify as a reorganization under section 368(a). The notice proposed amending § 1.368–1(b) to provide that a continuity of interest

and a continuity of business enterprise are not required for a transaction to qualify as a reorganization under section 368(a)(1)(E) (E reorganization) or section 368(a)(1)(F) (F reorganization). The notice also proposed amending § 1.368–2 to include rules regarding the requirements for a transaction to qualify as an F reorganization and regarding the effects of an F reorganization.

The IRS and Treasury Department have received oral comments urging that the rule providing that the continuity of interest and continuity of business enterprise requirements do not apply to E and F reorganizations be finalized quickly. For the reasons expressed in the preamble to the proposed regulations, this Treasury decision adopts that rule for transactions on or after February 25, 2005. The IRS and Treasury Department continue to study the other issues addressed in the notice of proposed rulemaking, and welcomes further comment on those issues.

Effect on Other Documents

The following publications are obsolete as of February 25, 2005:

Rev. Rul. 69–516 (1969–2 C.B. 56).

Rev. Rul. 77–415 (1977–2 C.B. 311).

Rev. Rul. 77–479 (1977–2 C.B. 119).

Rev. Rul. 82–34 (1982–1 C.B. 59).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Robert B. Gray of the Office of Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendment to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2**. Section 1.368–1(b) is amended by adding a sentence after the seventh sentence to read as follows:

§ 1.368–1 Purpose and scope of exception of reorganization exchanges.

* * * * *

(b) *Purpose.* * * * Notwithstanding the requirements of this paragraph (b), for transactions occurring on or after February 25, 2005, a continuity of the business enterprise and a continuity of interest are not required for the transaction to qualify as a reorganization under section 368(a)(1)(E) or (F). * * *

* * * * *

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: February 14, 2005.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 05–3588 Filed 2–24–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[TD 9183]

RIN 1545–BA59

Modification of Check the Box

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations that clarify that qualified REIT subsidiaries, qualified subchapter S subsidiaries, and single owner eligible entities that are disregarded as entities separate from their owners are treated as separate entities for purposes of any Federal tax liability for which the entity is liable. These regulations affect disregarded entities that are liable for Federal taxes with respect to tax periods during which they were not disregarded or because they are successors or transferees of taxable entities.

DATES: *Effective Date:* These regulations are effective April 1, 2004.

Applicability Dates: For dates of applicability, see §§ 1.856–9(c), 1.1361–4(a)(6)(iii), and 301.7701–2(e).

FOR FURTHER INFORMATION CONTACT: Martin Schäffer, (202) 622–3070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR parts 1 and 301. The amendments to 26 CFR part 1 are under sections 856 and 1361 of the Internal Revenue Code (Code). Section 856(i) was added by the Tax Reform Act of 1986 (Pub. L. 99–514, 100 Stat. 2085). Section 1361(b)(3) was added by the Small Business Job Protection Act of 1996 (Pub. L. 104–188, 110 Stat. 1755). The amendments to 26 CFR part 301 are to § 301.7701–2, first promulgated by TD 8697, 61 FR 66584 (December 18, 1996). On April 1, 2004, a notice of proposed rulemaking (REG–106681–02) relating to the taxation of disregarded entities was published in the **Federal Register** (69 FR 17117). A notice of correction was published in the **Federal Register** (69 FR 22463) on April 26, 2004. No comments were received from the public in response to the notice of proposed rulemaking. No public hearing was requested, and accordingly, no hearing was held. This Treasury decision adopts the language of the proposed regulations with only minor clarifying changes.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is James M. Gergurich of the Office of the Associate Chief Counsel (Passthroughs & Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

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

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 301 are amended as follows:

PART 1—INCOME TAX

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

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

■ **Par. 2.** Section 1.856–9 is added to read as follows:

§ 1.856–9 Treatment of certain qualified REIT subsidiaries.

(a) *In general.* A qualified REIT subsidiary, even though it is otherwise not treated as a corporation separate from the REIT, is treated as a separate corporation for purposes of:

(1) Federal tax liabilities of the qualified REIT subsidiary with respect to any taxable period for which the qualified REIT subsidiary was treated as a separate corporation.

(2) Federal tax liabilities of any other entity for which the qualified REIT subsidiary is liable.

(3) Refunds or credits of Federal tax.

(b) *Examples.* The following examples illustrate the application of paragraph (a) of this section:

Example 1. X, a calendar year taxpayer, is a domestic corporation 100 percent of the stock of which is acquired by Y, a real estate investment trust, in 2002. X was not a member of a consolidated group at any time during its taxable year ending in December 2001. Consequently, X is treated as a qualified REIT subsidiary under the provisions of section 856(i) for 2002 and later periods. In 2004, the Internal Revenue Service (IRS) seeks to extend the period of limitations on assessment for X's 2001 taxable year. Because X was treated as a separate corporation for its 2001 taxable year, X is the proper party to sign the consent to extend the period of limitations.

Example 2. The facts are the same as in *Example 1*, except that upon Y's acquisition of X, Y and X jointly elect under section 856(l) to treat X as a taxable REIT subsidiary of Y. In 2003, Y and X jointly revoke that election. Consequently, X is treated as a qualified REIT subsidiary under the provisions of section 856(i) for 2003 and later periods. In 2004, the IRS determines that X miscalculated and underreported its income tax liability for 2001. Because X was treated as a separate corporation for its 2001 taxable year, the deficiency may be assessed against X and, in the event that X fails to pay the liability after notice and demand, a general tax lien will arise against all of X's property and rights to property.

Example 3. X is a qualified REIT subsidiary of Y under the provisions of section 856(i). In 2001, Z, a domestic corporation that reports its taxes on a calendar year basis, merges into X in a state law merger. Z was not a member of a consolidated group at any time during its taxable year ending in December 2000. Under the applicable state law, X is the successor to Z and is liable for all of Z's debts. In 2004, the IRS seeks to extend the period of limitations on assessment for Z's 2000 taxable year. Because X is the successor to Z and is liable for Z's 2000 taxes that remain unpaid, X is the proper party to sign the consent to extend the period of limitations.

(c) *Effective date.* This section applies on or after April 1, 2004.

■ **Par. 3**. Section 1.1361–4 is amended as follows:

■ 1. In paragraph (a)(1) introductory text, the first sentence is amended by removing the language ''paragraph (a)(3)'' and adding ''paragraphs (a)(3) and (a)(6)'' in its place.

■ 2. Paragraph (a)(6) is added.

The additions read as follows:

§ 1.1361–4 Effect of QSub election.

(a) * * *

(6) *Treatment of certain QSubs*—(i) *In general.* A QSub, even though it is generally not treated as a corporation separate from the S corporation, is treated as a separate corporation for purposes of:

(A) Federal tax liabilities of the QSub with respect to any taxable period for which the QSub was treated as a separate corporation.

(B) Federal tax liabilities of any other entity for which the QSub is liable.

(C) Refunds or credits of Federal tax.

(ii) *Examples.* The following examples illustrate the application of paragraph (a)(6)(i) of this section:

Example 1. X has owned all of the outstanding stock of Y, a domestic corporation that reports its taxes on a calendar year basis, since 2001. X and Y do not report their taxes on a consolidated basis. For 2003, X makes a timely S election and simultaneously makes a QSub election for Y. In 2004, the Internal Revenue Service (IRS) seeks to extend the period of limitations on assessment for Y's 2001 taxable year. Because Y was treated as a separate corporation for its 2001 taxable year, Y is the proper party to sign the consent to extend the period of limitations.

Example 2. The facts are the same as in *Example 1,* except that in 2004, the IRS determines that Y miscalculated and underreported its income tax liability for 2001. Because Y was treated as a separate corporation for its 2001 taxable year, the deficiency for Y's 2001 taxable year may be assessed against Y and, in the event that Y fails to pay the liability after notice and demand, a general tax lien will arise against all of Y's property and rights to property.

Example 3. X is a QSub of Y. In 2001, Z, a domestic corporation that reports its taxes on a calendar year basis, merges into X in a state law merger. Z was not a member of a consolidated group at any time during its taxable year ending in December 2000. Under the applicable state law, X is the successor to Z and is liable for all of Z's debts. In 2003, the IRS seeks to extend the period of limitations on assessment for Z's 2000 taxable year. Because X is the successor to Z and is liable for Z's 2000 taxes that remain unpaid, X is the proper party to execute the consent to extend the period of limitations on assessment.

(iii) *Effective date.* This paragraph (a)(6) applies on or after April 1, 2004.

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 4**. The authority citation for part 301 continues to read, in part, as follows:

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

■ **Par. 5**. Section 301.7701–2 is amended as follows:

■ 1. Paragraph (c)(2)(iii) is added.

■ 2. Paragraph (e) is revised.

The addition and revision read as follows:

§ 301.7701–2 Business entities; definitions.

* * * * *

(c) * * *

(2) * * *

(iii) *Tax liabilities of certain disregarded entities*—(A) *In general.* An entity that is otherwise disregarded as separate from its owner is treated as an entity separate from its owner for purposes of:

(*1*) Federal tax liabilities of the entity with respect to any taxable period for which the entity was not disregarded.

(*2*) Federal tax liabilities of any other entity for which the entity is liable.

(*3*) Refunds or credits of Federal tax.

(B) *Examples.* The following examples illustrate the application of paragraph (c)(2)(iii)(A) of this section:

Example 1. In 2001, X, a domestic corporation that reports its taxes on a calendar year basis, merges into Z, a domestic LLC wholly owned by Y that is disregarded as an entity separate from Y, in a state law merger. X was not a member of a consolidated group at any time during its taxable year ending in December 2000. Under the applicable state law, Z is the successor to X and is liable for all of X's debts. In 2004, the Internal Revenue Service (IRS) seeks to extend the period of limitations on assessment for X's 2000 taxable year. Because Z is the successor to X and is liable for X's

2000 taxes that remain unpaid, Z is the proper party to sign the consent to extend the period of limitations.

Example 2. The facts are the same as in *Example 1,* except that in 2002, the IRS determines that X miscalculated and underreported its income tax liability for 2000. Because Z is the successor to X and is liable for X's 2000 taxes that remain unpaid, the deficiency may be assessed against Z and, in the event that Z fails to pay the liability after notice and demand, a general tax lien will arise against all of Z's property and rights to property.

* * * * *

(e) *Effective date.* (1) Except as otherwise provided in this paragraph (e), the rules of this section apply as of January 1, 1997, except that paragraph (b)(6) of this section applies on or after January 14, 2002, to a business entity wholly owned by a foreign government regardless of any prior entity classification, and paragraph (c)(2)(ii) of this section applies to taxable years beginning after January 12, 2001. The reference to the Finnish, Maltese, and Norwegian entities in paragraph (b)(8)(i) of this section is applicable on November 29, 1999. The reference to the Trinidadian entity in paragraph (b)(8)(i) of this section applies to entities formed on or after November 29, 1999. Any Maltese or Norwegian entity that becomes an eligible entity as a result of paragraph (b)(8)(i) of this section in effect on November 29, 1999, may elect by February 14, 2000, to be classified for Federal tax purposes as an entity other than a corporation retroactive to any period from and including January 1, 1997. Any Finnish entity that becomes an eligible entity as a result of paragraph (b)(8)(i) of this section in effect on November 29, 1999, may elect by February 14, 2000, to be classified for Federal tax purposes as an entity other than a corporation retroactive to any period from and including September 1, 1997. However, paragraph (d)(3)(i)(D) of this section applies on or after October 22, 2003.

(2) Paragraph (c)(2)(iii) of this section applies on or after April 1, 2004.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: February 15, 2005.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 05–3587 Filed 2–24–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 25

[TD 9181]

RIN 1545–BB72

Qualified Interests

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations amending the regulations under the gift tax special valuation rules to provide that a unitrust or annuity interest payable for a specified term of years to the grantor, or to the grantor's estate if the grantor dies prior to the expiration of the term, is a qualified interest for the specified term. The final regulations also clarify that the exception treating a spouse's revocable successor interest as a retained qualified interest applies only if the spouse's annuity or unitrust interest, standing alone, would constitute a qualified interest that meets the requirements of § 25.2702–3(d)(3), but for the grantor's revocation power.

DATES: The regulations are effective July 26, 2004.

FOR FURTHER INFORMATION CONTACT: Juli Ro Kim (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On July 26, 2004, the IRS published in the **Federal Register** (69 FR 44476) a notice of proposed rulemaking (REG–163679–02) conforming the gift tax regulations defining a qualified interest for purposes of section 2702 to the Tax Court's decision in *Walton* v. *Commissioner*, 115 T.C. 589 (2000), *acq. in result*, Notice 2003–72, 2003–2 C.B. 964. In *Walton*, the court declared *Example 5* of § 25.2702–3(e) to be invalid. The notice of proposed rulemaking also clarifies those parts of the regulations under section 2702 addressing revocable spousal interests that were at issue in *Schott* v. *Commissioner*, 319 F.3d 1203 (9th Cir. 2003), *rev'g and remanding* T.C.M. 2001–110, and *Cook* v. *Commissioner*, 269 F.3d 854 (7th Cir. 2001), *aff'g* 115 T.C. 15 (2000).

No public hearing was requested or held, but one written comment and some telephone comments were received. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision, and the corresponding proposed regulations are removed. The comments and revisions to the proposed regulations are discussed below.

Summary of Comments

Generally, the commentators agreed with the amendments conforming the regulations to the *Walton* decision. Several commentators requested that the regulations address the amount includible in the grantor's gross estate with respect to a *Walton*-type grantor retained annuity trust (GRAT), if the grantor dies during the GRAT term, including the application of Rev. Rul. 82–105 (1982–1 C.B. 133). In addition, several commentators requested guidance regarding the application of section 2035 if the grantor dies within three years after termination of the term of the GRAT (or grantor retained unitrust (GRUT)). These suggestions were not adopted. The determination of the amount includable in the grantor's gross estate is an issue different from and governed by different Code sections than the definition of a qualified interest for purposes of section 2702, and is thus beyond the scope of this project. However, Treasury and IRS will consider addressing that issue in future guidance.

Regarding the proposed regulations addressing revocable spousal interests, commentators suggested that section 2702 was enacted to avoid valuation problems and that, because the value of the contingent revocable spousal interest at issue in *Schott* v. *Commissioner* is readily determinable using actuarial tables, such an interest should be a qualified interest (as the Ninth Circuit concluded in *Schott*).

Treasury and the IRS continue to believe that the proposed regulations properly implement section 2702 and the policy underlying the statute. Uncertainty in valuation is not the only valuation inaccuracy that the statute was intended to correct. A valuation inaccuracy is also present when the value of a retained interest is increased through the use of a joint and survivor (or two-life) annuity or unitrust interest if there is no certainty that the survivorship interest will ever be paid. The revocable spousal interest involved in *Schott* may best be described as speculative, because it takes effect, if at all, only if the grantor fails to survive the term of the trust, and the duration of the interest, if it takes effect at all, is dependent on the portion of the term remaining at the grantor's death. The existing regulations make it clear that the ability to actuarially determine an interest is not sufficient to secure recognition of that interest as a qualified interest for purposes of section 2702.

Under *Example 1* of § 25.2702–2(d)(1), neither a retained income interest for life nor a contingent reversionary interest in trust corpus payable to the grantor's estate if the grantor dies prior to the expiration of the trust term is a qualified interest, notwithstanding that the present value of both the income interest and the contingent reversion is readily determinable actuarially. Just as the contingent reversion in *Example 1* would increase the value of the retained interest without any certainty that the reversion would ever be paid, a revocable spousal interest of the kind at issue in *Schott* would similarly increase the value of the retained interest without any certainty that the spouse's survivorship interest would ever be paid.

Some commentators requested that the regulations also confirm the gift tax consequences of the lapse of the grantor's retained right to revoke the spouse's successor interest, for example when that revocation right lapses at the end of the GRAT term and the spouse's successor interest becomes operative. In response, language has been added to § 25.2702–3(e), *Example 8*, to clarify that the grantor makes a completed gift to the spouse when the revocation right lapses on the expiration of the grantor's retained term (the grantor having survived the term and not having exercised the revocation right). See § 25.2511–2(f).

Other commentators suggested that the regulations also address the treatment of a revocable spousal interest in a *Walton*-type GRAT when the grantor's spouse is given a revocable survivor interest in the annuity payments to be made during the balance of the fixed term of the GRAT remaining after the grantor's death. Specifically, if the grantor dies prior to the expiration of the fixed GRAT term, the annuity interest is payable to the spouse for the balance of that term, subject to the grantor's power to revoke the spousal interest or, if the spousal interest is revoked, then to the grantor's estate for the balance of the fixed term. The commentators suggested that regardless of whether the grantor dies during the stated term or survives, the annuity or unitrust interest will be paid for a fixed term of years either to the grantor, the surviving spouse, or the grantor's estate. Accordingly, the commentators suggested that the interest is payable in all events for a fixed term, and is therefore a qualified interest. The commentators' suggestion would extend the concept espoused by the Tax Court in *Walton* of an ''undifferentiated unit'' consisting of the grantor and the grantor's estate (see 115 T.C. at 603) to include the grantor, the grantor's estate, and the grantor's spouse. Treasury and the IRS do not believe that the Tax Court opinion supports this extension. The spouse's revocable successor interest is an interest separate and distinct from the interest of the grantor and the grantor's estate. Further, the use of the spouse's life expectancy in valuing the retained interest would increase the value of that interest without any guarantee that the spouse would actually receive any part of that interest. For these reasons, the spouse's revocable successor interest described above does not satisfy the requirements of a qualified interest. Accordingly, this suggestion was not adopted.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the Notice of Proposed Rulemaking preceding these regulations was submitted to the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Juli Ro Kim, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. Other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 25 is amended as follows:

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

■ **Paragraph 1**. The authority citation for part 25 continues to read, in part, as follows:

Authority: 25 U.S.C. 7805 * * *

■ **Par. 2**. In § 25.2702–0, the table is amended as follows:

■ 1. The entries for § 25.2702–2(a)(5) through § 25.2702–2(a)(9) are redesignated as § 25.2702–2(a)(6) through § 25.2702–2(a)(10), respectively.

■ 2. A new entry for § 25.2702–2(a)(5) is added.

■ 3. The entries for § 25.2702–3(d)(2) through § 25.2702–3(d)(4) are redesignated as § 25.2702–3(d)(3) through § 25.2702–3(d)(5), respectively.

■ 4. A new entry for § 25.2702–3(d)(2) is added.

■ 5. An entry for § 25.2702–3(d)(6) is added.

The additions read as follows:

§ 25.2702–0 Table of contents.

* * * * *

§ 25.2702–2 Definitions and valuation rules.

(a) * * *

(5) Holder.

* * * * *

§ 25.2702–3 Qualified interests.

* * * * *

(d) * * *

(2) Contingencies.

* * * * *

(6) Use of debt obligations to satisfy the annuity or unitrust payment obligation.

* * * * *

■ **Par. 3.** Section 25.2702–2 is amended as follows:

■ 1. Paragraphs (a)(5) through (a)(9) are redesignated as paragraphs (a)(6) through (a)(10), respectively.

■ 2. A new paragraph (a)(5) is added.

■ 3. In newly designated paragraph (a)(6), the second sentence is removed and two sentences are added in its place.

■ 4. In paragraph (d)(1), *Example 6* and *Example 7* are removed.

■ 5. In paragraph (d)(2), introductory text, the language ''Examples 8–10'' is revised to read ''*Examples 6* through *8*''.

■ 6. In paragraph (d)(2), *Examples 8, 9* and *10* are redesignated *Examples 6, 7* and *8,* respectively.

The additions read as follows:

§ 25.2702–2 Definitions and valuation rules.

(a) * * *

(5) *Holder.* The holder is the person to whom the annuity or unitrust interest is payable during the fixed term of that interest. References to holder shall also include the estate of that person.

(6) * * * If a transferor retains a power to revoke a qualified annuity interest or qualified unitrust interest of the transferor's spouse, then the revocable qualified annuity or unitrust interest of the transferor's spouse is treated as a retained qualified interest of the transferor. In order for the transferor to be treated as having retained a qualified interest under the preceding sentence, the interest of the transferor's spouse (the successor holder) must be an

interest that meets the requirements of a qualified annuity interest in accordance with § 25.2702–3(b) and (d), or a qualified unitrust interest in accordance with § 25.2702–3(c) and (d), but for the transferor's retained power to revoke the interest. * * *

* * * * *

■ **Par. 4.** Section 25.2702–3 is amended as follows:

■ 1. Paragraphs (d)(2) through (d)(5) are redesignated as paragraphs (d)(3) through (d)(6), respectively.

■ 2. A new paragraph (d)(2) is added.

■ 3. In newly designated paragraph (d)(4), the first two sentences are revised.

■ 4. Newly designated paragraph (d)(5) is revised.

■ 5. In paragraph (e), *Example 5,* the last sentence is revised.

■ 6. In paragraph (e), *Example 6,* the last sentence is removed and two new sentences are added in its place.

■ 7. In paragraph (e), new *Example 8* and new *Example 9* are added.

The revisions and additions read as follows:

§ 25.2702–3 Qualified interests.

* * * * *

(d) * * *

(2) *Contingencies.* A holder's qualified interest must be payable in any event to or for the benefit of the holder for the fixed term of that interest. Thus, payment of the interest cannot be subject to any contingency other than either the survival of the holder until the commencement, or throughout the term, of that holder's interest, or, in the case of a revocable interest described in § 25.2702–2(a)(6), the transferor's right to revoke the qualified interest of that transferor's spouse.

* * * * *

(4) *Term of the annuity or unitrust interest.* The governing instrument must fix the term of the annuity or unitrust and the term of the interest must be fixed and ascertainable at the creation of the trust. The term must be for the life of the holder, for a specified term of years, or for the shorter (but not the longer) of those periods. * * *

(5) *Commutation.* The governing instrument must prohibit commutation (prepayment) of the interest of the holder.

* * * * *

(e) * * *

Example 5. * * * The interest of A (and A's estate) to receive the unitrust amount for the specified term of 10 years in all events is a qualified unitrust interest for a term of 10 years.

Example 6. * * * As in *Example 5,* the interest of A (and A's estate) to receive the unitrust amount for a specified term of 10 years in all events is a qualified unitrust interest for a term of 10 years. However, the right of A's estate to continue to receive the unitrust amount after the expiration of the 10-year term if A dies within that 10-year period is not fixed and ascertainable at the creation of the interest and is not a qualified unitrust interest.

* * * * *

Example 8. A transfers property to an irrevocable trust, retaining the right to receive an annuity equal to 6 percent of the initial net fair market value of the trust property for 10 years, or until A's prior death. At the expiration of the 10-year term, or on A's death prior to the expiration of the 10-year term, the annuity is to be paid to B, A's spouse, if then living, for 10 years or until B's prior death. A retains an inter vivos and testamentary power to revoke B's interest during the initial 10-year term. If not exercised by A during the initial 10-year term (whether during A's life or on A's death), A's right to revoke B's interest will lapse upon either A's death during the 10-year term, or the expiration of A's 10-year term (assuming A survives the term). Upon expiration of B's interest (or on the expiration of A's interest if A revokes B's interest or if B predeceases A), the trust terminates and the trust corpus is payable to A's child. Because A has made a completed gift of the remainder interest, the transfer of property to the trust is not incomplete as to all interests in the property and section 2702 applies. A's annuity interest (A's right to receive the annuity for 10 years, or until A's prior death) is a retained interest that is a qualified annuity interest under paragraphs (b) and (d) of this section. In addition, because A has retained the power to revoke B's interest, B's interest is treated as an interest retained by A for purposes of section 2702. B's successive annuity interest otherwise satisfies the requirements for a qualified interest contained in paragraph (d) of this section, but for A's power to revoke. The term of B's interest is specified in the governing instrument and is fixed and ascertainable at the creation of the trust, and B's right to receive the annuity is contingent only on B's survival, and A's power to revoke. Following the expiration of A's interest, the annuity is to be paid for a 10-year term or for B's (the successor holder's) life, whichever is shorter. Accordingly, A is treated as retaining B's revocable qualified annuity interest pursuant to § 25.2702–2(a)(6). Because both A's interest and B's interest are treated as qualified interests retained by A, the value of the gift is the value of the property transferred to the trust less the value of both A's qualified interest and B's qualified interest (subject to A's power to revoke), each valued as a single-life annuity. If A survives the 10-year term without having revoked B's interest, then A's power to revoke lapses and A will make a completed gift to B at that time. Further, if A revokes B's interest prior to the commencement of that interest, A is treated as making an additional completed gift at that time to A's child. In either case, the amount of the gift would be the present value of B's interest determined under section 7520 and the applicable regulations, as of the date the revocation power lapses or the interest is revoked. See § 25.2511–2(f).

Example 9. (i) A transfers property to an irrevocable trust, retaining the right to receive 6 percent of the initial net fair market value of the trust property for 10 years, or until A's prior death. If A survives the 10-year term, the trust terminates and the trust corpus is payable to A's child. If A dies prior to the expiration of the 10-year term, the annuity is payable to B, A's spouse, if then living, for the balance of the 10-year term, or until B's prior death. A retains the right to revoke B's interest. Upon expiration of B's interest (or upon A's death if A revokes B's interest or if B predeceases A), the trust terminates and the trust corpus is payable to A's child. As is the case in *Example 8,* A's retained annuity interest (A's right to receive the annuity for 10 years, or until A's prior death) is a qualified annuity interest under paragraphs (b) and (d) of this section. However, B's interest does not meet the requirements of paragraph (d) of this section. The term of B's annuity is not fixed and ascertainable at the creation of the trust, because it is not payable for the life of B, a specified term of years, or for the shorter of those periods. Rather, B's annuity is payable for an unspecified period that will depend upon the number of years left in the original term after A's death. Further, B's annuity is payable only if A dies prior to the expiration of the 10-year term. Thus, payment of B's annuity is not dependent solely on B's survival, but rather is dependent on A's failure to survive.

(ii) Accordingly, the amount of the gift is the fair market value of the property transferred to the trust reduced by the value of A's qualified interest (A's right to receive the stated annuity for 10 years or until A's prior death). B's interest is not a qualified interest and is thus valued at zero under section 2702.

* * * * *

■ **Par. 5.** Section 25.2702–7 is amended by adding two sentences at the end of the section to read as follows:

§ 25.2702–7 Effective dates.

* * * Section 25.2702–2(a)(5), the second and third sentences of § 25.2702–2(a)(6), § 25.2702–3(d)(2), the first two sentences of § 25.2702–3(d)(4), the last sentence of § 25.2702–3(e), *Example 5,* the last two sentences of § 25.2702–3(e), *Example 6,* and § 25.2702–3(e), *Examples 8* and *9,* apply for trusts created on or after July 26, 2004. However, the Internal Revenue Service will not challenge any prior application of the changes to *Examples 5* and *6* in § 25.2702–3(e).

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: February 15, 2005.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 05–3589 Filed 2–24–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control (''OFAC'') of the U.S. Department of the Treasury is amending the Cuban Assets Control Regulations, 31 CFR part 515 (the ''CACR''), to clarify the meaning of the term ''payment of cash in advance,'' which is used in the restrictions on payment and financing terms for authorized exports from the United States to Cuba.

DATES: Effective Date: February 22, 2005.

FOR FURTHER INFORMATION CONTACT: Chief of Policy Planning and Program Management, tel. (202) 622–4855, Chief of Licensing, tel.: (202) 622–2480, Chief of Compliance, tel. (202) 622–2490, or Chief Counsel, tel.: (202) 622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This file is available for download without charge in ASCII and Adobe Acrobat readable (*.PDF) formats at GPO Access. GPO Access supports HTTP, FTP, and Telnet at fedbbs.access.gpo.gov. It may also be accessed by modem dialup at (202) 512–1387 followed by typing ''/GO/FAC.'' Paper copies of this document can be obtained by calling the Government Printing Office at (202) 512–1530. This document and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page: *http://www.treas.gov/ofac*, or via FTP at ofacftp.treas.gov. Facsimiles of information are available through the Office's 24-hour fax-on-demand service: call (202) 622–0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Background

Section 908(b)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000, Pub. L. 106–387, prohibits U.S. persons from providing payment or financing terms for authorized sales of agricultural items to Cuba or any person in Cuba other than through ''payment of cash in advance'' or certain financing by third-country financial institutions. Last fall, U.S. financial institutions stopped payments that were in process and requested guidance from the Treasury as to whether the term required the seller to receive payment before shipping the goods from the United States or before delivering the goods to the Cuban purchaser.

To mitigate the immediate impact on the transfer of such payments, OFAC adopted an interim policy of issuing specific licenses that authorized the unblocking of such payments pending the issuance of further guidance clarifying the meaning of the term ''payment of cash in advance.'' OFAC created this specific licensing policy to ensure the Cuban people did not experience a disruption in agricultural shipments to Cuba and to avoid any unnecessary disruption of U.S. business.

With this final rule, OFAC is amending paragraph (a)(2) of § 515.533 of the CACR to clarify that the term ''payment of cash in advance'' means that payment is received by the seller or the seller's agent prior to shipment of the goods from the port at which they are loaded. This conforms to the common understanding of the term in international trade finance. In order to continue to avoid a disruption in agricultural shipments to Cuba, OFAC is amending paragraph (d) of § 515.533 to provide a general license authorizing the processing of payments received for certain exports to Cuba that are shipped prior to receipt of payment for a limited time. This general license only applies when the goods are shipped from the port at which they are loaded on or before March 24, 2005 and when payment is received by a U.S. banking institution on or before March 24, 2005 and prior to transfer of title to, and control of, the goods to the Cuban purchaser.

Public Participation

Because the CACR involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the ''APA'') requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the CACR are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 515

Administrative practice and procedure, Banks, Banking, Blocking of assets, Cuba, Currency, Foreign trade, Imports, Reporting and recordkeeping requirements, Securities, Travel restrictions.

■ For the reasons set forth in the preamble, part 515 of 31 CFR chapter V is amended as follows:

PART 515—CUBAN ASSETS CONTROL REGULATIONS

■ 1. The authority citation for 31 CFR part 515 continues to read as follows:

Authority: 18 U.S.C. 2332d; 22 U.S.C. 2370(a), 6001–6010; 31 U.S.C. 321(b); 50 U.S.C. App. 1–44; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 106–387, 114 Stat. 1549; E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1147; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748; Proc. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp., p. 157; E.O. 12854, 58 FR 36587. 3 CFR, 1993 Comp., p. 614.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 2. Amend § 515.533 by revising paragraphs (a)(2) introductory text and (a)(2)(i) and by adding paragraph (d) to read as follows:

§ 515.533 Transactions incident to exportations from the United States to Cuba and reexportations of U.S.-origin items to Cuba; negotiation of executory contracts.

(a) * * *

(2) Only the following payment and financing terms may be used:

(i) Payment of cash in advance. For the purposes of this section, the term ''payment of cash in advance'' means that payment is received by the seller or the seller's agent prior to shipment of the goods from the port at which they are loaded;

* * * * *

(d) In addition to those transactions authorized pursuant to paragraph (a) of this section, all transactions ordinarily incident to the processing of payments received for items exported from the United States to any person within Cuba are authorized, provided that:

(1) The exportation is licensed or otherwise authorized by the Department

of Commerce under the provisions of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401–2420) (see the Export Administration Regulations, 15 CFR 730–774);

(2) The items are shipped from the port at which they are loaded on or before March 24, 2005; and

(3) Payment is received by a U.S. banking institution on or before March 24, 2005, and prior to the transfer of title to, and control of, the exported items to the Cuban purchaser.

* * * * *

Dated: February 18, 2005.

Robert W. Werner,

Director, Office of Foreign Assets Control.

Approved: February 18, 2005.

Juan C. Zarate,

Assistant Secretary for Terrorist Financing, Department of the Treasury.

[FR Doc. 05–3651 Filed 2–22–05; 3:00 pm]

BILLING CODE 4810–25–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[R01–OAR–2004–CT–0004; A–1–FRL–7877–6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Connecticut; Plan for Controlling MWC Emissions From Existing Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves the sections 111(d)/129 State Plan submitted by the Connecticut Department of Environmental Protection (CT DEP) on September 16, 2004. This State Plan is for implementing and enforcing provisions at least as protective as the federal Emission Guidelines (EGs) applicable to existing large and small Municipal Waste Combustion (MWC) units.

DATES: This direct final rule is effective on April 26, 2005 without further notice unless EPA receives adverse comments by March 28, 2005. If EPA receives such comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R01–OAR–2004–CT–0004 by one of the following methods:

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

B. Agency Web site: *http://docket.epa.gov/rmepub/* Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

C. E-mail: *kenyon.michael@epa.gov.*

D. Fax: (617) 918–0521.

E. Mail: ''RME ID Number R01–OAR–2004–CT–0004'', Michael Kenyon, Chief, Air Programs Branch, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114–2023.

F. Hand Delivery or Courier: Deliver your comments to: Michael Kenyon, Chief, Air Programs Branch, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

Instructions: Direct your comments to Regional Material in EDocket (RME) ID Number R01–OAR–2004–CT–0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through Regional Material in EDocket (RME), regulations.gov, or e-mail. The EPA RME Web site and the federal regulations.gov Web site 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 RME 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.

Docket: All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at *http://docket.epa.gov/rmepub/.* 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 RME or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section below to schedule your review. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: John Courcier, Office of Ecosystem Protection (CAP), EPA-New England, Region 1, Boston, Massachusetts 02203, telephone number (617) 918–1659, fax number (617) 918–0659, e-mail *courcier.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What Action Is EPA Taking Today?

EPA is approving the above referenced State Plan which Connecticut submitted on September 16, 2004 for the control of air emissions from existing large (units with an individual capacity greater than 250 tons per day) and small (units with an individual capacity of 250 tons per day or less) MWCs throughout the State.

EPA is publishing this approval action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan should relevant adverse comments be filed. If EPA receives no significant, material, and adverse comments by March 28, 2005, this action will be effective April 26, 2005.

If EPA receives significant, material, and adverse comments by the above date, the Agency will withdraw this action before the effective date by publishing a subsequent document in the **Federal Register**. EPA will address all public comments received in a subsequent final rule based on the parallel proposed rule published in today's **Federal Register**. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

II. Why Does EPA Want To Regulate Air Emissions From MWCs?

When burned, municipal solid wastes emit various air pollutants, including hydrochloric acid, dioxin/furan, toxic metals (lead, cadmium, and mercury) and particulate matter. Mercury is highly hazardous and is of particular concern because it persists in the environment and bioaccumulates through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Harmful effects in wildlife have also been reported; these include nervous system damage and behavioral and reproductive deficits. Human and wildlife exposure to mercury occur mainly through eating of fish. When inhaled, mercury vapor attacks also the lung tissue and is a cumulative poison. Short-term exposure to mercury in certain forms can cause hallucinations and impair consciousness. Long-term exposure to mercury in certain forms can affect the central nervous system and cause kidney damage.

Exposure to particulate matter can aggravate existing respiratory and cardiovascular disease and increase risk of premature death. Hydrochloric acid is a clear colorless gas. Chronic exposure to hydrochloric acid has been reported to cause gastritis, chronic bronchitis, dermatitis, and photosensitization. Acute exposure to high levels of chlorine in humans may result in chest pain, vomiting, toxic pneumonitis, pulmonary edema, and death. At lower levels, chlorine is a potent irritant to the eyes, the upper respiratory tract, and lungs.

Exposure to dioxin and furan can cause skin disorders, cancer, and reproductive effects such as endometriosis. These pollutants can also affect the immune system.

III. When Did EPA First Publish These Requirements?

The EPA originally promulgated the EGs for large and small MWCs on December 19, 1995. However, the EGs for the small MWCs were vacated by the U.S. Court of Appeals for the District of Columbia Circuit in March 1997. In response to the Court's decision, EPA again proposed the small MWC emission guidelines on August 30, 1999. On December 19, 1995 and December 6, 2000, according to sections 111 and 129 of the Clean Air Act (Act), the EPA published the final form of the EGs applicable to existing large and small MWCs, respectively. The EGs are at 40 CFR part 60, subparts Cb (large MWCs) and BBBB (small MWCs). *See* 60 FR 65382 (large) and 65 FR 76378 (small) and the Background section.

IV. Who Must Comply With the Requirements?

All large MWCs that commenced construction before December 19, 1995, and all small MWCs that commenced construction on or before August 30, 1999 must comply with these requirements.

V. Are Any Sources Exempt From the Requirements?

The following incinerator source categories are exempt from the federal requirements for small MWCs:

(1) Very small MWC units that combust less than 11 tons per day.

(2) Small power production facilities.

(3) Cogeneration facilities.

(4) MWC units that combust only tires.

(5) Hazardous waste combustion.

(6) Materials recovery units.

(7) Co-fired units.

(8) Plastics/rubber recycling units.

(9) Units that combust fuels made from products of plastics/rubber recycling plants.

(10) Cement kilns.

(11) Air curtain incinerators.

Please refer to 40 CFR 60.1555 for specific definitions of these incinerator source categories, and any record keeping or other requirements that still may need to be met.

VI. By What Date Must MWCs in Connecticut Achieve Compliance?

All existing large MWCs must now be in compliance. The final compliance date for large MWCs was December 19, 2000. All existing small MWC units in the State of Connecticut must comply with these requirements by December 6, 2005.

VII. What Happens if a Small MWC Does Not/Cannot Meet the Requirements by the Final Compliance Date?

Any existing small MWC that fails to meet the requirements by December 6, 2005 must shut down. The unit will not be allowed to start up until the owner/operator installs the controls necessary to meet the requirements.

VIII. What Options Are Available to Operators if They Cannot Achieve Compliance Within One Year of the Effective Date of the State Plan?

If a small MWC cannot achieve compliance within one year of the effective date of EPA approval of the State Plan, the operator must meet any increments of progress contained in the State Plan.

IX. What Is a State Plan?

Section 111(d) of the Act requires that pollutants controlled by the new source performance standards (NSPS) must also be controlled at older sources in the same source category. Once an NSPS is issued, EPA then publishes an EG applicable to the control of the same pollutant from existing (designated) facilities. States with designated facilities must then develop State Plans to adopt the EGs into their body of regulations. States must also include in their State Plans other elements, such as inventories, legal authority, and public participation documentation, to demonstrate their ability to enforce the State Plans.

X. What Did the State Submit as Part of Its State Plan?

The State of Connecticut submitted its Sections 111(d)/129 State Plan to EPA for approval on August 16, 2002. The State adopted the EG requirements into the Regulations of Connecticut State Agencies (R.C.S.A.) Section 22a–174–38, ''Municipal Waste Combustors''

(Section 38) on February 2, 2004 and April 1, 2004. The State Plan contains:

1. A demonstration of the State's legal authority to implement the State Plan.
2. R.C.S.A. Section 22a–174–38, ''Municipal Waste Combustors'' as the enforceable mechanism.
3. An inventory of all the operating sources.
4. An emissions inventory.
5. Emission limits, at least as protective as the limits found under Subparts Cb and DDDD, that are contained in Section 38.
6. Provisions for compliance schedules that are contained in Section 38(m).
7. Testing, monitoring, and inspection requirements that are contained in Section 38(i) and (j), and Sections 22a–174(c) and 22a–6.
8. Reporting and Recordkeeping requirements that are contained in Section 38(k) and (l).
9. Operator training and qualification requirements that are contained in Section 38(h).
10. A record of the public notice and hearing requirements that are contained in Section V of the State Plan.
11. Provisions for state progress reports to EPA that are contained in section IV of the State Plan.
12. A final compliance date no later than December 6, 2005.

XI. Why Is EPA Approving Connecticut's State Plan?

EPA has evaluated the MWC State Plan submitted by Connecticut for consistency with the Act, EPA guidelines and policy. EPA has determined that Connecticut's State Plan meets all requirements and, therefore, EPA is approving Connecticut's Plan to implement and enforce the EGs, as it applies to existing Large and Small MWCs.

EPA's approval of Connecticut's State Plan is based on our findings that:

(1) CTDEP provided adequate public notice of public hearings for the proposed rule-making that allows Connecticut to carry out and enforce provisions that are at least as protective as the EGs for Large and Small MWCs, and

(2) CTDEP demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require record keeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

A detailed discussion of EPA's evaluation of the State Plan is included in the technical support document (TSD) located in the official file for this action and available from the EPA contact listed above. The State Plan meets all of the applicable approval criteria.

XII. Why Does EPA Need To Approve State Plans?

Under section 129 of the Act, EGs are not federally enforceable. Section 129(b)(2) of the Act requires states to submit State Plans to EPA for approval. Each state must show that its State Plan will carry out and enforce the emission guidelines. State Plans must be at least as protective as the EGs, and they become federally enforceable upon EPA's approval.

The procedures for adopting and submitting State Plans are in 40 CFR part 60, subpart B. EPA originally issued the Subpart B provisions on November 17, 1975. EPA amended subpart B on December 19, 1995, to allow the subparts developed under section 129 to include specifications that supersede the general provisions in subpart B regarding the schedule for submittal of State Plans, the stringency of the emission limitations, and the compliance schedules. *See* 60 FR 65414.

XIII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

In reviewing sections 111(d)/129 State Plans, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state plan for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state plan, to use VCS in place of a submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 26, 2005. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Carbon monoxide, Metals, Nitrogen dioxide, Particulate matter, Sulfur oxides, Waste treatment and disposal, Reporting and record-keeping requirements.

Dated: February 14, 2005.

Robert W. Varney,

Regional Administrator, EPA New England.

■ 40 CFR part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart H—Connecticut

■ 2. Section 62.1500 is amended by adding paragraph (b)(3), revising paragraph (c) introductory text; and adding paragraph (c)(2) to read as follows:

Plan for the Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

§ 62.1500 Identification of Plan.

* * * * *

(b) * * *

(3) Revision to Plan to implement the Large and Small Municipal Waste Combustors, submitted on September 16, 2004.

(c) The Plan applies to existing sources in the following categories:

* * *

(2) Small municipal waste combustors with a design combustion capacity of 35 to 250 tons per day of municipal solid waste.

■ 3. Section 62.1501 is amended by revising the undesignated center heading and adding paragraph (a)(6) to read as follows:

Metals, Acid Gases, Organic Compounds and Nitrogen Oxides From Existing Large and Small Municipal Waste Combustors

§ 62.1501 Identification of sources.

(a) * * *

(6) Connecticut Resource Recovery Authority/Covanta Projects of Wallingford, L.P. in Wallingford.

* * * * *

[FR Doc. 05–3679 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[R04–OAR–2004–NC–0003–200426; FRL–7877–3]

Approval and Promulgation of State Plan for Designated Facilities and Pollutants; Forsyth County, Mecklenburg County and Buncombe County, NC, and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, TN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is notifying the public that it has received negative declarations for Commercial and Industrial Solid Waste Incineration (CISWI) units from Forsyth County, Mecklenburg County, and Buncombe County, North Carolina, and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, Tennessee. These negative declarations certify that CISWI units subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA) do not exist in areas covered by the local air pollution control programs of Forsyth County, Mecklenburg County, and Buncombe County, North Carolina, and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, Tennessee.

DATES: Effective February 25, 2005.

ADDRESSES: Docket: All documents are located in the Regional Material Edocket (RME)—ID No.R04–OAR–2004–NC–0003. The RME index can be found at *http://docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joydeb Majumder at (404) 562–9121 or Melissa Krenzel at (404) 562–9196.

SUPPLEMENTARY INFORMATION: Section 111(d) of the CAA requires submittal of plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(d) for new sources of the same type, and EPA has established emissions guidelines for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources.

Standards of performance for new or modified CISWI units have been established by EPA and emission guidelines for CISWI units were promulgated in December 2000. The emission guidelines are codified at 40 CFR part 60, subpart DDDD. Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of state plans for controlling designated pollutants at designated facilities. Subpart A of 40 CFR part 62 provides the procedural framework for the submission of these plans. When designated facilities are located under the jurisdiction of a state or local agency, the state or local agency must develop and submit a plan for their respective jurisdiction for the control of the designated pollutants. However, 40 CFR 62.06 provides that if there are no existing sources of the designated pollutants within the state or local agency's jurisdiction, the state or local

agency may submit a letter of certification to that effect, or negative declaration, in lieu of a plan. The negative declaration exempts the state or local agency from the requirement to submit a plan for that designated pollutant .

Final Action

Forsyth County, Mecklenburg County, and Buncombe County, North Carolina and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, Tennessee, have determined that there are no existing CISWI units in their respective jurisdictions. Consequently, Forsyth County, Mecklenburg County, and Buncombe County, North Carolina and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, Tennessee, have submitted letters of negative declaration certifying this fact. Pursuant to 40 CFR 60.2530 (Subpart DDDD), EPA is providing the public with notice of these negative declarations. Notice of these negative declarations will appear at 40 CFR part 62.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely notifies the public of negative declarations for CISWI units received by EPA from state or local agencies. The action imposes no requirements. Accordingly, the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action is only a notice and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

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

With regard to negative declarations for CISWI units received by EPA from state or local agencies, EPA's role is only to notify the public of the receipt of such negative declarations. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to approve or disapprove a CAA section 111(d)/129 negative declaration submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it receives a CAA section 111(d)/129 negative declaration, to use VCS in place of a CAA section 111(d)/129 negative declaration that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. This action is not a rulemaking, however, 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 the action in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects 40 CFR Part 62

Environmental protection, Air pollution control, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Dated: February 9, 2005.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart II—North Carolina

■ 2. Subpart II is amended by adding an undesignated center heading and § 62.8354 to read as follows:

Air Emissions From Commercial and Industrial Solid Waste Incineration Units

§ 62.8354 Identification of plan—negative declaration.

Letters from Forsyth County, Mecklenburg County, and Buncombe County, North Carolina were submitted on November 25, 2002, January 22, 2003 and November 6, 2002, respectively, certifying that there are no Commercial and Industrial Solid Waste Incineration units subject to 40 CFR part 60, subpart DDDD.

Subpart RR—Tennessee

■ 3. Subpart RR is amended by adding an undesignated center heading and § 62.10629 to read as follows:

Air Emissions From Commercial and Industrial Solid Waste Incineration Units

§ 62.10629 Identification of plan—negative declaration.

Letters from Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, Tennessee were submitted on April 23, 2003, November 17, 2002 and October 7, 2002, respectively, certifying that there are no Commercial and Industrial Solid Waste Incineration units subject to 40 CFR part 60, subpart DDDD.

[FR Doc. 05–3675 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2005–0001; FRL–7698–9]

Peanuts, Tree Nuts, Milk, Soybeans, Eggs, Fish, Crustacea, and Wheat; Exemption From the Requirement of a Tolerance; Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: EPA issued a final rule in the **Federal Register** of January 7, 2005 (70 FR 1357) (FRL–7694–5), establishing a tolerance exemption for peanuts, tree nuts, milk, soybeans, eggs, fish, crustacea, and wheat. This document is being issued to correct the inadvertent omission of the date by which objections and requests for hearings must be received.

DATES: This technical correction is effective on January 7, 2005.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of January 7, 2005 (70 FR 1357).

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6304; e-mail address: *boyle.kathryn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency included in the final rule of January 7, 2005, a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under the **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

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

II. What Does this Correction Do?

FR Doc. 05–344 published in the **Federal Register** of January 7, 2005 (70 FR 1357) (FRL–7694–5) is corrected as follows: On page 1357, in the second column, under **DATES**, the sentence by which objections and requests for hearing must be received was inadvertently omitted. It reads:

''Objections and requests for hearings must be received on or before March 8, 2005.''

III. Why is this Correction Issued as a Final Rule?

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

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

This final rule implements a technical amendment to the Code of Federal Regulations, and it does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical correction is not a significant regulatory action subject to review by OMB under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since this action does not require the issuance of proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, 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.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: February 9, 2005.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 05–3684 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 421

[CMS–1219–F]

RIN 0938–AL76

Medicare Program; Durable Medical Equipment Regional Carrier Service Areas and Related Matters

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule provides a mechanism for us to expeditiously make changes to the durable medical equipment regional carrier (DMERC) service area boundaries without notice and comment rulemaking. Through this mechanism, we can change the geographical boundaries served by the regional contractors that process durable medical equipment claims through issuance of a **Federal Register** notice and make other minor changes in the contract administration of the DMERCs. The mechanism provides a method for increasing or decreasing the number of DMERCs, changing the boundaries of DMERCs based on criteria other than the boundaries of the Common Working File sectors, and awarding new contractors to perform statistical analysis or maintain the national supplier clearinghouse. We will publish these changes and their justifications in a **Federal Register** notice, rather than through notice and comment rulemaking.

Although we may change the number and configuration of regional carriers, we are not altering the criteria and factors that we use in awarding contracts.

Through this final rule, we are improving the contracting process so that we can swiftly meet the challenges of the changing healthcare industry and address the changing needs of beneficiaries, suppliers, and the Medicare program.

DATES: Effective Date: These regulations are effective on March 28, 2005.

FOR FURTHER INFORMATION CONTACT: Pat Williams, (410) 786–6139.

SUPPLEMENTARY INFORMATION: This **Federal Register** document is available from the **Federal Register** online database through *GPO access*, a service of the U.S. Government Printing Office. The Web site address is *http://www.gpoaccess.gov/fr/index.html*.

I. Background

A. Legislative Overview of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Claims Administration Covering 1966 Through 1992

Medicare has covered medically necessary items of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) under Part B since the inception of the Medicare program in 1966. In the original authorizing legislation for the Medicare program, coverage was provided under sections 1832 and 1861(s) of the Social Security Act (the Act) (Pub. L. 89–97). Since that time, the coverage and payment rules for DMEPOS, which may now be found in sections 1832, 1834, and 1861 of the Act and their implementing regulations, have changed significantly.

From 1986 to 1992, the number of complaints about fraud and abuse in the DMEPOS benefit began to increase markedly, and a variety of government investigations identified specific weaknesses in the program. We sought solutions to known claims processing problems, including the increasing level of fraud and abuse in billing. Subsequently, the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987) (Pub. L. 100–203), enacted on December 22, 1987, authorized the Secretary to designate, by regulation, regional carriers to process DMEPOS claims. (See sections 1834(a)(12) and 1834(h)(3) of the Act.)

Before 1993, Medicare Part B claims for DMEPOS items and services were assigned to each of the more than 30 local Medicare carriers and represented, on average, only 5 percent of each carrier's overall workload. After further review, we concluded that this was not the most effective structure for administering DMEPOS claims under the Medicare program. It was difficult for carriers to devote significant administrative review resources to this small percentage of claims.

In addition, DMEPOS claims were generally complex and time-consuming to process. The protocol for suppliers to obtain a Medicare billing number was ill-defined and required little identifying information or compliance with any particular business or operational standards.

Furthermore, carriers' medical review policies varied significantly and contributed to inconsistent claims processing decisions. Finally, certain DMEPOS suppliers who engaged in unethical practices were able to exploit our local Medicare carriers by electing to submit claims to carriers that provided more generous coverage, paid more than other carriers, or both. As documented in program audits and congressional hearings, fraudulent suppliers manipulated our then existing ''point of sale'' claims jurisdiction rule; these suppliers could simply locate their business offices where conditions were most favorable. The collective impact of these issues resulted in significant abuse of the Medicare program by a subset of the DMEPOS supplier community, without any measurable improvement in patient care and outcomes.

B. Agency and Congressional Efforts To Reform DMEPOS Claims Administration, 1987 Through 1994

To address the problem of fraud and abuse in the supplier community, we initiated an effort to reform the administration of the DMEPOS benefit category using several strategies. On November 6, 1991, we published a proposed rule (56 FR 56612) setting forth a new framework for DMEPOS claims processing. In that rule, we proposed to limit the number of carriers handling DMEPOS claims by establishing regional carriers who would be expert processors of DMEPOS claims. That rule also proposed to change the requirement for assigning DMEPOS claims to carriers (that is, the DMEPOS claim jurisdiction rule) from a ''point of sale'' framework to a framework based on ''beneficiary residence.'' In addition, the rule proposed to establish supplier business standards and information disclosure requirements. We expected that these changes, taken together, would make Medicare's DMEPOS claim administration apparatus less susceptible to supplier manipulation.

On June 18, 1992, we published a final rule with comment period (57 FR 27290) to implement this revised statutory authority. Additional changes were made by the final rule published on November 18, 1993 (58 FR 60789). This final rule:

- Established four regional carriers (known as DME Regional Carriers or DMERCS) to standardize the coverage and payment of DMEPOS.
- Designated the States and territories to be served by each DMERC.
- Consolidated and focused efforts to curb fraud and abuse.
- Controlled the enrollment of all DMEPOS suppliers through a National Supplier Clearinghouse (NSC) (a contractor that reviews and approves supplier applications for Medicare program billing numbers).
- Introduced the concept of a Statistical Analysis DME Regional Carrier (SADMERC) to review supplier billing patterns.
- Established minimum business standards for all suppliers wishing to enroll in the Medicare Program.
- Required that regional carriers administer DMEPOS claims based on the location (State) of the beneficiary's primary residence. The regulations for DMERC contracts, in accordance with these authorities are set forth at § 405.874, § 421.210, § 421.212, and § 424.57.

On October 31, 1994, the Congress enacted the Social Security Amendments of 1994 (Pub. L. 103–432). Among other matters, this statute established section 1834(j)(1) of the Act, which incorporated and augmented the supplier business and operational standards established in the final rule of June 18, 1992.

C. Provisions of the Existing DMERC Regulations

As noted above, there are several regulatory provisions pertaining to the operation of the DMERCs and related functions.

- Section 405.874 establishes a process by which the NSC makes determinations on whether to issue a Medicare billing number to a supplier applicant and specifies an administrative appeals process if we make an adverse determination.
- Section 421.212 specifies that the Railroad Retirement Board will use the CMS-contracted DMERCs to make DMEPOS claim determinations for Medicare-eligible railroad retirees.
- Section 424.57 provides special payment rules for DMEPOS suppliers and requirements for the issuance of DMEPOS supplier billing numbers, including a series of business and operational standards that DMEPOS suppliers must meet in order to qualify for Medicare billing privileges.

Section 421.210, which we are amending in this regulation, could be viewed as the cornerstone regulation for the DMERC carrier structure.

On June 18, 1992 (57 FR 27290), we published and implemented the existing regulations at § 421.210 under the authority of sections 1842, 1834(a), and 1834(h) of the Act. The existing regulation at § 421.210 augments and expands on the underlying statutory provisions and provides for the following:

Paragraph (a) identifies the statutory basis for the rule and indicates that the purpose of the rule is to designate one or more carriers ''by specific regions'' to process DMEPOS claims.

Paragraph (b) identifies the types of claims for DMEPOS items and services that are processed by the DMEPOS carrier.

Paragraph (c) defines four specific regions for the processing of DMEPOS claims by naming the States and territories to be included in each region. This section also states that the DMERC regions coincide with the ''sector'' boundaries of our Common Working File System.

Paragraph (d) specifies criteria that we use in designating entities to serve as regional carriers for DMEPOS claims.

Paragraph (e)(1) requires that the DMERCs process DMEPOS claims only for beneficiaries whose permanent residence falls within their designated regional areas (as established by paragraph (c) of this section). Paragraph (e)(1) also specifies that, in processing DMEPOS claims, the DMERCs apply the payment rates applicable to the State of residence of the beneficiary. In addition, the rule makes clear that the ''beneficiary residence'' jurisdiction rule applies to qualified Railroad Retirement beneficiaries and defines ''permanent residence'' for the purpose of the rule.

Paragraph (e)(2) identifies by name the initial DMERCs; paragraph (e)(3) identifies by name the initial NSC and SADMERC; paragraph (e)(4) commits us to periodically re-compete the four DME regional carrier contracts.

Paragraph (f) requires the DMERCs to collect ownership and control information, as well as supplier standard certifications, from each DMEPOS supplier that they service.

We discuss several changes to paragraphs (a), (c), (d), and (e) of § 421.210 in section II of this preamble, ''Provisions of the Proposed Regulations''.

D. Establishment and Operation of the DMERCs, 1993 Through 2003

We issued a Request for Proposal in May 1992 for the four regional DMERC contracts. We also solicited offers for two DMEPOS-related national contracts, the above-mentioned NSC and the SADMERC. In December 1992, the contracts, designed around Common Working File sectors, were awarded as follows:

Region A: Travelers Insurance Company for 10 States in the Northeast.[1]

Region B: AdminaStar Federal for 9 States in the Midwest and the District of Columbia.

Region C: Palmetto Government Benefits Administrators (GBA) for 14 States and 2 territories in the South.

Region D: CIGNA for 17 States and 3 territories in the West.

NSC: Palmetto GBA.

SADMERC: Palmetto GBA.

Initially, the DMERC and SADMERC contracts were 2-year contracts with two 1-year renewal options. The NSC was given two 1-year contracts and two 1-year renewal options. The contracts were modeled, to a significant extent, after requirements in the Federal Acquisition Regulations (FAR).

[1] The contract was initially awarded to Travelers Insurance Company and the regulations use this name. Through a series of corporate transactions, United Healthcare became the successor-in-interest to Travelers and served as the DMERC until September 2000, when HealthNow was awarded the DMERC contract for Region A.

One of the biggest challenges and accomplishments of the transition to the DMERC processing arrangement was the consolidation of diverse carrier medical policies for DMEPOS. Our initiative to configure geographical regions to process DMEPOS claims by consolidating DME workloads from the 34 carriers to 4 DMERCs greatly improved the rigor and consistency of medical review. Formerly, each carrier developed its own local medical review policies for DMEPOS claims with minimal guidelines and oversight from us. During the transition period, our coverage and medical review staff worked closely with the DMERC medical directors to streamline and standardize medical policy within and across the DMERC regions. Regionalization allowed the DMERCs to have a consistent uniform interpretation of coverage policies, local medical review policies, and pricing for similar items and services. Today, the DMERCs share essentially one approach to coverage and medical review for all DMEPOS items.

E. Requirements for Issuance of Regulations

Section 902 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) amended section 1871(a) of the Act and requires the Secretary, in consultation with the Director of the Office of Management and Budget, to establish and publish timelines for the publication of Medicare final regulations based on the previous publication of a Medicare proposed or interim final regulation. Section 902 of the MMA also states that the timelines for these regulations may vary but shall not exceed 3 years after publication of the preceding proposed or interim final regulation except under exceptional circumstances.

This final rule finalizes provisions set forth in the March 26, 2004 proposed regulation (69 FR 15755). In addition, this final rule has been published within the 3-year time limit imposed by section 902 of the MMA. Therefore, we believe that the final rule is in accordance with the Congress' intent to ensure timely publication of final regulations.

II. Provisions of the Proposed Regulations

(This rule uses the term ''carrier'' to describe the Durable Medical Equipment administrative contractor. Effective October 1, 2005, according to section 911(e) of the MMA, the term ''carrier'' should be read as ''Medicare Administrative Contractor.'')

We proposed a number of changes to § 421.210 which concern the designation of regional carriers to process claims for DMEPOS. Broadly speaking, we are seeking greater future flexibility to revise the number and boundaries of DMERC regional areas. We also desire greater flexibility in contracting for DMERC, NSC, and SADMERC functions. We have examined the statutory framework (section 1834(a)(12) of the Act, as set forth below at paragraph (a), ''Basis'') for § 421.210 and have concluded that the existing regulation is more restrictive on the Secretary's contracting discretion than required either by statute or the Medicare program's interest.

Specifically, we proposed to make the following changes to § 421.210 ''Designations of regional carriers to process claims for durable medical equipment, prosthetics, orthotics, and supplies'':

- Paragraph (a), ''Basis.''

We proposed to revise paragraph (a) to more closely follow the actual language of section 1834(a)(12) of the Act that authorizes the Secretary to ''designate, by regulation under section 1842 of the Act, one carrier for one or more entire regions to process all claims within the region for covered items under this section.'' We therefore proposed to revise paragraph (a) to state that the Secretary is authorized to designate carriers for ''one or more entire regions'' rather than to designate carriers by ''specific'' regions.

- Paragraph (c), ''Region designation.''

We proposed to revise paragraph (c), designate the existing paragraph (c) as (c)(1), and add a new paragraph (c)(2).

In paragraph (c), we proposed to clarify the Secretary's authority to revise the number or configuration of DMEPOS regional areas in the future, based on appropriate factors and criteria.

The existing regulations in § 421.210(c) specify that there are four regional areas for DMEPOS claims and further specify that these areas be drawn to coincide with the Common Working File sectors. The regulations also specify, by name, which States and territories are assigned to each region for DMEPOS claims. To allow greater flexibility, in paragraph (c)(1), we proposed to add the word ''initial'' in front of the listing of the current DMERC service areas, to make clear that this configuration could change in the future.

In addition, we proposed to revise paragraph (c)(1) to remove a specific reference to the Common Working File sector framework as a determinant for the DMERC regions. Advances in technology have greatly diminished the importance of this consideration and, therefore, its inclusion in regulation is unnecessary.

The existing reference to Common Working File sectors in paragraph (c)(1), as a constraint for the DMERC region boundaries, illustrates the approach of the original rule. The June 18, 1992 final rule (57 FR 27290) acknowledged a technical Medicare claims processing system constraint that was significant at the time. Since that time, advances in our claims processing system have greatly reduced the impact of ''out of the area'' processing, and it is no longer necessary to structure the DMERCs around the Common Working File sectors.

New paragraph (c)(2) proposed a mechanism for us to revise the number and boundaries of DMERC regional service areas in the future based on appropriate factors and criteria. Our goal is to constantly strive to improve beneficiary and supplier satisfaction. Therefore, in our decisions, we will consider the effect of any service area changes on beneficiaries and suppliers. Examples of factors and criteria include population shifts or natural disasters that require a reallocation of workload, and workforce conditions that may make it difficult for DMERCs in certain areas to recruit and retain qualified employees. We specified in paragraph (c)(2) that this change would provide a mechanism for us to identify which States and territories are assigned to various DMERC regions by publication of a **Federal Register** notice. The **Federal Register** notice will identify the nature of any changes in the DMERC service areas, as well as our rationale for the changes.

Under the current regulation, we would have to maintain the current DMERC configuration even if our administrative and program needs change. Currently, the only existing mechanism for changing the structure of the DMERC regions is to undertake notice and comment rulemaking for each change. We believe that it is not the intent of the statute to constrain the Secretary's administrative discretion to this extent. In seeking this regulation change, we anticipate that new program circumstances may arise that would require alterations in the number or configuration of DMERC service areas. We believe that we would have a definite need to move swiftly and make DMERC service area changes without going through notice and comment rulemaking whenever administrative issues arise. Just as critical, we believe it is important to consider the effects of these kinds of changes on beneficiaries

and suppliers and to provide the public with an explanation of changes when they are made.

Under our March 26, 2004 proposed rule, we would not administer four DMEPOS areas, would not determine these DMEPOS areas based on the sector areas of the Common Working File, and would not go through notice and comment rulemaking to modify the assignment of the States and territories to revised DMEPOS areas.

In our March 26, 2004 proposed rule, we provided a hypothetical example of a situation that cannot be adequately addressed under the current regulation. In this example, DMERC X, which has historically performed well, is having difficulty serving all beneficiaries and suppliers in all of its assigned States, due to problems in recruiting a sufficient number of qualified personnel. At present, the regulations appear to limit our options to—(1) expecting that DMERC X will improve its performance; or (2) terminating DMERC X's contract for the entire service area and procuring and installing a replacement. We do not have the third option of removing a limited number of States from DMERC X's contract and attaching these service areas to another DMERC's service area (or setting up a fifth DMERC jurisdiction). However, under the proposed regulation, the third contract management option could yield many benefits, in that DMERC X could focus its resources on its remaining workload. Under the existing regulation, moving a State to another area, or setting up a fifth jurisdiction, would require an extended rulemaking process unless the rules take a more general approach, as we proposed.

• Paragraph (d), ''Criteria for designating regional carriers.''

Paragraph (d) under this section currently discusses our ''designation'' of regional carriers in a manner that does not explicitly acknowledge the fact that these designations must be premised on the awarding of Medicare carrier contracts in accordance with applicable law.

We also proposed to revise paragraph (d) under this section to make clear that we would designate regional carriers to process DMEPOS claims by awarding DMERC contracts in accordance with applicable law. We did not propose any changes to the current criteria under paragraphs (d)(1) through (d)(5) of this section, which we use in our procurement evaluation processes for this particular kind of contract.

• Paragraph (e), ''Carrier designation.''

In paragraph (e)(1), we proposed to make minor revisions to conform the language to the changes made in § 421.210(c).

We proposed to revise paragraph (e) to provide us with flexibility and discretion with respect to contracting for DMERC and related functions. The existing regulations in § 421.210(e) name the initial DMERC-contracting companies and also identify the particular region each company serves. The existing regulations could be interpreted as requiring that we constantly update our rules whenever our business partners change.

The proposed regulatory framework clarified our discretion not to name a contracting company in future regulations if we re-compete a DMERC contract after its conclusion or termination. This proposed change would potentially reduce the agency's administrative burden when a DMERC contract is not renewed. We proposed to notify affected beneficiaries and suppliers when we change contractors.

Specifically in paragraph (e)(2), we proposed to remove the names of the initial DMERCs from the regulation. This change clarified our future discretion to award a DMERC contract to process DMEPOS claims under the Medicare program (that is, designate a DMERC), without any obligation to name the new DMERC(s) in regulations or by **Federal Register** notice. We would, however, notify affected beneficiaries and suppliers to the change in contractors. Therefore, we proposed to revise paragraph (e)(2) to add that we would notify affected Medicare beneficiaries when we designate a regional carrier.

We proposed to revise paragraphs (e)(3) and (e)(4) to provide us with a mechanism to contract for the performance of NSC functions through either an amendment to a DMERC contract or through a non-DMERC Medicare carrier contract. In paragraph (e)(4), the existing regulations for NSC functions limit our selection of NSC contractors to one of the DMERCs. However, section 1834(j)(1)(E) of the Act more broadly permits any carrier with a contract under section 1842 of the Act to perform NSC functions. We believe that our regulations should reflect this broader discretion under the statute. Therefore, in paragraph (e)(4), we proposed to remove the limitation that restricts our list of contractors to only four DME regional carriers. This proposed revision gives us greater flexibility when we re-compete a DMERC contract after its conclusion or termination.

In addition, we proposed to delete the references to the SADMERC function in § 421.210(e)(3) and § 421.210(e)(4). SADMERCS are responsible for storing national DMEPOS claims history data, for distributing to the DMERCS national pricing files, and for conducting data analysis. Although we recognize the importance of the activities that the SADMERC provides to us and to the DMERCS, these activities are not identified elsewhere in the regulations, and we believe that little purpose is served by naming an entity in the regulations without any reference to its functions. Therefore, we do not believe it necessary to reference the SADMERC in our regulations.

By removing the existing reference to the SADMERC, including the constraint that this activity be included in a DMERC's contract, we would have the flexibility to include this function in a DMERC contract or to contract for the SADMERC activity through some other vehicle.

In summary, the March 26, 2004 proposed rule would provide a mechanism for us to change the geographical boundaries served by the regional contractors that process DME claims and to make other minor changes in contract administration of the DMERCS. We would have the mechanism to increase or decrease the number of DMERCS or change the boundaries of the DMERCs through a **Federal Register** notice. Further, we could name new contractors to perform the functions of the DMERC and NSC without going through notice and comment rulemaking. Instead, we would notify affected beneficiaries and suppliers of contractor changes through our outreach and education initiative.

III. Analysis of and Responses to Public Comments

We received a total of twelve timely public comments in response to the March 26, 2004 proposed rule (69 FR 15755). Commenters included national trade associations, health care providers, existing CMS contractors, and private citizens. All public comments were reviewed and grouped by like or related topics. The comments and our responses are summarized below.

Comment: A few commenters stated that the impacted business communities must receive sufficient notification of proposed changes and sufficient information to provide substantive comments.

Response: This final rule states that we consider the impact on beneficiaries and suppliers of any modifications to the boundaries or number of DMERC

jurisdictions. This analysis will include the question of whether providers, suppliers, and patients have reasonable access to payer decision-makers. We will provide sufficient public notification to affected Medicare suppliers and beneficiaries. We will publish any changes to DMERC service areas and their justifications in a **Federal Register** notice, rather than through notice and comment rulemaking. Furthermore, open door forums or town hall meetings will be held to give the public the opportunity to comment. Customer service and continuity of high quality service for both beneficiaries and suppliers remain our top priorities and any future changes will be consistent with our commitment. We will also consider the operational management and oversight structure impacts of any future changes.

Comment: A few commenters noted that CMS must provide more information so that the community can comment and understand the reason for any revised DMERC boundaries.

Response: On December 8, 2003, the President signed the MMA into law. Since we are developing our implementation plan and strategy, these changes will give us the flexibility to ensure coordinated implementation across all benefit types, enabling us to administer high quality, consistent service and benefit management to suppliers and beneficiaries. This final rule ensures that our changes are made in a more flexible manner. Our rationale for these changes was explained in the March 26, 2004 proposed rule. We will publish our rationale for any specific DMERC area changes in a **Federal Register** notice to ensure that we address the needs of beneficiaries and suppliers.

Comment: Two commenters stated that our proposal to explain any modifications to the boundaries or number of the DMERC jurisdictions in a **Federal Register** notice, with supporting criteria and considerations, is not adequate. These commenters asserted that we should fully identify the criteria that would be employed in any decision to modify the boundaries or number of the DMERC jurisdictions in our proposed changes to § 421.210(c). One of the two commenters argued that giving providers and patients reasonable access to payer decision-makers should be a factor in determining the scope of a contractor's territory.

Response: This final rule states that we consider the impact on beneficiaries and suppliers of any modifications to the boundaries or number of DMERC jurisdictions. This analysis would include the question of whether providers, suppliers, and patients have reasonable access to payer decision-makers. (We note, however, that we and our contractors can ensure this access through many means in addition to the specific design of the DMERC regions—for instance, through maintaining toll-free lines for providers and suppliers). The preamble to our proposed rule also outlined other possible supporting criteria and considerations for a particular change—for instance, we discussed how we might adjust the DMERC areas due to population shifts, or to address performance problems at contractors.

There are any number of other potential reasons that might lead us to consider adjusting the DMERC jurisdictions—for example, we are now considering this issue as part of our implementation of the Medicare contracting reform provisions under the MMA (section 911). We will make every effort to clearly identify the criteria used in any decision to modify boundaries or numbers of participants.

Comment: Several commenters voiced concerns about the potential impact of changing DMERC contractors through the competitive process, including changing the SADMERC and NSC, and the transition impact of this action to ongoing operations. The commenter asked about our methods to alleviate those perceived impacts.

Response: The intent of this rule is to provide the government a mechanism to expeditiously make changes to the DMERC service area boundaries without notice and comment rulemaking. Through this mechanism, we can change the geographical boundaries served by the regional contractors that process durable medical equipment claims through issuance of a **Federal Register** notice. Transition impacts are not addressed in this regulation; however, in the event that transitions would occur, CMS has considerable experience in workforce transitions and will ensure that supplier and beneficiary customer service and continuity of high quality service remain our top priority. Our normal practice, when transferring contractual responsibility for Medicare claims processing and related functions from one contractor to another, is to transfer all work-in-progress as of a certain date to the new contractor. We will consider the comments provided in our operational management of the DMERCs and any future transitions.

Comment: Two commenters offered constructive suggestions on having overall better performance and consistency of output, as well as a unified approach to DMERC policies, as a result of any CMS changes.

Response: Our proposed change to this regulation does not directly address these issues. Supplier and beneficiary customer service and continuity of high quality service remain our top priority. We will consider these suggestions in our operational management of the DMERCs and all contractors.

Comment: One commenter noted that suppliers must make adjustments in order to interact with a new DMERC, such as updating their patient accounts and electronic billing to reflect the new DMERC address, or adjusting their Medicare fee tables if the new DMERC pays claims differently. Because of these issues, the commenter asserted that the proposed rule would have a significant impact on small businesses and that a Regulatory Flexibility Analysis should have been conducted.

Response: We agree that suppliers must make adjustments in their billing when there are changes in DMERCs, but we do not believe that these adjustments are significant enough to warrant a Regulatory Flexibility Analysis, given the narrow scope of the proposed changes to the existing regulations.

First, all DMERCs—now and in the future—will be required to apply the proper Medicare fee tables developed in accordance with the statute, and so changes in the identity of DMERCs will not affect the payment allowances received by suppliers.

Suppliers will need to adjust their billing mechanisms when there is a new DMERC. These adjustments must be made whenever there is a change in the insurance coverage for any non-Medicare patient of the supplier. Further, these changes could occur even in the absence of the proposed regulation change, as existing regulations commit us to periodically re-compete the DMERC contracts. There is no guarantee that incumbent contractors will always retain their existing contracts in the competitive process. Finally, section 911 of the MMA requires the application of competitive procedures to all Medicare claims processing contracts, including these contracts, not less than once every 5 years.

We note that the original proposed and final rules pertaining to DMEPOS claims processing (56 FR 56612, 57 FR 27290, 58 FR 60789) did not require a Regulatory Flexibility Analysis, although their scope was broader and more significant than our proposed rule. For instance, those rulemaking actions consolidated the number of entities handling DMEPOS claims from more than thirty to four, established the

''beneficiary residence'' billing requirement, various business standards for Medicare suppliers, and some new information collection requirements. Our final rule, by contrast, only gives us some additional flexibility in modifying the DMERC jurisdictions and in structuring the DMERC contracts. Any adjustments to the DMERC jurisdictions that we might make under our final rule would have a very modest impact relative to the effects of our original rulemaking activities (which did not require a full Regulatory Flexibility Analysis).

Nonetheless, in the spirit of the Regulatory Flexibility Act, our final rule states that we will consider the impact on suppliers and beneficiaries of any future changes we make in DMERC jurisdictions, and we will discuss these issues in the **Federal Register** notice or notices as stated in our proposed rule.

Comment: Three commenters, including one who is a current contractor who performs DMERC, NSC, and SADMERC functions, expressed concern over the removal of the SADMERC and NSC functions from a DMERC.

Response: This regulation does not mandate removal of the SADMERC and NSC functions from a DMERC contract. Removing references to the SADMERC and NSC from the regulation does not mean we will not contract out for these services. The changes to the regulation give us flexibility in terms of how we contract out for the SADMERC and NSC functions. We will consider these comments in any future operational strategies for the processing of DMEPOS claims.

Comment: Two commenters asked how the Medicare contracting reform provisions of the MMA (section 911) would affect the underlying DMERC regulations at § 421.210, as well as our proposal to modify them. One of these commenters also asked whether we might adjust the DMERC regions or functions in our implementation of the Medicare contracting reform provision, while the other queried whether our proposal would affect the implementation of the other DME-related provisions in MMA (for instance, the DME competitive bidding program established by section 302 of the MMA).

Response: Section 911(e) of the MMA states that any statutes and regulations pertaining to Medicare intermediaries and carriers, if not modified by or contrary to the explicit provisions of the MMA, should be read as applying to the Medicare administrative contractors that will replace the intermediaries and carriers. Thus, our regulation change will continue to apply to our contracting for DMEPOS claims processing even after the effective date of section 911 of the MMA (October 1, 2005). We note that the MMA did not modify or repeal section 1834(a)(12) of the Act, which is one of the underlying authorities for this regulation and for our changes to the regulation. Further, we have made the decision to continue to operate specialized claims processing contractors for DMEPOS in our implementation plan for the MMA, at least for the initial round of competitive contracts let under the MMA authority.

The MMA will certainly affect our contracting activities with respect to DMEPOS claims processing; for instance, we will be required to re-compete each one of these contracts consistent with the MMA.

We are currently considering the question of whether to adjust the DMERC regions and functions as part of the broader implementation of Medicare contracting reform. Our specific plans on these issues will be made public in the near future.

We do not anticipate that our changes will affect the implementation of the other MMA provisions relating to DME, including the competitive bidding program established by section 302 of the MMA. For instance, we would see the DMERCs as implementing any pricing changes for DMEPOS items based on that provision. We have devoted and will continue to devote significant program management and transition planning efforts to analyzing and mitigating these issues to the greatest extent possible.

Comment: A commenter offered recommendations and suggestions regarding a medical approach to the payment provisions for prosthetic-orthotic services and supplies.

Response: The recommendations and suggestions submitted were coverage and policy issues, which are outside the scope of this regulation. We are forwarding this letter to the appropriate staff who can review and consider these recommendations in terms of our future policymaking decisions.

Comment: A commenter inquired as to how ''ongoing claims disputes'' are handled when there is a change in the DMERCs, and whether these issues are transferred to the new DMERC.

Response: Our normal practice, when transferring contractual responsibility for Medicare claims processing and related functions from one contractor to another, is to transfer all work-in-progress, including pending claims appeals, as of a certain date to the new contractor. We anticipate that we will generally follow this practice in regard to any changes in DMERC contractors, although it is possible that, under some circumstances, the outgoing contractor could agree to finalize some appeal cases under a subcontract with its successor.

It should be noted that recent statutory changes (in the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Pub. L. 106–554, enacted on December 21, 2000), as amended by the MMA) mandated significant changes to the Medicare appeals process. In the future, Medicare claims processing contractors, including the DMERCs, will handle only first-level re-determination requests on any claim. After the DMERC takes this action, a Qualified Independent Contractor (QIC) designated to process these DME appeals will handle the next review level for any claims-related appeals. Future interactions between an affiliated contractor and the QIC include: Consolidating the case file materials for the QIC and effectuating favorable decisions (either from the QIC, Administrative Law Judge, or the Departmental Appeals Board).

Comment: One commenter asserted that if we anticipate making major changes to the number or boundaries of the DMERC jurisdictions, then we should use the traditional notice and comment rulemaking process so that those who will be impacted by the changes are given sufficient opportunity to respond. A second commenter asked that our March 26, 2004 proposed rule include a description of the process by which the agency will seek public comment through a less formal means than rulemaking. This commenter believes that any formal or informal process should permit comments on proposed changes, with sufficient response time, before the changes are finalized. A third commenter also suggested that we should consult with beneficiary and supplier stakeholders before implementing these kinds of changes.

Response: We believe that the agency has many potential avenues outside of notice and comment rulemaking for obtaining input on planned changes in the number or boundaries of the DMERC jurisdictions. These include, but are not limited to, publishing the changes for comment on our Web site (*http://www.cms.hhs.gov*), holding industry conferences at either a national or local level, or holding a ''town hall''-type meeting.

We intend to conduct these types of exchanges, but do not believe that we have to identify these informal approaches to obtaining the views of

affected stakeholders in this final rule. Instead, we believe that our commitment to publish planned changes in a **Federal Register** notice, and to include our assessment of the effect of any change on beneficiaries and suppliers in our analysis (along with other information supporting the change) provides a sufficient commitment—from a regulatory perspective—to advance notification and fair process.

Under this regulation, if sufficient informal commentary has not been received, we are not precluded from requesting public comment through the required **Federal Register** notice. Indeed, if there should be a change of such magnitude as to warrant full notice and comment rulemaking, we have the option of employing that process.

It is our intention to advise and consult with affected stakeholders, especially suppliers and beneficiaries, about potential changes in the number or boundaries of DMERC jurisdictions well in advance of implementation. For instance, this will occur as a matter of course as we develop our planned approach to implementing Medicare contracting reform; any changes in contractor jurisdictions associated with that initiative will be well-publicized. Short of a public emergency, the agency would make these kinds of plans public at least several months before implementation. These practices, which we believe do not require codification in the regulations, will ensure that beneficiaries and suppliers have continuity in access to DMERC claims processing services.

Comment: One commenter stated that, when we make a change in a DMERC contractor, we should notify affected beneficiaries and suppliers through a **Federal Register** notice at least 90 days in advance.

Response: We completely agree that, when we replace any established Medicare claims processing contractor with a new contractor, the affected public, including suppliers and beneficiaries, must be informed. In fact, we always consider a potential replacement contractor's plan for conducting provider and beneficiary outreach during the transition period as a major element in our contract award process. Our program experience indicates that this kind of outreach effort is a critical success factor for any contractor transition. However, our program experience also indicates that using the **Federal Register** for this kind of activity is slow, ineffective, and cumbersome. There are many other, more efficient ways to introduce the new Medicare contractor to the affected stakeholders. We do not use the **Federal Register** to notify the public when we contract with a new intermediary or non-DMERC carrier, and there is no reason why this approach to notifying the public should be used when a DMERC is replaced.

IV. Provisions of the Final Regulations

This final rule incorporates the provisions of the proposed rule. The provisions of this final rule do not differ from those in the proposed rule.

V. Collection of Information Requirements

This document does not impose any new information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

VI. Regulatory Impact

A. Overall Impact

We have examined the impacts of this final rule as required by Executive Order (E.O.) 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and E.O. 13132.

E.O. 12866 (as amended by E.O. 13258, which merely reassigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This final rule does not reach the economic threshold and thus is not considered a major rule. This rule merely provides the Secretary with greater contracting flexibility consistent with the statute and will not have any direct economic impact. Because this final rule only affects our administrative structures and does not change in any way the Medicare DMEPOS benefit (that is, neither coverage nor payment is changed), this rule will not affect the amount or distribution of the Medicare benefit payment for DMEPOS. Further, any possible restructuring of the DMERC regions in the future will not remotely approach a net economic impact of $100 million on either our administrative costs or the administrative costs of DMEPOS suppliers. Therefore, we do not believe that a regulatory impact analysis is necessary under E.O. 12866.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6 million to $29 million in any 1 year. Individuals and States are not included in the definition of a small entity. This final rule, as noted above, will not have any significant direct economic impact on DMEPOS suppliers, because it will not affect the scope of benefits, coverage, or payment rules for DMEPOS, nor will it affect the billing requirements for these services. This rule does not designate any particular reconfiguration of the DMERC areas. However, we agree to consider any effects on DMEPOS suppliers in any future reconfigurations of the DMERC regions. We are not preparing an analysis for the RFA because we have determined that this rule will not have a significant economic impact on a substantial number of small entities. We hereby certify, under 5 U.S.C. 605(b), that the final rule will not have a significant economic impact on a substantial number of small entities, including small businesses, organizations, and local governments.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. This rule pertains to our processes for configuring and designating contractors to process DMEPOS claims and will not have a significant impact on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing an analysis for section 1102(b) of the Act.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This rule will not have a consequential effect on

the governments mentioned or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Since this regulation will not impose any costs on local governments, the requirements of E.O. 13132 are not applicable.

B. Conclusion

For these reasons, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined that this rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

C. Alternatives Considered

We could have chosen to continue to operate under the constraints of our current regulations. This option would require that we periodically undertake notice and comment rulemaking to update the regulations with the names of new contactors. We have provided additional discussion in the preamble describing why we believe this is not the optimal solution. We believe our decision to make modest changes to our regulations will offer us greater flexibility in contracting with DMERCs and allow us to be more responsive to the needs of all key stakeholders.

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

List of Sections in 42 CFR Part 421

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV, part 421 as set forth below:

PART 421—INTERMEDIARIES AND CARRIERS

■ 1. The authority citation for part 421 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

Subpart C—Carriers

■ 2. Section 421.210 is amended as follows:

■ A. Revise paragraph (a).

■ B. Revise paragraph (c).

■ C. Revise the introductory text of paragraph (d).

■ D. Revise paragraph (e).

The revisions read as follows:

§ 421.210 Designations of regional carriers to process claims for durable medical equipment, prosthetics, orthotics, and supplies.

(a) *Basis.* This section is based on sections 1834(a)(12) and 1834(h) of the Act, which authorize the Secretary to designate one carrier for one or more entire regions to process claims for durable medical equipment, prosthetic devices, prosthetics, orthotics, and other supplies (DMEPOS). This authority has been delegated to CMS.

* * * * *

(c) *Region designation.* (1) The boundaries of the initial four regions for processing claims described in paragraph (b) of this section contain the following States and territories:

(i) Region A: Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, and Delaware.

(ii) Region B: Maryland, the District of Columbia, Virginia, West Virginia, Ohio, Michigan, Indiana, Illinois, Wisconsin, and Minnesota.

(iii) Region C: North Carolina, South Carolina, Kentucky, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, Oklahoma, New Mexico, Colorado, Puerto Rico, and the Virgin Islands.

(iv) Region D: Alaska, Hawaii, American Samoa, Guam, the Northern Mariana Islands, California, Nevada, Arizona, Washington, Oregon, Montana, Idaho, Utah, Wyoming, North Dakota, South Dakota, Nebraska, Kansas, Iowa, and Missouri.

(2) CMS has the option to modify the number and boundaries of the regions established in paragraph (c)(1) of this section based on appropriate criteria and considerations, including the effect of the change on beneficiaries and DMEPOS suppliers. To announce changes, CMS publishes a notice in the **Federal Register** that delineates the regional boundary or boundaries changed, the States and territories affected, and supporting criteria or considerations.

(d) *Criteria for designating regional carriers.* CMS designates regional carriers to achieve a greater degree of effectiveness and efficiency in the administration of the Medicare program. In making this designation, CMS will award regional carrier contracts in accordance with applicable law and will consider some or all of the following criteria—

* * * * *

(e) *Carrier designation.* (1) Each carrier designated a regional carrier must process claims for items listed in paragraph (b) of this section for beneficiaries whose permanent residence is within that carrier's region as designated under paragraph (c) of this section. When processing the claims, the carrier must use the payment rates applicable for the State of residence of the beneficiary, including a qualified Railroad Retirement beneficiary. A beneficiary's permanent residence is the address at which he or she intends to spend 6 months or more of the calendar year.

(2) CMS notifies affected Medicare beneficiaries and suppliers when it designates a regional carrier (in accordance with paragraph (d) of this section) to process DMEPOS claims (as defined in paragraph (b) of this section) for all Medicare beneficiaries residing in their respective regions (as designated under paragraph (c) of this section).

(3) CMS may contract for the performance of National Supplier Clearinghouse functions through a contract amendment to one of the DME regional carrier contracts or through a contract amendment to any Medicare carrier contract under § 421.200.

(4) CMS periodically recompetes the contracts for the DME regional carriers. CMS also periodically recompetes the National Supplier Clearinghouse function.

* * * * *

Dated: December 23, 2004.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Approved: February 22, 2005.

Michael O. Leavitt,

Secretary.

[FR Doc. 05–3728 Filed 2–24–05; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 98–67 and CG Docket No. 03–123; DA 05–140]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Interpretation.

SUMMARY: In this document, the Commission addresses a *Petition for Declaratory Ruling* filed by Petitioner Hands On Video Relay Services, Inc. (Hands On) on December 29, 2004. Hands On requests a *Declaratory Ruling* that is ''Brown Bag Rewards Program,'' offered in connection with its provision of video relay service (VRS), a form of telecommunications relay service (TRS), does not violate any section of the Communications Act or any Commission rule. The Commission concludes that any program that involves the use of any type of financial incentives to encourage or reward a consumer for placing a TRS call, including the ''Brown Bag Rewards Program,'' is inconsistent with section 225 of the Communications Act of 1934 and the TRS regulations.

DATES: The *Declaratory Ruling* is effective January 26, 2005. Effective March 1, 2005, TRS providers offering such incentives or rewards for the use of any of the forms of TRS will be ineligible for compensation from the Interstate TRS Fund.

FOR FURTHER INFORMATION CONTACT: Thomas Chandler, Consumer & Governmental Affairs Bureau, (202) 418–1475 (voice), (202) 418–0597 (TTY), or e-mail *Thomas.Chandler@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document DA 05–140, adopted January 24, 2005, released January 26, 2005, in CC Docket No. 98–67 and CG Docket No. 03–123. This document does not contain new or modified information collections requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, it does not contain any new or modified ''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). Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. at their Web site: *http://www.bcpiweb.com* or call 1–800–378–3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at *http://www.fcc.gov/cgb.dro*.

Synopsis

Hands On requests a *Declaratory Ruling* that its ''Brown Bag Rewards Program,'' offered in connection with its provision of VRS, a form of TRS, does not violate any section of the Communications Act or any Commission rule. Hands On explains its ''Brown Bag Rewards Program'' is a customer loyalty program that offers Hands On's [VRS] customers the opportunity to have their DSL or cable modem bill reimbursed by Hands On. Under the program, [c]ustomers receive five points for every minute of video relay calls placed through Hands On, and the customers may redeem points by sending in their DSL or cable bills to Hands On. Hands On then reimburses those customers five cents per point up to the amount of the DSL or cable modem bill; no other cash payments are made and the ''program is strictly limited to reimbursement for access costs to high speed Internet service. Hands On asserts that its program is intended to eliminate an existing barrier that is discriminatory to deaf, hard of hearing and speech disabled persons who need higher bandwidth to communicate in their natural visual language, American Sign Language. Finally, Hands On notes that [n]o one is forced to use the ''Brown Bag Program,'' there is no minimum usage requirement, and the points accumulate until they are used. Therefore, Hands On believes, the program is not an incentive to use VRS merely to obtain a reward. Hands on also states that the program does not encourage fraudulent VRS calls, and that it is unaware of any VRS calls that were made solely to generate Brown Bag points.

Hands On's central argument is that this program is permissible because there is nothing in section 225, the Commission's TRS rules, or any other provisions of the Communications Act that prohibit such a program. Hands On further asserts that it is in the public interest to offer this program because persons with hearing or speech disabilities using VRS bear DSL or cable modem subscription costs that are greater than the costs for conventional telephone service used by hearing persons. In addition, Hands On asserts that its program is not the same as supplying equipment to customers conditioned on the use of a minimum number of TRS minutes, which it suggests would be improper. Finally, Hands On notes that there have apparently been no consumer complaints concerning the ''Brown Bag program,'' and that the Commission should not be protecting other providers from competition.

We conclude that the ''Brown Bag Rewards Program'' and any program that offers any kind of financial incentive or reward for a consumer to place a TRS call, including minimum usage arrangements or programs (whether or not tied to the acceptance of equipment), violates section 225 of the Communications Act. TRS, mandated by Title IV of the Americans with Disabilities Act (ADA) of 1990, enables an individual with a hearing or speech disability to communicate by telephone with a person with such a disability. This is accomplished through TRS facilities that are staffed by specially trained communications assistants (CAs) who relay conversations between persons using various types of assistive communication devices and persons using a standard telephone.

First, we do not believe that Hands On accurately describes the nature and effect of its rewards program in view of the intent of Congress in enacting the TRS program and the TRS cost recovery regime. Section 225 requires common carriers offering telephone voice transmission services to also provide TRS throughout the area in which they offer telephone transmission service to ensure that persons with hearing and speech disabilities have access to the telephone system. As we have explained, the provision of TRS is an accommodation for persons with certain disabilities—Congress, in enacting Title IV of the ADA, place[d] the obligation on carriers providing voice telephone services to *also* offer TRS to, in effect, remedy the discriminatory effects of a telephone system inaccessible to persons with disabilities. In other words, the provision of TRS is an accommodation that is required of telecommunications providers, just as other accommodations for persons with disabilities are required by the ADA of businesses and local and state governments. To this end, section 225 is intended to ensure that individuals with hearing or speech disabilities have access to telephone services that are ''functionally equivalent'' to those available to individuals without such disabilities. Because the provision of TRS is an accommodation for persons with certain disabilities, the cost of the TRS service is not paid by the TRS user. The statute and regulations provide that eligible TRS providers offering interstate

services and certain intrastate services will be compensated for their just and ''reasonable'' costs of doing so from the Interstate TRS Fund, currently administered by NECA.

Congress chose to adopt a mechanism for compensation of TRS providers that allows them to be paid by all subscribers for interstate services through contributions paid into the Fund. Under this mechanism, TRS providers that provide TRS services that are eligible for compensation from the Interstate TRS Fund submit to NECA on a monthly basis the number of minutes of service they provided of the various forms of TRS, and NECA compensates them based on per-minute compensation rates calculated on an annual basis. *See, e.g.*, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, CC Docket No. 98–67, DA 04–1999, 19 FCC Rcd 12224 (June 30, 2004) (order setting initial 2004–2005 TRS compensation rates and describing process). In addition, VRS consumers presently do not pay any long distance charges in connection with a VRS call. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, CC Docket Nos. 90–571 & 98–67, CG Docket No. 03–123, FCC 04–137, 69 FR 53346, September 1, 2004; 19 FCC Rcd 124755 at paragraphs 127–129 & n.364 (June 30, 2004) (*2004 TRS Report & Order*). VRS providers cannot bill the user for any long distance charges if they do not offer carrier of choice; conversely, waiver of the carrier of choice requirement is conditioned on providers offering free long distance calls to consumers. Therefore, there is no cost of any kind to the consumer for placing a VRS call.

In this light, we do not believe that it is accurate to compare, as Hands On does, its ''Brown Bag Rewards Program,'' or any other TRS incentive or rewards program, to reward programs offered by airlines or telephone long distance companies. Nor do we believe that it is correct to say that there is no incentive to make VRS calls merely to acquire a reward. With airline tickets and long distance calls, for example, the consumer who buys the ticket or makes the call *has to pay for* the ticket or the call; therefore, any financial ''reward'' for doing so is really a discount or a refund on monies the consumer is obligated to pay because the consumer elected to use that particular service. By contrast, with TRS, the consumer does not pay for the cost of the TRS call and has no involvement with the provider billing and receiving payment from NECA; the TRS provider bills NECA directly for the call based on the length of the call. Therefore, the TRS consumer does not have to pay anything to obtain a financial reward; the consumer merely needs to use a service (*i.e.*, place a call) that someone else will pay for, and the more calls that are made, the greater the financial reward (again, at no cost to the consumer). In this circumstance, any financial reward that inures to the consumer because the consumer placed a TRS call is in fact an incentive for the consumer to place TRS calls, including calls the consumer might not otherwise make but for the opportunity to earn a reward. As a practical matter, the TRS provider is enticing the consumer to make TRS calls that will artificially raise costs to the Interstate TRS Fund, and the provider is doing so by in effect ''paying'' the consumer to make more calls. *See generally 2004 TRS Report & Order* at paragraph 97 (noting our duty to ''safeguard the integrity of the fund'').

The fact that any TRS reward or incentive program has the effect of enticing TRS consumers to make TRS calls that they would not otherwise make, which allows the provider to receive additional payments from the Fund, and results in ''payments'' to consumers for using the service, puts such programs in violation of section 225. More particularly, such marketing practices ''*e.g.*, usage-based reward or incentive programs, or programs that tie the receipt of equipment to minimum usage requirements ''violate the functional equivalency requirement. *See* 47 U.S.C. 225 (a)(3) & (c). As we have noted, the purpose of TRS is to allow persons with certain disabilities to use the telephone system. Therefore, the obligation placed on TRS providers is to be available to handle calls consumers choose to make, when they choose to make them. As we have frequently noted, for example, when a TRS user places an outbound call and reaches a CA, that is the equivalent to receiving a ''dial tone.'' *See*, *e.g.*, *2004 TRS Report & Order* at paragraph 3 n.18. It follows that TRS providers cannot be encouraging TRS calls with financial incentives or rewards. Because the Fund, and not the consumer, pays for the cost of the TRS call, such financial incentives are tantamount to enticing consumers to make calls that they might not ordinarily make. In addition, in these circumstances TRS is no longer simply an accommodation for persons with certain disabilities, but an opportunity for their financial gain. In other words, offering financial incentives or rewards to TRS users also violates the functional equivalency mandate because it gives TRS consumers more than free access to TRS, and therefore to the telephone system; it gives them an additional financial reward for using a service that is provided as an accommodation under the ADA.

Hands On's assertions that no one is forced to use its program, that it is in the public interest to offer reward programs because of the cost of high speed Internet service, and that there have been no complaints about its program are beside the point. The mere fact that a financial incentive or reward program is offered has the effect of enticing consumers to make calls they would not otherwise make, regardless of whether participation in the program is mandatory. Further, as we frequently note, Title IV of the ADA requires that certain entities offer TRS as an accommodation for persons with certain disabilities; it does not address associated issues such as the cost of bringing high speed Internet service to the home (or elsewhere) or the cost of the equipment necessary to make the various types of TRS calls. Finally, it is not surprising that no consumer may have complained about Hands On's program, since it obviously would not be in any consumer's financial interest to do so.

In sum, in view of the intent and nature of section 225, and the obligation placed on entities providing voice telephone services to also offer TRS as an accommodation to persons who, because of a disability, cannot meaningfully use the voice telephone system, we interpret section 225 and the implementing regulations to prohibit a TRS provider's use of any kind of financial incentives or rewards, including arrangements tying the receipt of equipment to minimum TRS usage, directed at a consumer's use of their TRS service. As a result, we will instruct the Interstate TRS Fund administrator (NECA) that, effective March 1, 2005, any TRS provider offering such incentives for the use of any of the forms of TRS will be ineligible for compensation from the Interstate TRS Fund. Nothing in this *Declaratory Ruling* is intended to affect the obligation of TRS providers to engage in outreach efforts, consistent with this *Declaratory Ruling*, to ensure that the public is aware of the availability and use of all forms of TRS. *See*, *e.g.*, 47 CFR 64.604(c)(3).

Report to Congress

The Commission will not send a copy of the *Declaratory Ruling* pursuant to the Congressional Review Act, *see* 5 U.S.C. 801 (a)(1)(A) because the adopted rules are rules of particular applicability.

Ordering Clauses

Accordingly, pursuant to the authority contained in section 225 of the Communications Act of 1934, as amended, 47 U.S.C. 225, and §§ 0.141, 0.361, and 1.3 of the Commission's rules, 47 CFR 0.1.41, 0.361, 1.3 this *Declaratory Ruling is adopted*.

Hands On's *Petition for Declaratory Ruling is denied*.

TRS provider offering any kind of financial incentives or rewards, including arrangements tying the receipt of equipment to minimum TRS usage, *shall*, effective March 1, 2005, be ineligible for compensation from the Interstate TRS Fund.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 05–3703 Filed 2–24–05; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 050216042–5042–01; I.D. 021105E]

RIN 0648–AT06

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Final rule; annual management measures for Pacific halibut fisheries.

SUMMARY: The Assistant Administrator for Fisheries, NOAA (AA), on behalf of the International Pacific Halibut Commission (IPHC), publishes annual management measures governing the Pacific Halibut fishery which are approved by the Secretary of State. This action is intended to provide public notice of the effectiveness of these IPHC annual management measures and to inform persons subject to them of their restrictions and requirements.

DATES: Effective February 27, 2005.

ADDRESSES: Additional requests for information regarding this action may be obtained by contacting either the International Pacific Halibut Commission, P.O. Box 95009, Seattle, WA 98145–2009, or Sustainable Fisheries Division, Alaska Region, NMFS P.O. Box 21668, Juneau, AK 99802–1668. This final rule also is accessible via the Internet at the Government Printing Office's Web site at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bubba Cook, 907–586–7425 or e-mail at *bubba.cook@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The IPHC has promulgated regulations governing the Pacific halibut fishery in 2005 under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979). The IPHC regulations have been approved by the Secretary of State of the United States under section 4 of the Northern Pacific Halibut Act (Halibut Act, 16 U.S.C. 773–773k). Pursuant to regulations at 50 CFR 300.62, the approved IPHC regulations setting forth the 2005 IPHC annual management measures are published in the **Federal Register** to provide notice of their effectiveness, and to inform persons subject to the regulations of the restrictions and requirements. These management measures are effective until superceded by the 2006 management measures, which NMFS will publish in the **Federal Register**.

The IPHC held its annual meeting in Victoria, British Columbia, January 18–21, 2005, and adopted regulations for 2005. The substantive changes to the previous IPHC regulations (69 FR 9230, February 27, 2004) include:

1. New commercial fishery opening date of February 27 in IPHC areas other than Area 2A;

2. Opening dates for the Area 2A commercial directed halibut fishery;

3. Season dates for the Area 2A tribal fishery;

4. Revising the regulations to specify that the total amount of halibut that may be harvested in Area 4D commercial halibut fisheries is equal to the combined annual catch limit specified for Area 4C and Area 4D. This change will allow NMFS to promulgate a rule authorizing Area 4C Individual Fishing Quota (IFQ)/Community Development Quota (CDQ) to be harvested in Area 4D as described below. NMFS is considering such a rule for the 2005 halibut fishery; and

5. Revising the regulations prohibiting the retention of fillets on board a commercial vessel.

The IPHC recommended catch limits for 2005 to the governments of Canada and the United States totaling 73,820,000 lbs. The IPHC staff reported on the assessment of the Pacific halibut stock in 2004. The assessment indicated healthy halibut stocks in Areas 3A through 2A, but indicated declines in Areas 3B and throughout Area 4 requiring lower catch rates. Recruitment of 1994 and 1995 year classes appeared relatively strong in all areas except Area 4B, which showed lower recruitment levels for the same year classes. IPHC staff also reported that estimates of exploitable biomass resulting from mark-recapture analysis based on PIT-tagged halibut conducted in 2003 are available, but are not yet sufficient to determine mixing rates among and exploitable biomass within regulatory areas. Based on recommendations by the IPHC staff, the IPHC adopted a harvest rate of 22.5 percent as the baseline harvest rate for Areas 3A, 2C, 2B, and 2A. The IPHC maintained a 20 percent harvest rate in Areas 3B and 4A due to concern that the long term productivity of these areas may be less than Areas 3A, 2C, 2B, and 2A.

Catch Sharing Plan (CSP) for Area 2A

The Pacific Fishery Management Council (PFMC) develops the Area 2A CSP under authority of the Halibut Act, although the IPHC ultimately approves the CSP and any modifications to it. Section 5 of the Halibut Act (16 U.S.C. 773c) provides the Secretary of Commerce (Secretary) with general responsibility to carry out the Convention and to adopt such regulations as may be necessary to implement the purposes and objectives of the Convention and the Halibut Act. The Secretary's authority has been delegated to the Assistant Administrator for Fisheries, NOAA. Section 5 of the Halibut Act (16 U.S.C. 773c(c)) also authorizes the Regional Fishery Management Council having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in United States Convention waters that are in addition to, but not in conflict with, regulations of the IPHC. Pursuant to this authority, NMFS requested that the PFMC allocate halibut catches should such allocation be necessary. The PFMC's Area 2A CSP allocates the halibut catch limit for Area 2A among treaty Indian, non-treaty commercial, and non-treaty sport fisheries in and off Washington, Oregon, and California.

On February 7, 2005, (70 FR 6395), NMFS published a proposed rule to implement the CSP changes for 2005, the 2005 Area 2A sport fishing season regulations, and additional NMFS management measures for Area 2A. Section 24(4)(b), and Sections 25 through 27 of the IPHC annual management measures are not revised by this action, but may be revised by publication of a separate final rule implementing the Area 2A CSP and NMFS management measures. These sections primarily address the Area 2A sport fisheries and non-treaty commercial fisheries. None of the 2005 proposed changes to the CSP or NMFS management measures will affect the tribal fisheries. Therefore, IPHC management measures for the Area 2A tribal fisheries and IPHC management measures for the non-tribal commercial fisheries are implemented through this final rule.

Catch Sharing Plan for Area 4

This action does not authorize Area 4C IFQ or CDQ holders to harvest his or her IFQ or CDQ in Area 4D. This action only allows NMFS to promulgate a rule authorizing Area 4C IFQ or CDQ to be harvested in Area 4D. NMFS anticipates publishing a proposed rule authorizing Area 4C IFQ or CDQ to be harvested in Area 4D. If NMFS determines that a final rule should be promulgated, it would likely be published by late spring 2005. Unless and until NMFS promulgates that final rule, the current prohibition that halibut IFQ and CDQ allocated in Area 4C may only be harvested in Area 4C will remain effective.

Annual Halibut Management Measures

The annual management measures that follow for the 2005 Pacific halibut fishery are those adopted by the IPHC and approved by the Secretary of State. 2005 Pacific Halibut Fishery Regulations Regulations respecting the Convention Between Canada and the United States of America for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea

1. Short Title

These regulations may be cited as the Pacific Halibut Fishery Regulations.

2. Application

(1) These Regulations apply to persons and vessels fishing for halibut in, or possessing halibut taken from, the maritime area as defined in Section 3.

(2) Sections 3 to 6 apply generally to all halibut fishing.

(3) Sections 7 to 20 apply to commercial fishing for halibut.

(4) Section 21 applies to tagged halibut caught by any vessel.

(5) Section 22 applies to the United States treaty Indian fishery in subarea 2A–1.

(6) Section 23 applies to customary and traditional fishing in Alaska.

(7) Section 24 applies to sport fishing for halibut.

(8) These Regulations do not apply to fishing operations authorized or conducted by the Commission for research purposes.

3. Interpretation

(1) In these Regulations,

(a) *Authorized officer* means any State, Federal, or Provincial officer authorized to enforce these regulations including, but not limited to, the National Marine Fisheries Service (NMFS), Canada's Department of Fisheries and Oceans (DFO), Alaska Division of Fish and Wildlife Protection (ADFWP), United States Coast Guard (USCG), Washington Department of Fish and Wildlife (WDFW), and the Oregon State Police (OSP);

(b) *Authorized clearance personnel* means an authorized officer of the United States, a representative of the Commission, or a designated fish processor;

(c) *Charter vessel* means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator;

(d) *Commercial fishing* means fishing, other than treaty Indian ceremonial and subsistence fishing as referred to in section 22, and customary and traditional fishing as referred to in section 23 and defined by and regulated pursuant to NMFS regulations published at 50 CFR part 300, the resulting catch of which is sold or bartered; or is intended to be sold or bartered;

(e) *Commission* means the International Pacific Halibut Commission;

(f) *Daily bag limit* means the maximum number of halibut a person may take in any calendar day from Convention waters;

(g) *Fishing* means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area;

(h) *Fishing period limit* means the maximum amount of halibut that may be retained and landed by a vessel during one fishing period;

(i) *Land* or *offload* with respect to halibut, means the removal of halibut from the catching vessel;

(j) *License* means a halibut fishing license issued by the Commission pursuant to section 4;

(k) *Maritime area*, in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea and internal waters of that Party;

(l) *Operator*, with respect to any vessel, means the owner and/or the master or other individual on board and in charge of that vessel;

(m) *Overall length* of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments);

(n) *Person* includes an individual, corporation, firm, or association;

(o) *Regulatory area* means an area referred to in section 6;

(p) *Setline gear* means one or more stationary, buoyed, and anchored lines with hooks attached;

(q) *Sport fishing* means all fishing other than commercial fishing, treaty Indian ceremonial and subsistence fishing as referred to in section 22, and customary and traditional fishing as referred to in section 23 and defined in and regulated pursuant to NMFS regulations published in 50 CFR Part 300;

(r) *Tender* means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish processor;

(s) *VMS transmitter* means a NMFS-approved vessel monitoring system transmitter that automatically determines a vessel's position and transmits it to a NMFS-approved communications service provider [1].

(2) In these Regulations, all bearings are true and all positions are determined by the most recent charts issued by the United States National Ocean Service or the Canadian Hydrographic Service.

(3) In these Regulations, all weights shall be computed on the basis that the heads of the fish are off and their entrails removed.

4. Licensing Vessels for Area 2A

(1) No person shall fish for halibut from a vessel, nor possess halibut on board a vessel, used either for commercial fishing or as a charter vessel in Area 2A, unless the Commission has

[1] Call NOAA Enforcement Division, Alaska Region, at 907–586–7225 between the hours of 0800 and 1600 local time for a list of NMFS-approved VMS transmitters and communications service providers.

issued a license valid for fishing in Area 2A in respect of that vessel.

(2) A license issued for a vessel operating in Area 2A shall be valid only for operating either as a charter vessel or a commercial vessel, but not both.

(3) A vessel with a valid Area 2A commercial license cannot be used to sport fish for Pacific halibut in Area 2A.

(4) A license issued for a vessel operating in the commercial fishery in Area 2A shall be valid for one of the following, but not both.

(a) The directed commercial fishery during the fishing periods specified in paragraph (2) of section 8 and the incidental commercial fishery during the sablefish fishery specified in paragraph (3) of section 8; or

(b) The incidental catch fishery during the salmon troll fishery specified in paragraph (4) of section 8.

(5) A license issued in respect of a vessel referred to in paragraph (1) of this section must be carried on board that vessel at all times and the vessel operator shall permit its inspection by any authorized officer.

(6) The Commission shall issue a license in respect of a vessel, without fee, from its office in Seattle, Washington, upon receipt of a completed, written, and signed ''Application for Vessel License for the Halibut Fishery'' form.

(7) A vessel operating in the directed commercial fishery or the incidental commercial fishery during the sablefish fishery in Area 2A must have its ''Application for Vessel License for the Halibut Fishery'' form postmarked no later than 11:59 p.m. on April 30, or on the first weekday in May if April 30 is a Saturday or Sunday.

(8) A vessel operating in the incidental commercial fishery during the salmon troll season in Area 2A must have its ''Application for Vessel License for the Halibut Fishery'' form postmarked no later than 11:59 p.m. on March 31, or the first weekday in April if March 31 is a Saturday or Sunday.

(9) Application forms may be obtained from any authorized officer or from the Commission.

(10) Information on ''Application for Vessel License for the Halibut Fishery'' form must be accurate.

(11) The ''Application for Vessel License for the Halibut Fishery'' form shall be completed and signed by the vessel owner.

(12) Licenses issued under this section shall be valid only during the year in which they are issued.

(13) A new license is required for a vessel that is sold, transferred, renamed, or redocumented.

(14) The license required under this section is in addition to any license, however designated, that is required under the laws of the United States or any of its States.

(15) The United States may suspend, revoke, or modify any license issued under this section under policies and procedures in 15 CFR Part 904.

5. In-Season Actions

(1) The Commission is authorized to establish or modify regulations during the season after determining that such action:

(a) Will not result in exceeding the catch limit established preseason for each regulatory area;

(b) Is consistent with the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, and applicable domestic law of either Canada or the United States; and

(c) Is consistent, to the maximum extent practicable, with any domestic catch sharing plans or other domestic allocation programs developed by the United States or Canadian governments.

(2) In-season actions may include, but are not limited to, establishment or modification of the following:

(a) Closed areas;

(b) Fishing periods;

(c) Fishing period limits;

(d) Gear restrictions;

(e) Recreational bag limits;

(f) Size limits; or

(g) Vessel clearances.

(3) In-season changes will be effective at the time and date specified by the Commission.

(4) The Commission will announce in-season actions under this section by providing notice to major halibut processors; Federal, State, United States treaty Indian, Provincial fishery officials, and the media.

6. Regulatory Areas

The following areas shall be regulatory areas (see Figure 1) for the purposes of the Convention:

(1) Area 2A includes all waters off the states of California, Oregon, and Washington;

(2) Area 2B includes all waters off British Columbia;

(3) Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58° 11′54″ N. lat., 136°38′24″ W. long.) and south and east of a line running 205° true from said light;

(4) Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (57°41′15″ N. lat., 155°35′0″ W. long.) to Cape Ikolik (57°17′17″ N. lat., 154°47′18″ W. long.), then along the Kodiak Island coastline to Cape Trinity (56°44′50″ N. lat., 154° 08′44″ W. long.), then 140° true;

(5) Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29′00″ N. lat., 164°20′00″ W. long.) and south of 54°49′00″ N. lat. in Isanotski Strait;

(6) Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in section 10 that are east of 172°00′00″ W. long. and south of 56°20′00″ N. lat.;

(7) Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of Area 4A and south of 56°20′00″ N. lat.;

(8) Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in section 10 which are east of 171°00′00″ W. long., south of 58°00′00″ N. lat., and west of 168°00′00″ W. long.;

(9) Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of 168°00′00″ W. long.;

(10) Area 4E includes all waters in the Bering Sea north and east of the closed area defined in section 10, east of 168°00′00″ W. long., and south of 65°34′00″ N. lat..

7. Fishing in Regulatory Area 4E and 4D

(1) Section 7 applies only to any person fishing, or vessel that is used to fish for, Area 4E Community Development Quota (CDQ) or Area 4D CDQ halibut provided that the total annual halibut catch of that person or vessel is landed at a port within Area 4E or 4D.

(2) A person may retain halibut taken with setline gear in Area 4E CDQ and 4D CDQ fishery that are smaller than the size limit specified in section 13, provided that no person may sell or barter such halibut.

(3) The manager of a CDQ organization that authorizes persons to harvest halibut in the Area 4E or 4D CDQ fisheries must report to the Commission the total number and weight of undersized halibut taken and retained by such persons pursuant to section 7, paragraph (2). This report, which shall include data and methodology used to collect the data, must be received by the Commission prior to December 1 of the year in which such halibut were harvested.

8. Fishing Periods

(1) The fishing periods for each regulatory area apply where the catch

limits specified in section 11 have not been taken.

(2) Each fishing period in the Area 2A directed fishery [2] shall begin at 0800 hours and terminate at 1800 hours local time on June 29, July 13, July 27, August 10, August 24, September 14, and September 28 unless the Commission specifies otherwise.

(3) Notwithstanding paragraph (7) of section 11, an incidental catch fishery [3] is authorized [4] during the sablefish seasons in Area 2A in accordance with regulations promulgated by NMFS.

(4) Notwithstanding paragraph (2), and paragraph (7) of section 11, an incidental catch fishery is authorized during salmon troll seasons in Area 2A in accordance with regulations promulgated by NMFS.

(5) The fishing period in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall begin at 1200 hours local time on February 27 and terminate at 1200 hours local time on November 15, unless the Commission specifies otherwise.

(6) All commercial fishing for halibut in Areas 2A, 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall cease at 1200 hours local time on November 15.

9. Closed Periods

(1) No person shall engage in fishing for halibut in any regulatory area other than during the fishing periods set out in section 8 in respect of that area.

(2) No person shall land or otherwise retain halibut caught outside a fishing period applicable to the regulatory area where the halibut was taken.

(3) Subject to paragraphs (7), (8), (9), and (10) of section 19, these Regulations do not prohibit fishing for any species of fish other than halibut during the closed periods.

(4) Notwithstanding paragraph (3), no person shall have halibut in his/her possession while fishing for any other species of fish during the closed periods.

(5) No vessel shall retrieve any halibut fishing gear during a closed period if the vessel has any halibut on board.

(6) A vessel that has no halibut on board may retrieve any halibut fishing gear during the closed period after the operator notifies an authorized officer or representative of the Commission prior to that retrieval.

(7) After retrieval of halibut gear in accordance with paragraph (6), the vessel shall submit to a hold inspection at the discretion of the authorized officer or representative of the Commission.

(8) No person shall retain any halibut caught on gear retrieved referred to in paragraph (6).

(9) No person shall possess halibut aboard a vessel in a regulatory area during a closed period unless that vessel is in continuous transit to or within a port in which that halibut may be lawfully sold.

10. Closed Area

All waters in the Bering Sea north of 55°00′00″ N. lat. in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36′0″ N. lat., 164°55′42″ W. long.) to a point at 56°20′00″ N. lat., 168°30′00″ W. long.; thence to a point at 58°21′25″ N. latitude, 163°00′00″ W. long.; thence to Strogonof Point (56°53′18″ N. lat., 158°50′37″ W. long.); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light are closed to halibut fishing and no person shall fish for halibut therein or have halibut in his/her possession while in those waters except in the course of a continuous transit across those waters. All waters in Isanotski Strait between 55°00′00″ N. lat. and 54°49′00″ N. lat. are closed to halibut fishing.

11. Catch Limits

(1) The total allowable catch of halibut to be taken during the halibut fishing periods specified in section 8 shall be limited to the weight expressed in pounds or metric tons shown in the following table:

Regulatory area	Catch limit	
	Pounds	Metric tons
2A: directed commercial, and incidental commercial during salmon troll fishery	266,121	120.7
2A: incidental commercial during sablefish fishery	70,000	31.7
2B [4]	13,250,000	6,009.1
2C	10,930,000	4,956.9
3A	25,470,000	11,551.0
3B	13,150,000	5,963.7
4A	3,440,000	1,560.1
4B	2,260,000	1,024.9
4C	1,815,000	823.1
4D	1,815,000	823.1
4E	359,000	162.8

(2) Notwithstanding paragraph (1), regulations pertaining to the division of the Area 2A catch limit between the directed commercial fishery and the incidental catch fishery as described in paragraph (4) of section 8 will be promulgated by NMFS and published in the **Federal Register**.

(3) The Commission shall determine and announce to the public the date on which the catch limit for Area 2A will be taken.

(4) Notwithstanding paragraph (1), Area 2B will close only when all IVQs assigned by DFO are taken, or November 15, whichever is earlier.

(5) Notwithstanding paragraph (1), Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E will each close only when all IFQs and all CDQs issued by NMFS have been taken, or November 15, whichever is earlier.

(6) If the Commission determines that the catch limit specified for Area 2A in paragraph (1) would be exceeded in an unrestricted 10-hour fishing period as specified in paragraph (2) of section 8, the catch limit for that area shall be considered to have been taken unless fishing period limits are implemented.

[2] The directed fishery is restricted to waters that are south of Point Chehalis, Washington (46°53′18″ N. lat.) under regulations promulgated by NMFS and published in the **Federal Register**.

[3] The incidental fishery during the directed, fixed gear sablefish season is restricted to waters that are north of Point Chehalis, Washington (46°53′18 N. lat.) under regulations promulgated by NMFS and published in the **Federal Register**.

[4] Area 2B includes combined commercial and sport catch limits which will be allocated by DFO.

(7) When under paragraphs (2), (3), and (6) the Commission has announced a date on which the catch limit for Area 2A will be taken, no person shall fish for halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for halibut fishing.

(8) Notwithstanding paragraph (1), the total allowable catch of halibut that may be taken in the Area 4E directed commercial fishery is equal to the combined annual catch limits specified for the Area 4D and Area 4E Community Development Quotas. The annual Area 4D CDQ catch limit will decrease by the equivalent amount of halibut CDQ taken in Area 4E in excess of the annual Area 4E CDQ catch limit.

(9) Notwithstanding paragraph (1), the total allowable catch of halibut that may be taken in the Area 4D directed commercial fishery is equal to the combined annual catch limits specified for Area 4C and Area 4D. The annual Area 4C catch limit will decrease by the equivalent amount of halibut taken in Area 4D in excess of the annual Area 4D catch limit.

12. Fishing Period Limits

(1) It shall be unlawful for any vessel to retain more halibut than authorized by that vessel's license in any fishing period for which the Commission has announced a fishing period limit.

(2) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut to a commercial fish processor, completely offload all halibut on board said vessel to that processor and ensure that all halibut is weighed and reported on State fish tickets.

(3) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut other than to a commercial fish processor, completely offload all halibut on board said vessel and ensure that all halibut are weighed and reported on State fish tickets.

(4) The provisions of paragraph (3) are not intended to prevent retail over-the-side sales to individual purchasers so long as all the halibut on board is ultimately offloaded and reported.

(5) When fishing period limits are in effect, a vessel's maximum retainable catch will be determined by the Commission based on:

(a) The vessel's overall length in feet and associated length class;

(b) The average performance of all vessels within that class; and

(c) The remaining catch limit.

(6) Length classes are shown in the following table:

Overall length, in feet (m)	Vessel class
1–25 (0.3–7.6)	A
26–30 (7.9–9.1)	B
31–35 (9.4–10.7)	C
36–40 (11.0–12.2)	D
41–45 (12.5–13.7)	E
46–50 (14.0–15.2)	F
51–55 (15.5–16.8)	G
56+ (17.1+)	H

(7) Fishing period limits in Area 2A apply only to the directed halibut fishery referred to in paragraph (2) of section 8.

13. Size Limits

(1) No person shall take or possess any halibut that

(a) With the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail, as illustrated in Figure 2; or

(b) With the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail, as illustrated in Figure 2.

(2) No person on board a vessel fishing for, or tendering, halibut caught in Area 2A shall possess any halibut that has had its head removed.

14. Careful Release of Halibut

(1) All halibut that are caught and are not retained shall be immediately released outboard of the roller and returned to the sea with a minimum of injury by:

(a) Hook straightening;

(b) Cutting the gangion near the hook; or

(c) Carefully removing the hook by twisting it from the halibut with a gaff.

15. Vessel Clearance in Area 4

(1) The operator of any vessel that fishes for halibut in Areas 4A, 4B, 4C, or 4D must obtain a vessel clearance before fishing in any of these areas, and before the landing of any halibut caught in any of these areas, unless specifically exempted in paragraphs (10), (13), (14), (15), (16), or (17).

(2) An operator obtaining a vessel clearance required by paragraph (1) must obtain the clearance in person from the authorized clearance personnel and sign the IPHC form documenting that a clearance was obtained, except that when the clearance is obtained via VHF radio referred to in paragraphs (5), (8), and (9), the authorized clearance personnel must sign the IPHC form documenting that the clearance was obtained.

(3) The vessel clearance required under paragraph (1) prior to fishing in Area 4A may be obtained only at Nazan Bay on Atka Island, Dutch Harbor or Akutan, Alaska from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(4) The vessel clearance required under paragraph (1) prior to fishing in Area 4B may only be obtained at Nazan Bay on Atka Island or Adak, Alaska from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(5) The vessel clearance required under paragraph (1) prior to fishing in Area 4C and 4D may be obtained only at St. Paul or St. George, Alaska from an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(6) The vessel operator shall specify the specific regulatory area in which fishing will take place.

(7) Before unloading any halibut caught in Area 4A, a vessel operator may obtain the clearance required under paragraph (1) only in Dutch Harbor or Akutan, Alaska by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(8) Before unloading any halibut caught in Area 4B, a vessel operator may obtain the clearance required under paragraph (1) only in Nazan Bay on Atka Island or Adak, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio or in person.

(9) Before unloading any halibut caught in Area 4C and 4D, a vessel operator may obtain the clearance required under paragraph (1) only in St. Paul, St. George, Dutch Harbor, or Akutan, Alaska either in person or by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearances obtained in St. Paul or St. George, Alaska can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(10) Any vessel operator who complies with the requirements in section 18 for possessing halibut on board a vessel that was caught in more than one regulatory area in Area 4 is

exempt from the clearance requirements of paragraph (1) of this section, provided that:

(a) The operator of the vessel obtains a vessel clearance prior to fishing in Area 4 in either Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul, St. George, Adak, or Nazan Bay on Atka Island can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. This clearance will list the Areas in which the vessel will fish; and

(b) Before unloading any halibut from Area 4, the vessel operator obtains a vessel clearance from Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul or St. George can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. The clearance obtained in Adak or Nazan Bay on Atka Island can be obtained by VHF radio.

(11) Vessel clearances shall be obtained between 0600 and 1800 hours, local time.

(12) No halibut shall be on board the vessel at the time of the clearances required prior to fishing in Area 4.

(13) Any vessel that is used to fish for halibut only in Area 4A and lands its total annual halibut catch at a port within Area 4A is exempt from the clearance requirements of paragraph (1).

(14) Any vessel that is used to fish for halibut only in Area 4B and lands its total annual halibut catch at a port within Area 4B is exempt from the clearance requirements of paragraph (1).

(15) Any vessel that is used to fish for halibut only in Areas 4C or 4D or 4E and lands its total annual halibut catch at a port within Areas 4C, 4D, 4E, or the closed area defined in section 10, is exempt from the clearance requirements of paragraph (1).

(16) Any vessel that carries a transmitting VMS transmitter while fishing for halibut in Area 4A, 4B, 4C, or 4D and until all halibut caught in any of these areas is landed is exempt from the clearance requirements of paragraph (1) of this section, provided that:

(a) The operator of the vessel complies with NMFS' vessel monitoring system regulations published at 50 CFR sections 679.28(f)(3), (4) and (5); and

(b) The operator of the vessel notifies NOAA Fisheries Office for Law Enforcement at 800–304–4846 (select option 1 to speak to an Enforcement Data Clerk) between the hours of 0600 and 0000 (midnight) local time within 72 hours before fishing for halibut in Area 4A, 4B, 4C, or 4D and receives a VMS confirmation number.

16. Logs

(1) The operator of any U.S. vessel fishing for halibut that has an overall length of 26 feet (7.9 meters) or greater shall maintain an accurate log of halibut fishing operations in the Groundfish/IFQ Daily Fishing Longline and Pot Gear Logbook provided by NMFS, or Alaska hook-and-line logbook provided by Petersburg Vessel Owners Association or Alaska Longline Fisherman's Association, or the Alaska Department of Fish and Game (ADF&G) longline-pot logbook, or the logbook provided by IPHC.

(2) The logbook referred to in paragraph (1) must include the following information:

(a) The name of the vessel and the state (ADF&G or Washington Department of Fish and Wildlife or Oregon Department of Fish and Wildlife or California Department of Fish and Game) vessel number;

(b) The date(s) upon which the fishing gear is set or retrieved;

(c) The latitude and longitude or loran coordinates or a direction and distance from a point of land for each set or day;

(d) The number of skates deployed or retrieved, and number of skates lost; and

(e) The total weight or number of halibut retained for each set or day.

(3) The logbook referred to in paragraph (1) shall be

(a) Maintained on board the vessel;

(b) Updated not later than 24 hours after midnight local time for each day fished and prior to the offloading or sale of halibut taken during that fishing trip;

(c) Retained for a period of 2 years by the owner or operator of the vessel;

(d) Open to inspection by an authorized officer or any authorized representative of the Commission upon demand; and

(e) Kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and until the offloading of all halibut is completed.

(4) The log referred to in paragraph (1) does not apply to the incidental halibut fishery during the salmon troll season in Area 2A defined in paragraph (4) of section 8.

(5) The operator of any Canadian vessel fishing for halibut shall maintain an accurate log recorded in the British Columbia Halibut Fishery logbook provide by DFO.

(6) The logbook referred to in paragraph (5) must include the following information:

(a) The name of the vessel and the Department of Fisheries and Ocean's vessel number;

(b) The date(s) upon which the fishing gear is set or retrieved;

(c) The latitude and longitude or loran coordinates or a direction and distance from a point of land for each set or day;

(d) The number of skates deployed or retrieved, and number of skates lost; and

(e) The total weight or number of halibut retained for each set or day.

(7) The logbook referred to in paragraph (5) shall be:

(a) Maintained on board the vessel;

(b) Updated not later than 24 hours after midnight local time for each day fished and prior to the offloading or sale of halibut taken during that fishing trip;

(c) Retained for a period of two years by the owner or operator of the vessel;

(d) Open to inspection by an authorized officer or any authorized representative of the Commission upon demand;

(e) Kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and until the offloading of all halibut is completed;

(f) Mailed to the Department of Fisheries and Oceans (white copy) within 7 days of offloading; and

(g) Mailed to the International Pacific Halibut Commission (yellow copy) within seven days of the final offload if not collected by an International Pacific Halibut Commission employee.

(8) The poundage of any halibut that is not sold, but is utilized by the vessel operator, his/her crew members, or any other person for personal use, shall be recorded in the vessel's log within 24-hours of offloading.

(9) No person shall make a false entry in a log referred to in this section.

17. Receipt and Possession of Halibut

(1) No person shall receive halibut from a United States vessel that does not have on board the license required by section 4.

(2) No person shall possess on board a vessel a halibut other than whole or with the gills and entrails removed. Except that this paragraph shall not prohibit the possession on board a vessel:

(a) Halibut cheeks cut from halibut caught by persons authorized to process the halibut on board in accordance with NMFS regulations published at 50 CFR part 679;

(b) Fillets from halibut that have been offloaded in accordance with section 17 may be possessed on board the harvesting vessel in the port of landing

up to 1800 hours local time on the calendar day following the offload [5]; and

(c) Halibut with their heads removed in accordance with section 13.

(3) No person shall offload halibut from a vessel unless the gills and entrails have been removed prior to offloading.[6]

(4) It shall be the responsibility of a vessel operator who lands halibut to continuously and completely offload at a single offload site all halibut on board the vessel.

(5) A registered buyer (as that term is defined in regulations promulgated by NMFS and codified at 50 CFR Part 679) who receives halibut harvested in IFQ and CDQ fisheries in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, directly from the vessel operator that harvested such halibut must weigh all the halibut received and record the following information on Federal catch reports: date of offload; name of vessel; vessel number; scale weight obtained at the time of offloading, including the weight (in pounds) of halibut purchased by the registered buyer, the weight (in pounds) of halibut offloaded in excess of the IFQ or CDQ, the weight of halibut (in pounds) retained for personal use or for future sale, and the weight (in pounds) of halibut discarded as unfit for human consumption.

(6) The first recipient, commercial fish processor, or buyer in the United States who purchases or receives halibut directly from the vessel operator that harvested such halibut must weigh and record all halibut received and record the following information on state fish tickets: the date of offload, vessel number, total weight obtained at the time of offload including the weight (in pounds) of halibut purchased, the weight (in pounds) of halibut offloaded in excess of the IFQ, CDQ, or fishing period limits, the weight of halibut (in pounds) retained for personal use or for future sale, and the weight (in pounds) of halibut discarded as unfit for human consumption.

(7) The master or operator of a Canadian vessel that was engaged in halibut fishing must weigh and record all halibut on board said vessel at the time offloading commences and record on Provincial fish tickets or Federal catch reports the date, locality, name of vessel, the name(s) of the person(s) from whom the halibut was purchased; and the scale weight obtained at the time of offloading of all halibut on board the vessel including the pounds purchased; pounds in excess of IVQs; pounds retained for personal use; and pounds discarded as unfit for human consumption.

(8) No person shall make a false entry on a State or Provincial fish ticket or a Federal catch or landing report referred to in paragraphs (5), (6), and (7) of section 17.

(9) A copy of the fish tickets or catch reports referred to in paragraphs (5), (6), and (7) shall be:

(a) Retained by the person making them for a period of 3 years from the date the fish tickets or catch reports are made; and

(b) Open to inspection by an authorized officer or any authorized representative of the Commission.

(10) No person shall possess any halibut taken or retained in contravention of these Regulations.

(11) When halibut are landed to other than a commercial fish processor the records required by paragraph (6) shall be maintained by the operator of the vessel from which that halibut was caught, in compliance with paragraph (9).

(12) It shall be unlawful to enter a Halibut Commission license number on a State fish ticket for any vessel other than the vessel actually used in catching the halibut reported thereon.

18. Fishing Multiple Regulatory Areas

(1) Except as provided in this section, no person shall possess at the same time on board a vessel halibut caught in more than one regulatory area.

(2) Halibut caught in more than one of the Regulatory Areas 2C, 3A, or 3B may be possessed on board a vessel at the same time providing the operator of the vessel:

(a) Has a NMFS-certified observer on board when required by NMFS regulations [7] published at 50 CFR 679.7(f)(4); and

(b) Can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(3) Halibut caught in more than one of the Regulatory Areas 4A, 4B, 4C, or 4D may be possessed on board a vessel at the same time providing the operator of the vessel:

(a) Has a NMFS-certified observer on board the vessel when halibut caught in different regulatory areas are on board; and

(b) Can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(4) Halibut caught in Regulatory Areas 4A, 4B, 4C, and 4D may be possessed on board a vessel when in compliance with paragraph (3) and if halibut from Area 4 are on board the vessel, the vessel can have halibut caught in Regulatory Areas 2C, 3A, and 3B on board if in compliance with paragraph (2).

19. Fishing Gear

(1) No person shall fish for halibut using any gear other than hook and line gear.

(2) No person shall possess halibut taken with any gear other than hook and line gear.

(3) No person shall possess halibut while on board a vessel carrying any trawl nets or fishing pots capable of catching halibut, except that in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E, halibut heads, skin, entrails, bones or fins for use as bait may be possessed on board a vessel carrying pots capable of catching halibut, provided that a receipt documenting purchase or transfer of these halibut parts is on board the vessel.

(4) All setline or skate marker buoys carried on board or used by any United States vessel used for halibut fishing shall be marked with one of the following:

(a) The vessel's state license number; or

(b) The vessel's registration number.

(5) The markings specified in paragraph (4) shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(6) All setline or skate marker buoys carried on board or used by a Canadian vessel used for halibut fishing shall be:

(a) Floating and visible on the surface of the water; and

(b) Legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(7) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the opening of a halibut fishing period shall catch or possess halibut anywhere in those waters during that halibut fishing period.

(8) No vessel from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the opening of a halibut fishing period may

[5] DFO has more restrictive regulations therefore section 17(2)b does not apply to fish caught in Area 2B or landed in British Columbia.

[6] DFO did not adopt this regulation therefore section 17 paragraph 3 does not apply to fish caught in Area 2B.

[7] Without an observer, a vessel cannot have on board more halibut than the IFQ for the area that is being fished even if some of the catch occurred earlier in a different area.

be used to catch or possess halibut anywhere in those waters during that halibut fishing period.

(9) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season shall catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either:

(a) Made a landing and completely offloaded its entire catch of other fish; or

(b) Submitted to a hold inspection by an authorized officer.

(10) No vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season may be used to catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either:

(a) Made a landing and completely offloaded its entire catch of other fish; or

(b) Submitted to a hold inspection by an authorized officer.

(11) Notwithstanding any other provision in these regulations, a person may retain, possess, and dispose of halibut taken with trawl gear only as authorized by the Prohibited Species Donation regulations of NMFS.

20. Supervision of Unloading and Weighing

The unloading and weighing of halibut may be subject to the supervision of authorized officers to assure the fulfillment of the provisions of these Regulations.

21. Retention of Tagged Halibut

(1) Nothing contained in these Regulations prohibits any vessel at any time from retaining and landing a halibut that bears a Commission external tag at the time of capture, if the halibut with the tag still attached is reported at the time of landing and made available for examination by a representative of the Commission or by an authorized officer.

(2) After examination and removal of the tag by a representative of the Commission or an authorized officer, the halibut

(a) May be retained for personal use; or

(b) May be sold only if the halibut is caught during commercial halibut fishing and it complies with the other commercial fishing provisions of these regulations.

(3) Externally tagged fish must count against commercial IVQs, CDQs, IFQs, or daily bag or possession limits unless otherwise exempted by state, provincial, or federal regulations.

22. Fishing by United States Treaty Indian Tribes

(1) Halibut fishing in subarea 2A–1 by members of United States treaty Indian tribes located in the State of Washington shall be regulated under regulations promulgated by NMFS and published in the **Federal Register**.

(2) Subarea 2A–1 includes all waters off the coast of Washington that are north of 46°53′18″ N. lat. and east of 125°44′00″ W. long., and all inland marine waters of Washington.

(3) Section 13 (size limits), section 14 (careful release of halibut), section 16 (logs), section 17 (receipt and possession of halibut) and section 19 (fishing gear), except paragraphs (7) and (8) of section 19, apply to commercial fishing for halibut in subarea 2A–1 by the treaty Indian tribes.

(4) Commercial fishing for halibut in subarea 2A–1 is permitted with hook and line gear from February 27 through November 15, or until 452,500 lbs (205.3 mt) is taken, whichever occurs first.

(5) Ceremonial and subsistence fishing for halibut in subarea 2A–1 is permitted with hook and line gear from January 1 through December 31, and is estimated to take 38,000 lbs (17.3 mt).

23. Customary and Traditional Fishing in Alaska

(1) Customary and traditional fishing for halibut in Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall be governed pursuant to regulations promulgated by the National Marine Fisheries Service and published in 50 CFR part 300.

(2) Customary and traditional fishing is authorized from January 1 through December 31.

24. Sport Fishing for Halibut

(1) No person shall engage in sport fishing for halibut using gear other than a single line with no more than two hooks attached; or a spear.

(2) In all waters off Alaska:

(a) The sport fishing season is from February 1 to December 31;

(b) The daily bag limit is two halibut of any size per day per person.

(3) In all waters off British Columbia:

(a) The sport fishing season is from February 1 to December 31;

(b) The daily bag limit is two halibut of any size per day per person.

(4) In all waters off California, Oregon, and Washington:

(a) The total allowable catch of halibut shall be limited to

(i) 237,257 lbs (107.6 mt) in waters off Washington and

(ii) 266,122 lbs (120.7 mt) in waters off California and Oregon;

(b) * * *

(c) The Commission shall determine and announce closing dates to the public for any area in which the catch limits promulgated by NMFS are estimated to have been taken.

(d) When the Commission has determined that a subquota under paragraph (4)(b) of this section is estimated to have been taken, and has announced a date on which the season will close, no person shall sport fish for halibut in that area after that date for the rest of the year, unless a reopening of that area for sport halibut fishing is scheduled in accordance with the Catch Sharing Plan for Area 2A, or announced by the Commission.

(5) Any minimum overall size limit promulgated under IPHC or NMFS regulations shall be measured in a straight line passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail.

(6) No person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(7) The possession limit for halibut in the waters off the coast of Alaska is two daily bag limits.

(8) The possession limit for halibut in the waters off the coast of British Columbia is three halibut.

(9) The possession limit for halibut in the waters off Washington, Oregon, and California is the same as the daily bag limit.

(10) The possession limit for halibut on land in Area 2A is two daily bag limits.

(11) Any halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the halibut.

(12) No person shall be in possession of halibut on a vessel while fishing in a closed area.

(13) No halibut caught by sport fishing shall be offered for sale, sold, traded, or bartered.

(14) No halibut caught in sport fishing shall be possessed on board a vessel when other fish or shellfish aboard the said vessel are destined for commercial use, sale, trade, or barter.

(15) The operator of a charter vessel shall be liable for any violations of these

regulations committed by a passenger aboard said vessel.

25. Flexible Inseason Management Provisions in Area 2A

* * * * *

26. Fishery Election in Area 2A

* * * * *

27. Area 2A Non-Treaty Commercial Fishery Closed Area

* * * * *

28. Previous Regulations Superseded

These regulations shall supersede all previous regulations of the Commission, and these regulations shall be effective each succeeding year until superseded.

BILLING CODE 3510–22–P

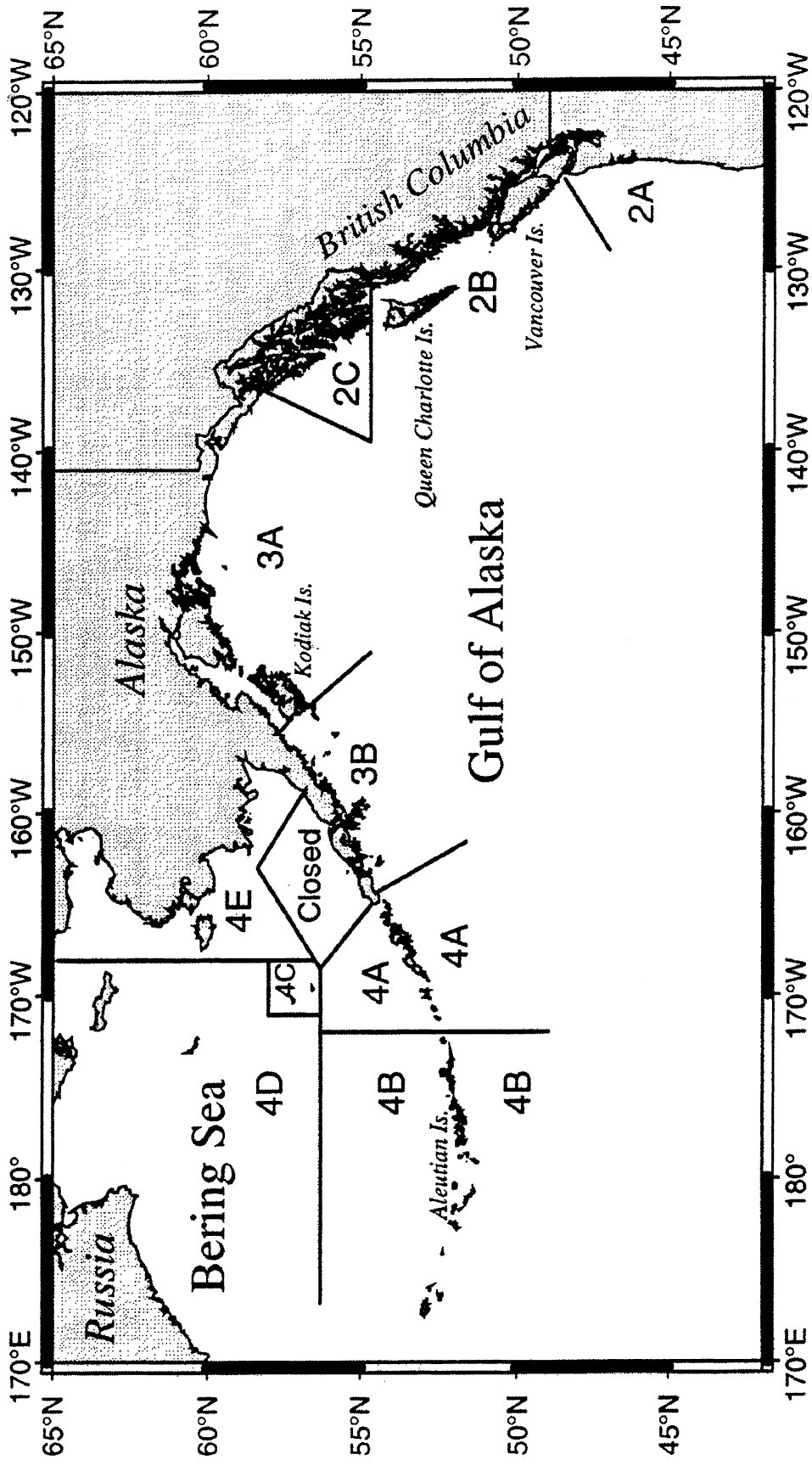

Figure 1. Regulatory areas for the Pacific halibut fishery.

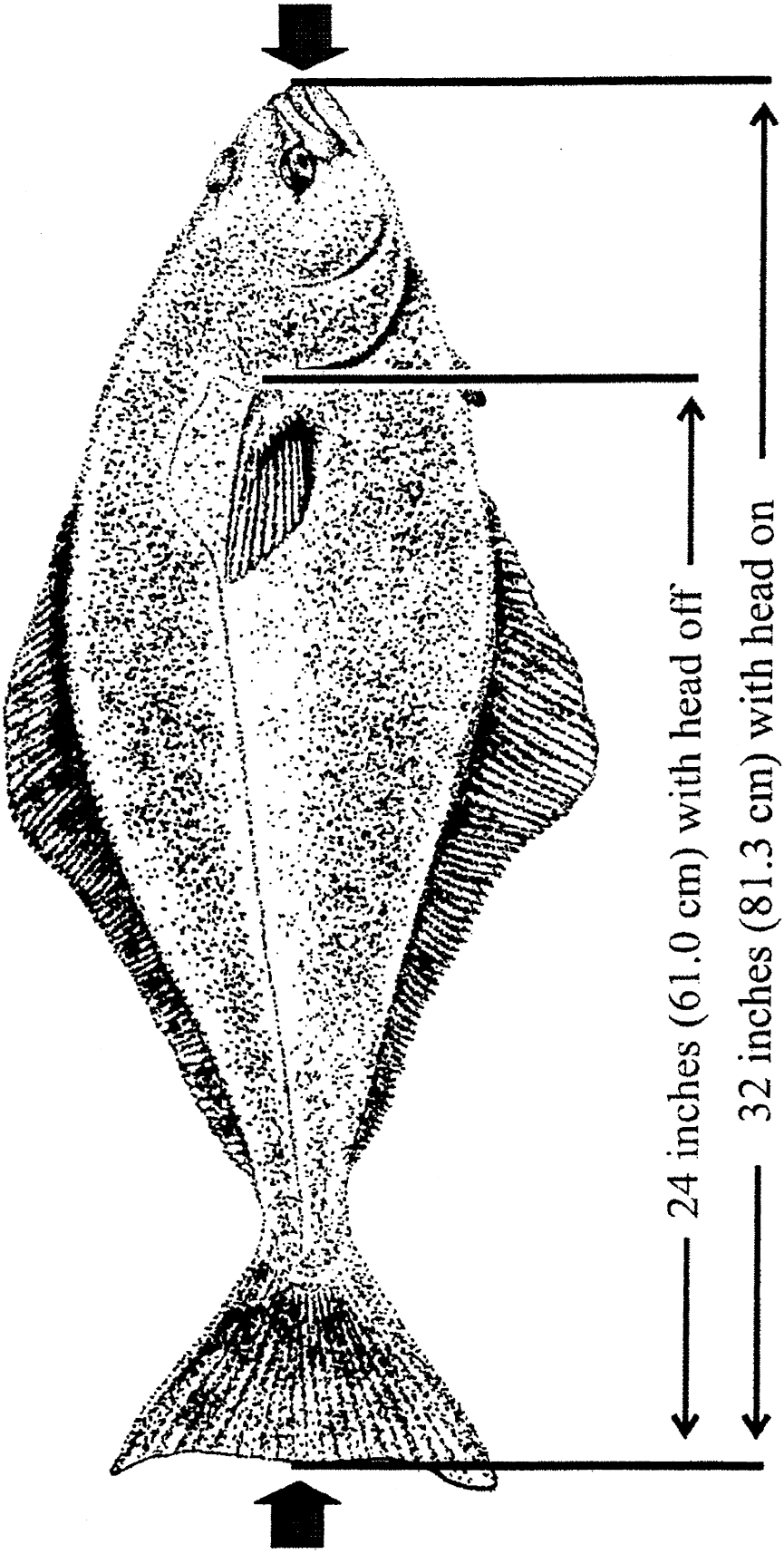

Figure 2. Minimum commercial size.

BILLING CODE 3510–22–C

Classification

IPHC Regulations

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

The notice-and-comment and delay-in-effectiveness date requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553, are inapplicable to this notice of the effectiveness and content of the IPHC regulations because this regulation involves a foreign affairs function of the United States, 5 U.S.C. 553(a)(1). Furthermore, no other law requires prior notice and public comment for this rule. Because prior notice and an opportunity for public comment are not required to be provided for these portions of this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

Authority: 16 U.S.C. 773–773k.

Dated: February 18, 2005.

Rebecca Lent,

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

[FR Doc. 05–3704 Filed 2–24–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041202339–4339–01; I.D. 021805G]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2005 interim total allowable catch (TAC) of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 22, 2005, until superseded by the notice of 2005 and 2006 final harvest specifications of groundfish for the GOA, which will be published in the **Federal Register**.

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

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

The 2005 interim TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA is 954 metric tons (mt), as established by the 2005 interim harvest specifications for groundfish of the GOA (69 FR 74455, December 14, 2004).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2005 interim TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 900 mt, and is setting aside the remaining 54 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA.

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

Classification

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

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

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

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

Dated: February 22, 2005.

Alan D. Risenhoover

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

[FR Doc. 05–3708 Filed 2–22–05; 4:11 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041202339–4339–01; I.D. 021805F]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2005 interim total allowable catch (TAC) of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 22, 2005, until superseded by the notice of 2005 and 2006 final harvest specifications of

groundfish of the GOA, which will be published in the **Federal Register**.

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

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

The 2005 interim TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Central Regulatory Area of the GOA is 1,526 metric tons (mt), as established by the 2005 interim harvest specifications for groundfish of the GOA (69 FR 74455, December 14, 2004).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2005 interim TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,450 mt, and is setting aside the remaining 76 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the GOA.

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

Classification

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

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

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

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

Dated: February 22, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–3709 Filed 2–22–05; 4:11 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 37
Friday, February 25, 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 HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1731

RIN 2550–AA31

Mortgage Fraud Reporting

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Proposed rule.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is issuing a proposed regulation that would set forth safety and soundness requirements with respect to mortgage fraud reporting in furtherance of the supervisory responsibilities of OFHEO under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

DATES: Written comments on the proposed regulation must be received by March 28, 2005. For additional information, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: You may submit your comments on the proposed regulation and collection of information, identified by regulatory information number (RIN) 2550–AA31, by any of the following methods:

- *U.S. Mail, United Parcel Post, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2550–AA31, Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.
- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2550–AA31, Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The package should be logged at the Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *E-mail: RegComments@OFHEO.gov.* Comments to Alfred M. Pollard, General Counsel, may be sent by e-mail at *RegComments@OFHEO.gov*. Please include RIN 2550–AA31 in the subject line of the message.

Instructions: OFHEO requests that comments to the proposed amendments include the reference RIN 2550–AA31. OFHEO further requests that comments submitted in hard copy also be accompanied by the electronic version in Microsoft® Word or in portable document format (PDF) on 3.5″ disk. Please see the section, **SUPPLEMENTARY INFORMATION**, below, for additional information on the posting and viewing of comments.

FOR FURTHER INFORMATION CONTACT: Isabella W. Sammons, Associate General Counsel, telephone (202) 414–3790 (not a toll-free number); Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

Title XIII of the Housing and Community Development Act of 1992, Pub. L. 102–550, titled the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*) established OFHEO as an independent office within the Department of Housing and Urban Development to ensure that the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises) are adequately capitalized and operate safely and soundly in compliance with applicable laws, rules, and regulations. To carry out its statutory responsibilities, OFHEO may, among other things, require an Enterprise to submit reports.

As a member of the President's Corporate Fraud Task Force that focuses on maximizing cooperation and joint regulatory and enforcement efforts, OFHEO is aware of the impact of mortgage fraud, not only with respect to the Enterprises, but with respect to the mortgage market as a whole. Losses resulting from mortgage fraud impact, among other things, profits, liquidity levels, and capitalization ratios.

For example, a recent investigation revealed a fraud scheme committed by insiders of First Beneficial Mortgage Corporation against Fannie Mae and the Government National Mortgage Association (Ginnie Mae). First Beneficial Mortgage Corporation sold fraudulent loans to Fannie Mae. When Fannie Mae discovered that the mortgages were fraudulent, it forced First Beneficial to repurchase the loans. To raise the money to repurchase the loans, First Beneficial sold fraudulent mortgages to Ginnie Mae.[1] Fannie Mae did not inform Ginnie Mae that First Beneficial had made fraudulent loans. Fannie Mae agreed to a consent order to forfeit approximately $7.5 million to the Federal government, which represents the amount, plus interest, that the First Beneficial principals obtained through fraud.[2] This and other frauds in the mortgage industry reflect the need to deter and, if necessary, detect and remedy fraud.[3]

Analysis of Proposed Regulation

In light of the impact of mortgage fraud on the safe and sound operations of the Enterprises, the proposed regulation sets forth safety and soundness requirements with respect to mortgage fraud reporting. OFHEO solicits comment on the purpose of the proposed regulation.

The term ''mortgage fraud'' would be defined under § 1731.2 to mean a material misstatement, misrepresentation, or omission relied upon by an Enterprise to fund or purchase—or not to fund or purchase—a mortgage, mortgage backed security, or similar financial instrument. The term would include, but not be limited to, identification and employment documents, mortgagee or mortgagor identity, and appraisals that are fraudulent. The term ''possible mortgage fraud'' would be defined to mean that an Enterprise has cause to believe that that mortgage fraud is occurring or has

[1] *See, e.g.*, Statement of Chris Swecker, Assistant Director, Criminal Investigative Division, FBI, Before the House Financial Services Subcommittee on Housing and Community Opportunity (Oct. 7, 2004).

[2] *See* Fannie Mae Statement by Chuck Greener, Senior Vice President, Communications (Dec. 8, 2004), *http://www.FannieMae.com/media/issues*.

[3] Other recent examples of mortgage fraud include lawsuits against Olympia Mortgage Corporation and United Homes L.L.C. involving alleged fraudulent appraisals. ''Losing Your Dream Home,'' *The New York Times,* Oct. 17, 2004. The F.B.I. has reported that the number of complaints involving mortgage fraud increased from 5,623 in fiscal year 2001 to 12,134 in fiscal year 2003. *Id.*

occurred.[4] OFHEO would issue guidance and instructions with respect to format and content of mortgage fraud reports, including an elaboration of defined terms. OFHEO solicits comment on the definition of the terms ''mortgage fraud'' and ''possible mortgage fraud'' and on the other definitions set forth in the proposed regulation.

Under § 1731.3, an Enterprise would not be permitted to require the repurchase of or decline to purchase a mortgage, mortgage backed security, or similar instrument if it has notice of fraud or possible mortgage fraud until it promptly reports such fraud to the Director. OFHEO solicits comments on this proposed section.

Section 1731.4 would set forth the procedures for reporting fraud and possible mortgage fraud to OFHEO. As noted above, OFHEO would issue guidance and instructions with respect to format and content of mortgage fraud reports. Section 1731.4 also would provide that if the situation requires the immediate attention of OFHEO, an Enterprise would report immediately by telephone or electronic communication. The section further would provide for retention of records by the Enterprise and would prohibit the disclosure of reporting mortgage fraud or possible mortgage fraud to the parties connected with such fraud without the prior written approval of the Director.[5] This requirement would not prevent an Enterprise from disclosing or reporting such fraud pursuant to legal requirement, including to appropriate law enforcement authorities. Acceptance by OFHEO of other reporting formats promulgated by agencies with jurisdiction over mortgage fraud reporting would also be provided by § 1731.4. Finally, the section would state that an Enterprise does not waive any privilege it may claim under law by reporting mortgage fraud or possible mortgage fraud. OFHEO solicits comments on the proposed procedures for reporting mortgage fraud and possible mortgage fraud and the proposed requirements and provisions relating to use of other forms, nondisclosure, and no waiver of privilege.

Section 1731.5 of the proposed regulation would provide that an Enterprise must establish adequate and efficient internal controls and procedures and an operational training program to assure an effective system to detect and report mortgage fraud. OFHEO solicits comments on this proposed requirement.

Section 1731.6 expressly would state that failure to comply with the requirements of the regulation may subject the Enterprise or the board members, officers, or employees of the Enterprise to supervisory action by OFHEO under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, including but not limited to, cease-and-desist proceedings and civil money penalties. OFHEO solicits comments on this proposed section.

Request for Comments on the Proposed Regulation

OFHEO invites comments on all aspects of the proposed regulation and will take all comments into consideration before issuing the final regulation. The comment period has been set at 30 days because of the impact of mortgage fraud on safety and soundness, the size of the Enterprises, the volume of mortgage business, and the public interest in assuring deterrence and detection of such fraud.

All comments received will be posted without change to *http://www.ofheo.gov*, including any personal information provided. Copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 414–6924.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

The proposed regulation is not classified as an economically significant rule under Executive Order 12866 because it would not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required. Nevertheless, the proposed regulation was submitted to the Office of Management and Budget for review under other provisions of Executive Order 12866 as a significant regulatory action.

Executive Order 13132, Federalism

Executive Order 13132 requires that Executive departments and agencies identify regulatory actions that have significant federalism implications. A regulation has federalism implications if it has substantial direct effects on the states, on the relationship or distribution of power between the Federal Government and the states, or on the distribution of power and responsibilities among various levels of government. The Enterprises are federally chartered corporations supervised by OFHEO. The proposed regulation would require reporting of mortgage fraud to OFHEO. It would not affect in any manner the powers and authorities of any state with respect to the Enterprises or alter the distribution of power and responsibilities between Federal and state levels of government. It would in no way limit the authority of any state to take actions for violations of its laws. Therefore, OFHEO has determined that the proposed regulation has no federalism implications that warrant the preparation of a Federalism Assessment in accordance with Executive Order 13132.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of the proposed regulation under the Regulatory Flexibility Act. The General Counsel of OFHEO certifies that the proposed regulation would not be likely to have a significant economic impact on a substantial number of small business entities because it would be applicable only to the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1731

Administrative practice and procedure, Government sponsored enterprises.

[4] OFHEO recognizes that documentary evidence of fraud or possible mortgage fraud may also be the basis for financial institution reports to their regulators and Federal agencies that investigate fraud.

[5] OFHEO notes that staff of OFHEO would be prohibited from disclosing any report without the prior written approval of the Director pursuant to its Releasing Information regulation, 12 CFR part 1703.

For the reasons stated in the preamble, part 1731 is added to chapter XVII, title 12 of the Code of Federal Regulations to read as follows:

PART 1731—MORTGAGE FRAUD REPORTING

Sec.
1731.1 Purpose and scope.
1731.2 Definitions.
1731.3 Unsafe and unsound conduct.
1731.4 Procedures for reporting.
1731.5 Internal controls, procedures, and training.
1731.6 Supervisory action.

Authority: 12 U.S.C. 4513(a) and 4513(b)(1), (2), and (7).

PART 1731—MORTGAGE FRAUD REPORTING

§ 1731.1 Purpose and scope.

The purpose of this section is to set forth safety and soundness requirements with respect to the reporting of mortgage fraud in furtherance of the supervisory responsibilities of OFHEO under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*).

§ 1731.2 Definitions.

For purposes of this part—

(a) *Director* means the Director of OFHEO, or his or her designee.

(b) *Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(c) *Mortgage fraud* means a material misstatement, misrepresentation, or omission relied upon by an Enterprise to fund or purchase—or not to fund or purchase—a mortgage, mortgage backed security, or similar financial instrument. Such mortgage fraud includes, but is not limited to, identification and employment documents, mortgagee or mortgagor identity, and appraisals that are fraudulent.

(d) *OFHEO* means the Office of Federal Housing Enterprise Oversight.

(e) *Possible mortgage fraud* means that an Enterprise has cause to believe that mortgage fraud may be occurring or has occurred.

§ 1731.3 Unsafe and unsound conduct.

An Enterprise may not require the repurchase of or may not decline to purchase a mortgage, mortgage backed security, or similar financial instrument because of possible mortgage fraud without promptly reporting to the Director under § 1731.4.

§ 1731.4 Procedures for reporting.

(a) *Procedures for reporting.* (1) *General.* An Enterprise shall report mortgage fraud or possible mortgage fraud—

(i) In writing to the Director in such format as prescribed by OFHEO. The report shall describe the mortgage fraud or possible mortgage fraud in detail sufficient under OFHEO guidance. The Enterprise, at the sole discretion of the Director, may be required to provide additional or continuing information in connection with such mortgage fraud; and

(ii) Within four business days after identifying mortgage fraud or possible mortgage fraud.

(2) *Immediate report.* In addition to reporting in writing under paragraph (a)(1) of this section, in any situation requiring immediate attention by OFHEO, an Enterprise shall report the mortgage fraud or possible mortgage fraud to the Director by telephone or electronic communication.

(b) *Retention of records.* An Enterprise shall maintain a copy of any report submitted to the Director and the original or business record equivalent of any supporting documentation for a period of five years from the date of submission.

(c) *Nondisclosure.* An Enterprise may not disclose, without the prior written approval of the Director, to the party or parties connected with the mortgage fraud or possible mortgage fraud that it has reported such fraud under this part. This restriction does not limit an Enterprise from disclosing or reporting such fraud pursuant to legal requirement, including to appropriate law enforcement authorities.

(d) *Acceptance of other forms.* The Director may, upon written notice to each Enterprise, accept reports of mortgage fraud or possible mortgage fraud in formats promulgated by any Federal agency that has jurisdiction over the reporting of mortgage fraud or possible mortgage fraud by the Enterprises.

(e) *No waiver of privilege.* An Enterprise does not waive any privilege it may claim under law by reporting mortgage fraud or possible mortgage fraud under this part.

§ 1731.5 Internal controls, procedures, and training.

An Enterprise shall establish adequate and efficient internal controls and procedures and an operational training program to assure an effective system to detect and report mortgage fraud or possible mortgage fraud under this part.

§ 1731.6 Supervisory action.

Failure by an Enterprise to comply with §§ 1731.3, 1731.4, and 1731.5 may subject the Enterprise or the board members, officers, or employees thereof to supervisory action by OFHEO under the Federal Housing Enterprises Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*), including but not limited to, cease-and-desist proceedings and civil money penalties.

Dated: February 18, 2005.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 05–3590 Filed 2–24–05; 8:45 am]

BILLING CODE 4220–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20235; Airspace Docket No. 05–ASO–1]

Proposed Amendment of Class E Airspace; Parsons, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E5 airspace at Parsons, TN. The Beech River Regional Airport is being constructed at Parsons, TN. As a result, airspace must be established to contain the Area Navigation (RNAV) Global Positioning System (GPS) Runway (RWY) 19 Standard Instrument Approach Procedure (SIAP) to Beech River Regional Airport. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP.

DATES: Comments must be received on or before March 28, 2005.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2005–20235/ Airspace Docket No. 05–ASO–1, at the beginning of your comments. You may also submit comments on the Internet at *http://www.dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours

at the office of the Regional Air Traffic Division, Federal Aviation Administration, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Mark D. Ward, Manager, Airspace and Operations Branch, Eastern En Route and Oceanic Service Area, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–20235/Airspace Docket No. 05–ASO–1.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

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

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E5 airspace at Parsons, TN. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, is amended as follows: Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO TN E5 Parsons, TN [REVISED]

Parsons, Scott Field Airport, TN
(Lat. 36°39′16″ N, long. 88°07′41″ W)
Beech River Regional Airport, TN
(Lat 35°39′20″ N, long. 88°11′45″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Scott Field Airport, and that airspace within a 6.5-mile radius of Beech River Regional Airport; excluding that airspace within the Lexington, TN, Class E airspace area.

* * * * *

Issued in College Park, Georgia, on February 1, 2005.

Mark D. Ward,

Acting Area Director, Eastern EnRoute & Oceanic Operations, ATO–E.

[FR Doc. 05–3615 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–13–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4062 and 4063

RIN 1212–AB03

Liability Pursuant to Section 4062(e) of ERISA

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The PBGC proposes to amend its regulations to provide a rule for computing liability under section 4063(b) of the Employee Retirement Income Security Act of 1974 (''ERISA'') when there is a substantial cessation of operations by an employer as described by section 4062(e) of ERISA.

DATES: Comments must be received on or before April 26, 2005.

ADDRESSES: Comments may be mailed or delivered to the Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026. Comments also may be submitted electronically through the PBGC's Web

site at *http://www.pbgc.gov/regs*, or by fax to (202) 326–4112. The PBGC will make all comments available on its Web site, *http://www.pbgc.gov*. Copies of the comments may also be obtained by writing to the PBGC's Communications and Public Affairs Department at Suite 240 at the above address or by visiting that office or calling (202) 326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: James J. Armbruster, Acting Director, or James L. Beller, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, (202) 326–4024. (TTY and TTD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to (202) 326–4024.)

SUPPLEMENTARY INFORMATION: This proposed rule is part of the Pension Benefit Guaranty Corporation's (PBGC's) ongoing effort to streamline regulation and improve administration of the pension insurance program.

Section 4062(e) of ERISA provides special rules that apply when ''an employer ceases operations at a facility in any location and, as a result of such cessation of operations, more than 20 percent of the total number of his employees who are participants under a plan established and maintained by him are separated from employment'' (a ''section 4062(e) event''). In the case of a section 4062(e) event, the employer ''shall be treated with respect to that plan as if he were a substantial employer under a plan under which more than one employer makes contributions and the provisions of §§ 4063, 4064, and 4065 shall apply.''

Section 4063(b) imposes liability upon a substantial employer that withdraws from a multiple employer plan. This section 4063(b) liability represents the withdrawing employer's share of the total liability to the PBGC that would arise if the plan were to terminate without enough assets to pay all benefit liabilities. (In general, the total liability to the PBGC upon termination of a plan is the amount of the plan's unfunded benefit liabilities, together with interest). The section 4063(b) liability payment made by the employer is held in escrow by the PBGC. If the plan terminates within five years, the section 4063(b) liability payment is treated as part of the plan's assets. If the plan does not terminate within five years, the liability payment is returned to the employer. The statute also provides that, in lieu of the liability payment, the contributing sponsor may be required to furnish a bond to the PBGC in an amount not exceeding 150% of the section 4063(b) liability.

The statute also specifies a method of computing the amount of the section 4063(b) liability. Section 4063(b) provides that ''[t]he amount of liability shall be computed on the basis of an amount determined by the [PBGC] to be the amount described in section 4062 for the entire plan, as if the plan had been terminated by the [PBGC] on the date of the withdrawal, multiplied by a fraction (1) the numerator of which is the total amount required to be contributed to the plan by such contributing sponsor for the last 5 years ending prior to the withdrawal, and (2) the denominator of which is the total amount required to be contributed to the plan by all contributing sponsors for such last 5 years.''

In sum, section 4063(b) imposes liability and provides a method for determining the amount of that liability—*i.e.*, for determining the withdrawing employer's portion of the total liability to the PBGC that would arise if the plan terminated.

Section 4062(e) provides that, when a section 4062(e) event occurs, the employer is treated as a substantial employer under a multiple employer plan. Thus, section 4062(e) creates liability that is analogous to the section 4063(b) liability arising when a substantial employer withdraws from a multiple employer plan. Section 4062(e) does not, however, provide any details as to how this analogy is to be implemented—*i.e.*, how the total liability is to be apportioned with respect to the cessation of operations.

As explained above, when a substantial employer withdraws from a multiple employer plan, section 4063(b) allocates liability to that withdrawing employer based upon the ratio of the employer's required contributions to all required contributions for the five years preceding the withdrawal. The PBGC has found that application of this statutory allocation formula is relatively straightforward when determining withdrawal liability under a multiple employer plan because it is easy to verify what contributions were required to be made by the withdrawing employer and what contributions were required to be made by all of the contributing employers.

In contrast, when there is a section 4062(e) event, there is by definition only one employer that contributes to the plan. When there is only one employer, the numerator and denominator used to determine the liability under section 4063(b) would always be equal. Thus, it is impracticable to use the allocation method described in section 4063(b) to determine the liability arising upon a section 4062(e) event. Instead, the PBGC has been using the method proposed in this rule to determine that liability on a case-by-case basis.

Section 4063(b) of ERISA provides that ''in addition to and in lieu of'' the manner of computing the liability prescribed in that provision, the PBGC ''may also determine the liability on any other equitable basis prescribed by the [PBGC] in regulations.'' Pursuant to that authority, the PBGC is proposing in this rule a simple, practicable, and equitable method for determining the liability for a section 4062(e) event. Specifically, the PBGC proposes to compute that liability by multiplying the total liability under section 4062 by a fraction (1) the numerator of which is the number of the employer's employees who are participants under the plan and are separated from employment as a result of the cessation of operations, and (2) the denominator of which is the total number of the employer's employees who were participants under the plan before taking into account the cessation of operations. The PBGC would determine the total liability under section 4062 as if the plan had been terminated by the PBGC immediately after the cessation of operations rather than ''on the date of the withdrawal'' (as specified in section 4063(b)), which does not literally apply in the case of a section 4062(e) event.

By providing a simple and transparent method for determining the amount of this liability, this rule will allow plan sponsors who experience a section 4062(e) event (or believe they may experience a section 4062(e) event) to readily determine their liability (or expected liability). Although the proposed rule would specify a method for determining the amount of the liability imposed by statute, it would not affect the imposition of liability. Moreover, because the PBGC has generally followed this method on a case-by-case basis, the proposed rule would have little or no effect on the amount of liability.

Nothing in this proposed rule would affect the computation of liability incurred when there is a withdrawal of a substantial employer from a multiple employer plan under ERISA section 4063.

Compliance With Rulemaking Guidelines

The PBGC has determined, in consultation with the Office of Management and Budget, that this proposed rule is a ''significant

regulatory action'' under Executive Order 12866. The Office of Management and Budget, therefore, has reviewed this notice under Executive Order 12866.

The PBGC certifies under section 605(b) of the Regulatory Flexibility Act that this proposed rule would not have a significant economic impact on a substantial number of small entities. A section 4062(e) event is generally not relevant for small employers. Most small employers sponsoring defined benefit plans tend not to have multiple operations. For these small employers, the shutdown of operations would be accompanied by plan termination. Section 4062(e) protection is only relevant when the plan is ongoing after the cessation of operations. Thus, the change would not have a significant economic impact on a substantial number of small entities. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

List of Subjects

29 CFR Part 4062

Employee Benefit Plans, Pension insurance, Reporting and recordkeeping requirements.

29 CFR Part 4063

Employee Benefit Plans, Pension insurance, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC proposes to amend parts 4062 and 4063 of 29 CFR chapter LX as follows:

PART 4062—LIABILITY FOR TERMINATION OF SINGLE-EMPLOYER PLANS

1. The authority citation for part 4062 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1362–1364, 1367, 1368.

2. Amend § 4062.1 by adding the following sentence after the first sentence to read as follows:

§ 4062.1 Purpose and scope.

* * * * *

This part also sets forth rules for determining the amount of liability incurred under section 4063 of ERISA pursuant to the occurrence of a cessation of operations as described by section 4062(e) of ERISA.

* * * * *

§§ 4062.8, 4062.9, and 4062.10 [Redesignated]

3. Redesignate §§ 4062.8, 4062.9, and 4062.10 as §§ 4062.9, 4062.10, and 4062.11, respectively.

4. Add new § 4062.8 to read as follows:

§ 4062.8 Liability pursuant to section 4062(e).

If, pursuant to section 4062(e) of ERISA, an employer ceases operations at a facility in any location and, as a result of such cessation of operations, more than 20% of the total number of the employer's employees who are participants under a plan established and maintained by the employer are separated from employment, the PBGC will determine the amount of liability under section 4063(b) of ERISA to be the amount described in section 4062 of ERISA for the entire plan, as if the plan had been terminated by the PBGC immediately after the date of the cessation of operations, multiplied by a fraction—

(a) The numerator of which is the number of the employer's employees who are participants under the plan and are separated from employment as a result of the cessation of operations; and

(b) The denominator of which is the total number of the employer's employees who were participants under the plan before taking the cessation of operations into account.

§ 4062.3 [Amended]

5. In paragraph (b) of § 4062.3, remove the references to ''§ 4062.8(c)'' and ''4062.8(b)'' and add the references to ''§ 4062.9(c)'' and ''§ 4062.9(b)'' in their places, respectively.

§ 4062.7 [Amended]

6. In paragraph (a) of § 4062.7, remove the reference to ''§ 4062.8'' and add in its place the reference ''§ 4062.9''.

PART 4063—LIABILITY OF SUBSTANTIAL EMPLOYER FOR WITHDRAWAL FROM SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS AND OF EMPLOYER EXPERIENCING A CESSATION OF OPERATION

7. The authority citation for part 4063 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3).

8. Revise paragraph (a) of § 4063.1 to read as follows:

§ 4063.1 Cross-references.

(a) Part 4062 of this chapter sets forth rules for determination and payment of the liability incurred, under section 4062(b) of ERISA, upon termination of any single-employer plan and, to the extent appropriate, determination of the liability incurred with respect to multiple employer plans under sections 4063 and 4064 of ERISA. Part 4062 also sets forth rules for determining the amount of liability incurred under section 4063 of ERISA pursuant to the occurrence of a cessation of operations as described by section 4062(e) of ERISA.

* * * * *

Issued in Washington, DC, this 22nd day of February, 2005.

Bradley D. Belt,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 05–3702 Filed 2–24–05; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

[Administrative Instruction 81]

Privacy Act; Implementation

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary of Defense is proposing to exempt those records contained in DCIFA 01, entitled ''CIFA Operational and Analytical Records'' when an exemption has been previously claimed for the records in another Privacy Act system of records. The exemption is intended to preserve the exempt status of the record when the purposes underlying the exemption for the original records are still valid and necessary to protect the contents of the records.

DATES: Comments must be received on or before April 26, 2005, to be considered by this agency.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Irvin at (703) 601–4722, extension 110.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. This rules do not (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 obligations 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 this Executive order.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

It has been determined that Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been determined that Privacy Act rules for the Department of Defense do not have federalism implications. The rules do 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.

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

List of Subjects in 32 CFR Part 311

Privacy.

Accordingly, 32 CFR part 311 is proposed to be amended to read as follows:

PART 311—[Amended]

1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1986 (5 U.S.C. 522a).

2. Section 311.8 is amended by adding paragraph (c)(15) as follows:

§ 311.8 Procedures for exemptions.

* * * * *

(c) * * *

(15) *System identifier and name:* DCIFA 01, CIFA Operational and Analytical Records.

(1) *Exemptions:* This system of records is a compilation of information from other Department of Defense and U.S. Government systems of records. To the extent that copies of exempt records from those "other" systems of records are entered into this system, OSD hereby claims the same exemptions for the records from those "other" systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions are claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 522a.

[FR Doc. 05–3666 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Regulation 195–2]

Privacy Act; Implementation

AGENCY: Department of the Army, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of the Army is proposing to add an exemption rule for the system of records A0195–2c USACIDC, entitled 'DoD Criminal Investigation Task Force Files'. The exemption ((j)(2)) will increase the value of the system of records for criminal law enforcement purposes.

DATES: This proposed action will be effective without further notice on April 26, 2005, unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, ATTN: AHRC–PDD–FPZ, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 428–6497.

SUPPLEMENTARY INFORMATION: Executive Order 12866, "Regulatory Planning and Review".

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (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 obligations 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 this Executive order.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been certified that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

It has been certified that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been certified that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do 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.

List of Subjects in 32 CFR Part 505

Privacy.

Accordingly, 32 CFR part 505 is proposed to be amended to read as follows:

PART 505—ARMY PRIVACY ACT PROGRAM

1. The authority citation for 32 CFR part 505 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Paragraph (e)(20) of § 505.5 is amended by adding the following text to read as follows:

§ 505.5 Exemptions.

* * * * *

(e) Exempt Army records. * * *

(20) *System identifier and name:* A0195–2c USACIDC, DoD Criminal Investigation Task Force Files.

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency, which performs as its principle function any activity pertaining to the enforcement of criminal laws. Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(j)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of accounting of disclosure would inform a subject that he or she is under investigation. This information would provide considerable advantage to the subject in providing him or her with knowledge concerning the nature of the investigation and the coordinated investigative efforts and techniques employed by the cooperating agencies. This would greatly impede criminal law enforcement.

(B) From subsection (c)(4) and (d), because notification would alert a subject to the fact that an open investigation on that individual is taking place, and might weaken the on-going investigation, reveal investigative techniques, and place confidential informants in jeopardy.

(C) From subsection (e)(1) because the nature of the criminal and/or civil investigative function creates unique problems in prescribing a specific parameter in a particular case with respect to what information is relevant or necessary. Also, information may be received which may relate to a case under the investigative jurisdiction of another agency. The maintenance of this information may be necessary to provide leads for appropriate law enforcement purposes and to establish patterns of activity that may relate to the jurisdiction of other cooperating agencies.

(D) From subsection (e)(2) because collecting information to the fullest extent possible directly from the subject individual may or may not be practical in a criminal and/or civil investigation.

(E) From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal and/or civil investigation. The effect would be somewhat adverse to established investigative methods and techniques.

(F) From subsections (e)(4)(G), (H), and (I) because this system of records is exempt from the access provisions of subsection (d).

(G) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

(H) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and existence of confidential investigations.

(I) From subsection (f) because the agency's rules are inapplicable to those portions of the system that are exempt and would place the burden on the agency of either confirming or denying the existence of a record pertaining to a requesting individual might in itself provide an answer to that individual relating to an on-going investigation. The conduct of a successful investigation leading to the indictment of a criminal offender precludes the applicability of established agency rules relating to verification of record, disclosure of the record to the individual and record amendment procedures for this record system.

(J) From subsection (g) because this system of records should be exempt to the extent that the civil remedies relate to provisions of 5 U.S.C. 552a from which this rule exempts the system.

* * * * *

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–3663 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

[Secretary of the Navy Instruction 5211.5]

Privacy Act; Implementation

AGENCY: Department of the Navy.

ACTION: Proposed rule.

SUMMARY: The Department of the Navy is proposing to exempt the records contained in the Privacy Act system of records notice N12410–2, entitled 'NCIS Training Academy Records. The exemption (5 U.S.C. 552a (k)(6)) is intended to preserve the objectively and/or fairness of the NCIS test or examination process.

DATES: Comments must be received on or before April 26, 2005, to be considered by this agency.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, ''Regulatory Planning and Review''

The Director of Administration and Management, Office of the Secretary of Defense, hereby determines that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of $100 million or more or adversely affect on 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 this Executive order.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do 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.

List of Subjects in 32 CFR Part 701

Privacy.

Accordingly, 32 CFR part 701 is proposed to be amended to read as follows:

PART 701—[AMENDED]

1. The authority citation for 32 CFR part 701, Subpart G continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 701.118 is amended by revising paragraph (h) to read as follows:

§ 701.118 Exemptions for specific Navy record systems.

* * * * *

(h) *System identifier and name:* N12410–2, NCIS Training Academy Records.

(1) *Exemption:* (i) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the federal or military service, if the disclosure would compromise the objectivity or fairness of the test or examination process may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process. Therefore, information within this system of records may be exempt pursuant to 5 U.S.C. 552a, subsection (d).

(ii) Portions of this system of records are exempt from the following subsection of the Privacy Act: (d).

(2) *Authority:* 5 U.S.C. 552a(k)(6).

(3) *Reason:* From subsection (d) because this system relates to testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the NCIS test and evaluation system.

* * * * *

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–3670 Filed 2–25–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Corpus Christi–04–006]

RIN 1625–AA87

Security Zones; Port of Port Lavaca-Point Comfort, Point Comfort, TX and Port of Corpus Christi Inner Harbor, Corpus Christi, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to remove an established security zone in the port of Port Lavaca-Point Comfort. Under the Maritime Transportation Security Act of 2002, owners or operators of local facilities are required to take specific action to improve facility security. As such, a security zone around local facilities will no longer be necessary under normal conditions. This proposed rule would remove an established security zone.

DATES: Comments and related material must reach the Coast Guard on or before March 28, 2005.

ADDRESSES: You may mail comments and related material to Marine Safety Office Corpus Christi, 555 N. Carancahua, Suite 500, Corpus Christi, TX 78478. Marine Safety Office Corpus Christi 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 Marine Safety Office Corpus Christi, 555 N. Carancahua, Suite 500, Corpus Christi, TX 78478, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade (LTJG) Jay Michalczak, Marine Safety Office Corpus Christi, at (361) 888–3162, ext. 313.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting

comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [COTP Corpus Christi–04–006], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. However, you may submit a request for a meeting by writing to Marine Safety Office Corpus Christi, 555 N. Carancahua, Suite 500, Corpus Christi, TX 78478 explaining why one would be beneficial. If we determine that a public meeting 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

On October 17, 2002, the Coast Guard published a final rule entitled ''Security Zones; Port of Port Lavaca-Point Comfort, Point Comfort, TX and Port of Corpus Christi Inner Harbor, Corpus Christi, TX'', in the **Federal Register** (67 FR 64046). That final rule established two security zones that appear in 33 CFR 165.809. The first security zone was entitled ''Port of Port Lavaca-Point Comfort'' and included all waters between the Dredge Island Bridge at 28°39′30″ N, 96°34′20″ W and a line drawn between points 28°38′10″ N, 96°33′15″ W and 28°38′10″ N, 96°34′45″ W, including the Point Comfort turning basin and adjacent Alcoa Channel. The second security zone was entitled ''Port of Corpus Christi Inner Harbor and included all waters of the Corpus Christi Inner Harbor from the Inner Harbor Bridge (U.S. Hwy 181) to, and including the Viola Turning Basin.

Under the authority of the Maritime Transportation Security Act of 2002, the Coast Guard published a final rule on October 22, 2003, entitled ''Facility Security'' in the **Federal Register** (68 FR 60515) that established 33 CFR part 105. That final rule became effective November 21, 2003, and provides security measures for certain facilities, including those facilities that exist on waterways in the Port of Port Lavaca-Point Comfort area. Section 105.200 of 33 CFR requires owners or operators of these facilities to designate security officers for facilities, develop security plans based on security assessments and surveys, implements security measures specific to the facility's operations, and comply with requirements based on an increase in Maritime Security Levels. Under 33 CFR 105.115, the owners or operators of these facilities must have submitted to the Captain of the Port, by December 31, 2003, and for certain facilities impacted by 33 CFR 105.115(c), by December 16, 2004, a Facility Security Plan as described in subpart D of 33 CFR part 105, or if intending to operate under an approved Alternative Security Program as described in 33 CFR 101.130, a letter signed by the facility owner or operator stating which approved Alternative Security Program the owner or operator intends to use. Section 105.115 of 33 CFR part 105 also requires facility owners or operators to be in compliance with 33 CFR 105 on or before July 1, 2004, or for those facilities subject to 33 CFR 105.115(c), on or before March 16, 2005.

As a result of these enhanced security measures, the security zone for the Port of Port Lavaca-Point Comfort will no longer be necessary under normal conditions. This determination was also based upon a risk assessment conducted for the Port of Port Lavaca-Point Comfort by the Coast Guard.

Unlike the Port of Port Lavaca-Point Comfort, a security zone continues to be needed for the Port of Corpus Christi Inner Harbor. This determination was based upon the high volume of vessel traffic in the Port of Corpus Christi as well as a risk assessment conducted by the Coast Guard.

Discussion of Proposed Rule

This proposed rule would amend 33 CFR 165.809 to remove the Port of Port Lavaca-Point Comfort security zone listed in paragraph (a)(1) of that section. No other substantive amendments to 33 CFR 168.809 would occur.

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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary as this proposed rule removes a portion of a regulation that is no longer necessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have 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.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the proposed rule would affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Junior Grade Jay Michalczak, Waterway Management Section, Marine Safety Office Corpus Christi, at (361) 888–3162 Ext 313. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A proposed rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a

State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and will 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.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph 34(g), of the Instruction, from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in NEPA.

Under figure 2–1, paragraph (34)(g), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

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. In § 165.809, revise the section heading and paragraph (a) to read as follows:

§ 165.809 Security Zone; Port of Corpus Christi Inner Harbor, Corpus Christi, TX.

(a) *Location.* The following area is designated as a security zone: all waters of the Corpus Christi Inner Harbor from the Inner Harbor Bridge (U.S. Hwy 181) to, and including the Viola Turning Basin.

* * * * *

Dated: February 11, 2005.

K.C. Kiefer,

Commander, U.S. Coast Guard, Captain of the Port Corpus Christi, Acting.

[FR Doc. 05–3605 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[R01–OAR–2004–CT–0004; A–1–FRL–7877–7]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Connecticut; Plan for Controlling Emissions From Existing Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the sections 111(d)/129 State Plan submitted by the Connecticut Department of Environmental Protection (DEP) on September 16, 2004. This State Plan is for carrying out and enforcing provisions that are at least as protective as the Emissions Guidelines (EG) applicable to certain existing Municipal Waste Combustors (MWCs) in accordance with sections 111 and 129 of the Clean Air Act. The Connecticut DEP submitted the Plan to satisfy certain Federal Clean Air Act requirements.

DATES: EPA must receive written comments on this proposed rule March 28, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R01–OAR–2004–CT–0004 by one of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments.

2. Agency Web site: *http://docket.epa.gov/rmepub/* Regional Material in EDocket (RME), EPA's

electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: *kenyon.michael@epa.gov.*

4. Fax: (617) 918–0521.

5. Mail: ''RME ID Number R01–OAR–2004–CT–0004'', Michael Kenyon, Chief, Air Programs Branch, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114–2023.

6. Hand Delivery or Courier: Deliver your comments to: Michael Kenyon, Chief, Air Programs Branch, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

Copies of documents relating to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency, Air Permits, Toxics & Indoor Programs Unit, Office of Ecosystem Protection, Suite 1100 (CAP), One Congress Street, Boston, Massachusetts 02114–2023.

Connecticut Department of Environmental Protection, Bureau of Air Management, 79 Elm Street, Hartford, Connecticut 03301–0095, (860) 424–3027.

FOR FURTHER INFORMATION CONTACT: John Courcier, Office of Ecosystem Protection (CAP), EPA-New England, Region 1, Boston, Massachusetts 02203, telephone number (617) 918–1659, fax number (617) 918–0659, e-mail *courcier.john@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Rules section of this **Federal Register**, EPA is approving the Connecticut State Plan submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: February 14, 2005.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 05–3682 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 022205B]

New England 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 New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Oversight Committee in March, 2005. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Monday, March 14, 2005, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508)339–2200.

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, Newburyport, MA 01950; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Groundfish Oversight Committee will discuss Framework Adjustment 41 (FW 41) to the Northeast Mutlispecies Fishery Management Plan and will continue work on the biennial adjustment. FW 41 will specify the requirements for participation in the Closed Area I Haddock Special Access Program by vessels that are not members of the Georges Bank Cod Hook Sector. The Committee will focus on designing measures to reduce the risk that participation by these vessels will result in a race to fish to harvest the allowable haddock Total Allowable Catch (TAC). They will also consider ways to manage the incidental catch TAC for Georges Bank cod that is harvested in this program and may address other details as well. The Committee's recommendations will be considered by the Council at the March 29–31, 2005, Council meeting. The Committee will also continue to review issues and develop options for the biennial framework adjustment that, if adopted, will be implemented May 1, 2006. At this meeting the committee will focus on several issues that do not require information on current fishing mortality and stock status. These will include, but are not limited to, modifications to the days-at-sea transfer program, a proposal for a different management approach in the northern Gulf of Maine, alternatives to the Amendment 13 default measures, and issues related to vessels that possess both a scallop trawl and limited access groundfish permit.

Although non-emergency issues not contained in this agenda may come before this group 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

This meeting is 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 5 days prior to the meeting dates.

Dated: February 22, 2005.

Peter H. Fricke,

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

[FR Doc. 05–3706 Filed 2–24–05; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 70, No. 37
Friday, February 25, 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

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), today accepted a petition filed by a group of Concord grape producers in Pennsylvania, New York, and Ohio for trade adjustment assistance. A public hearing to review the merits of the petition will be held in Room 5066–S, South Agricultural Building, Washington, DC, on March 3, 2005, at 11 a.m. e.t.

SUPPLEMENTARY INFORMATION: The petition maintains that increasing imports of grape juice contributed importantly to a decline in the average purchase price for Concord grapes offered by domestic juice processors in the most recent marketing year. The producers have submitted the price sheets of grape juice processors serving the region to support their petition. Having accepted this petition, the Administrator has 40 days to determine whether or not Concord grape producers in Pennsylvania, New York, and Ohio are eligible for trade adjustment assistance. If the determination is positive, they will be eligible to apply to the Farm Service Agency for technical assistance at no cost and adjustment assistance payments.

FOR FURTHER INFORMATION CONTACT: Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720–2916, e-mail: *trade.adjustment@fas.usda.gov.*

Dated: February 16, 2005.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 05–3755 Filed 2–24–05; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Plumas County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Plumas County Resource Advisory Committee (RAC) will hold meetings on February 25 and March 25, 2005 in Quincy, California. The purpose of the February 25 meeting is to review the Plumas County Fire Assessment and Strategy, discuss project monitoring and the long-term Payments to States legislation in addition to taking a short field trip. The purpose of the March 25 meeting is to review the pre-applications or concept papers for the last funding cycle (five) authorized by the Payments to States legislation. Outreach for the last funding cycle started in January 2005 for projects funded in 2006.

DATES AND ADDRESSES: The February 25 meeting will take place from 9:30 a.m.–3 p.m., in the Mineral Building at the Plumas-Sierra County Fairgrounds, 204 Fairgrounds Road, Quincy, California. The March 25 meeting will take place in the same location and will run from 9 a.m.–4 p.m.

FOR FURTHER INFORMATION CONTACT: Lee Anne Schramel Taylor, Forest Coordinator, USDA, Plumas National Forest, P.O. Box 1150, 159 Lawrence Street, Quincy, CA 95971; (530) 283–7850; or by e-mail *eataylor@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items for the February 25 meeting include; (1) Review RAC Committee placement needs; (2) Discuss potential delegates for national RAC meeting in Reno in March; (3) Update on long-term Payments to States legislation; (4) Review financial monitoring summary; (5) Discuss possibility of RAC monitoring project and application; (6) Updates on the Plumas County Fire Assessment & Strategy; (7) Fieldtrip to Plumas County Unified School District Greenhouse, and; (8) Future meeting schedule/logistics/agenda. Agenda items for the March 25 meeting include: (1) Review Cycle (funding) concept papers, and; (2) Future meeting schedule/logistics/agenda. The meetings are open to the public and individuals may address the Committee after being recognized by the Chair. Other RAC information including previous meeting agendas and minutes may be obtained at *http://www.fs.fed.us/payments.* Information on Plumas County RAC Cycle 5 Funding can be obtained at *http:www.fs.fed.us/r5/plumas/rac.*

Dated: February 17, 2005.

James M. Peña,

Deputy Forest Supervisor.

[FR Doc. 05–3632 Filed 2–24–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCIES: Rural Housing Service (RHS), Rural Utilities Service (RUS), and Rural Business-Cooperative Service (RBS), USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the above-named Agencies to request an extension for the currently approved information collection in support of the servicing of Community and Direct Business Programs Loans and Grants.

DATES: Comments on this notice must be received by April 26, 2005 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: For inquiries on the Information Collection Package, contact Tracy Givelekian, Regulations and Paperwork Management Branch, at (202) 692–0039. For program content, contact Beth Jones, Senior Loan Specialist, Community Programs Servicing and Special Authorities Branch, RHS, USDA, 1400 Independence Ave., SW., Mail Stop 0787, Washington, DC 20250–0787,

Telephone (202) 720–1498, E-mail *bjones@usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1951–E, Servicing of Community and Direct Business Programs Loans and Grants.

OMB Number: 0575–0066.

Expiration Date of Approval: April 30, 2005.

Type of Request: Extension of a currently approved information collection.

Abstract: The following Community and Direct Business Programs Loans and Grants are serviced by this currently approved docket (0575–0066). The Community Facilities loan and grant program is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public entities, nonprofit corporations, and Indian tribes through the Community Facilities program for the development of essential community facilities primarily serving rural residents.

The Economic Opportunity Act of 1964, Title 3 (Pub. L. 88–452), authorizes Economic Cooperative Loans to assist incorporated and unincorporated associations to provide to low-income rural families essential processing, purchasing, or marketing services, supplies, or facilities.

The Food Security Act of 1985, Section 1323 (Pub. L. 99–198), authorizes loan guarantees and grants to Nonprofit National Corporations to provide technical and financial assistance to for-profit or nonprofit local businesses in rural areas.

The Water and Waste Disposal program is authorized by Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) to provide basic human amenities, alleviate health hazards, and promote the orderly growth of the rural areas of the Nation by meeting the need for new and improved water and waste disposal systems.

The Business and Industry program is authorized by Section 310B (7 U.S.C. 1932) (Pub. L. 92–419, August 30, 1972) of the Consolidated Farm and Rural Development Act to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities, including pollution abatement control.

The Consolidated Farm and Rural Development Act, Section 310B(c) (7 U.S.C. 1932(c)), authorized Rural Business Enterprise Grants to public bodies and nonprofit corporations to facilitate the development of private businesses in rural areas.

The Consolidated Farm and Rural Development Act, Section 310B(f)(i) (7 U.S.C. 1932(c)), authorized Rural Cooperative Development Grants to nonprofit institutions for the purpose of enabling such institutions to establish and operate centers for rural cooperative development.

The purpose of the loan and grant servicing function for the above programs is to assist recipients to meet the objectives of the loans and grants, repay loans on schedule, comply with agreements, and protect the Government's financial interest. Routine servicing responsibilities include collection of payments, compliance reviews, security inspections, review of financial reports, determining applicant/borrower eligibility and project feasibility for various servicing actions, and supervision activities.

Supervision by the Agencies includes, but is not limited to: review of budgets, management reports, audits and financial statements; performing security inspections and providing, arranging, or recommending technical assistance; evaluating environmental impacts of proposed actions by the borrower; and performing civil rights compliance reviews.

Information will be collected by the field offices from applicants, borrowers, consultants, lenders, and attorneys.

Failure to collect information could result in improper servicing of these loans.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: State, local or tribal Governments, Not-for-profit institutions, businesses, and individuals.

Estimated Number of Respondents: 607.

Estimated Number of Responses Per Respondent: 2.

Estimated Number of Responses: 1,307.

Estimated Total Annual Burden on Respondents: 1,188.

Copies of the information collection can be obtained from Tracy Givelekian, Regulations and Paperwork Management Branch, at (202) 692–0039.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agencies, including whether the information will have practical utility; (b) the accuracy of the Agencies' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Tracy Givelekian, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, 7th Floor, Room 701, 300 7th Street, SW., Washington, DC 20024. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: February 17, 2005.

Russell T. Davis,

Administrator, Rural Housing Service.

Dated: February 17, 2005.

Peter J. Thomas,

Administrator, Rural Business-Cooperative Service.

Dated: February 18, 2005.

Curtis M. Anderson,

Acting Administrator, Rural Utilities Service.

[FR Doc. 05–3623 Filed 2–24–05; 8:45 am]

BILLING CODE 3410–XV–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement list.

SUMMARY: The Committee is proposing to add to the Procurement List a product and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete services previously furnished by such agencies.

DATES: Comments must be received on or before: March 27, 2005.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose

is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the product and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and services to the Government.
2. If approved, the action will result in authorizing small entities to furnish the product and services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Product

Product/NSN: Flat Highlighters, Pink, 7520–01–351–9146.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, North Carolina.
Contracting Activity: Office Supplies & Paper Products Acquisition Center, New York, NY.

Services

Service Type/Location: Administrative Service, Defense Procurement and Acquisition Policy Office, Crystal Square 4, Suite 200A, Arlington, Virginia.
NPA: Anchor Mental Health Association (Anchor Services Workshop), Washington, DC.
Contracting Activity: HQ Bolling—11th CONS/LGCO, Bolling AFB, DC.
Service Type/Location: Custodial Services, National Institute of Standards and Technology (NIST), Boulder Laboratories, Boulder, Colorado.
NPA: Bayaud Industries, Inc., Denver, Colorado.
Contracting Activity: National Oceanic and Atmospheric Administration, Boulder, Colorado.

Deletions

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 may result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. If approved, the action may 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 deletion from the Procurement List.

End of Certification

The following services are proposed for deletion from the Procurement List:

Services

Service Type/Location: Janitorial/Custodial, Internal Revenue Service, Pendleton Trade Center, Indianapolis, Indiana.
NPA: GW Commercial Services, Inc., Indianapolis, Indiana.
Contracting Activity: GSA, PBS.
Service Type/Location: Janitorial/Custodial, Iowa Air National Guard, 185th Air National Guard Base, Sioux City, Iowa.
NPA: Goodwill Community Rehabilitation Services, Inc., Sioux City, Iowa.
Contracting Activity: Department of the Air Force.
Service Type/Location: Janitorial/Custodial, Paul B. Dunbar Building, Cincinnati, Ohio.
NPA: Ohio Valley Goodwill Industries Rehabilitation Center, Inc., Cincinnati, Ohio.
Contracting Activity: General Services Administration.
Service Type/Location: Sorting of Aperture Cards, EDCARS System Management Office, Wright-Patterson AFB, Ohio.
NPA: Clark County Board of Mental Retardation & Developmental Disabilities, Springfield, Ohio.
Contracting Activity: Department of the Air Force.

Sheryl D. Kennerly,
Director, Information Management.

[FR Doc. 05–3680 Filed 2–24–05; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List a product and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List products previously furnished by such agencies.

EFFECTIVE DATE: March 27, 2005.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On December 10, and December 30, 2004, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (69 F.R. 71777 and 78388) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product and services and impact of the additions on the current or most recent contractors, the Committee has determined that the product and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

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 product and services to the Government.

2. The action will result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product and services are added to the Procurement List:

Product

Product/NSN: Personal Hygiene Kit, 8970–00–NIB–0034.

NPA: Blind Industries & Services of Maryland, Baltimore, Maryland.

Contracting Activity: Federal Emergency Management Agency, Fort Worth, Texas.

Contracting Activity: UNICOR, Washington, DC.

Services

Service Type/Location: Base Operating Services, Defense Supply Center Richmond, 8000 Jefferson Davis Highway, Richmond, Virginia.

NPA: Goodwill Services, Inc., Richmond, Virginia.

Contracting Activity: Defense Supply Center Richmond, Richmond, Virginia.

Service Type/Location: Base Supply Center, Building T39, Fort Knox, Kentucky.

NPA: Blind Industries & Services of Maryland, Baltimore, Maryland.

Contracting Activity: Directorate of Contracting, Fort Knox, Kentucky.

Service Type/Location: Mailroom Operation, ServiceSource, Alexandria, VA (Prime Contractor), at the following location for the Nonprofit Agencies identified: Internal Revenue Service Mailroom, 4050 Alpha Road, Dallas, Texas.

NPA: Dallas Lighthouse for the Blind, Inc., Dallas, Texas.

Contracting Activity: U.S. Treasury, IRS Headquarters, Oxon Hill, Maryland.

Deletions

On December 30, 2004, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (69 FR 78388) of proposed deletions to the Procurement List. After consideration of the relevant matter presented, the Committee has determined that the products 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 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 deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

Products

Product/NSN: Staff Section, 1025–01–044–2587.

NPA: Montgomery County Chapter, NYSARC, Inc., Amsterdam, New York.

Contracting Activity: U.S. Armament & Chemical Acquisition, Rock Island, Illinois.

Product/NSN: Table, Office, Steel, 7110–00–113–0448, 7110–00–113–0454, 7110–00–149–2044, 7110–00–149–2045, 7110–00–149–2046.

NPA: Yuma WORC Center, Inc., Yuma, Arizona.

Contracting Activity: GSA, National Furniture Center, Washington, DC.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 05–3681 Filed 2–24–05; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), DOC.

ACTION: To give all interested parties an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD JANUARY 22, 2005–FEBRUARY 16, 2005

Firm name	Address	Date petition accepted	Product
Northern Technologies Manufacturing Corporation.	1405 Pace Road, Pocahontas, AR 72455	1/24/2005	Automotive and telecommunication parts.
BRIJ Systems, LLC	700 East 10th Street, North Wichita, KS 67214.	1/25/2005	Wire and aircraft parts.
Firland Foundation d.b.a. Firland Workshop.	1700 NE 150th Street, Shoreline, WA 98155.	1/25/2005	Airplane parts.
La Puerta Originals, Inc.	1302 Cerrillos Road, Santa Fe, NM 87505.	1/25/2005	Wooden doors, frames, thresholds, and furniture.
Pyramid Plastics, Inc.	220 West 5th Street, Hope, AR 71802	1/25/2005	Plastic extrusions and coatings, and lacquers and waxes.
Wiederkehr Wine Cellars, Inc.	3324 Swiss Family Drive, Altus, AR 72821.	1/25/2005	Red, white and blush wines.
Don Pedro's Tortillas, Inc.	4120 North 23rd Street, McAllen, TX 78504.	1/26/2005	Bread including tortillas.
Ambec, Inc.	10330 S. Dolfield, Road, Owings Mills, MD 21117.	2/2/2005	Conveyor systems used primarily in the food industry.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD JANUARY 22, 2005–FEBRUARY 16, 2005—Continued

Firm name	Address	Date petition accepted	Product
Lloyd Industries, Inc.	3808 North Sullivan Road, Spokane, WA 99216.	2/4/2004	Aluminized steel bakeware.
North American Fabricators, LLC	208 North American Court, Houma, LA 70363.	2/4/2005	Marine vessels, i.e. boats.
Carville-National Leather Corporation	10 Knox Avenue, Johnstown, NY 12095	2/5/2005	Cowhide leather for shoes and garments.
Original Juan Specialty Foods, Inc.	111 Southwest Boulevard, Kansas City, KS 66103.	2/5/2005	Sauces and preparations and snack foods.
Pridecraft, Inc.	109 Sutton Street, North Andover, MA 01845.	2/5/2005	Wood furniture components.
Anzi-Tech Distributions, Inc.	500 McCormick Drive, Glen Burnie, MD 21061.	2/9/2005	Personal computer parts.
Karibe, Inc.	P. O. Box 681, Pittston, PA 18640	2/9/2005	Soft trim accessories for OEM automobiles, i.e. trim and arm rests.
Youghiogheny Opalescent Glass Company, Inc..	P. O. Box 800, Connellsville, PA 15425	2/9/2005	Sheet glass for the stained glass industry.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm. Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: February 18, 2005.

Brenda A. Johnson,

National Technical Assistance Specialist, Office of Public Affairs.

[FR Doc. 05–3644 Filed 2–24–05; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey From the People's Republic of China; Notice of Final Results of Antidumping Duty New Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 25, 2005.

SUMMARY: On November 29, 2004, the U.S. Department of Commerce (''the Department'') published the preliminary results of the new shipper reviews of the antidumping order on honey from the People's Republic of China (69 FR 69350). These reviews cover four exporters, Anhui Honghui Foodstuff (Group) Co., Ltd. (''Anhui Honghui''), Eurasia Bee's Products Co., Ltd. (''Eurasia''), Inner Mongolia Youth Trade Development Co., Ltd. (''Inner Mongolia Youth''), and Jiangsu Kanghong Natural Healthfoods Co., Ltd. (''Jiangsu Kanghong''). The period of review (''POR'') is December 1, 2002, through November 30, 2003.

Based on our analysis of the record, and on comments from the interested parties, we have made changes to the margin calculations of all four producers/exporters as described below. *See* ''Final Results of Review'' section below.

FOR FURTHER INFORMATION CONTACT: Anya Naschak or Kristina Boughton at (202) 482–6375 or (202) 482–8173, respectively; AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On November 29, 2004, the Department published the preliminary results of these reviews. *See Notice of Preliminary Results of Antidumping Duty New Shipper Reviews: Honey from the People's Republic of China*, 69 FR 69350 (November 29, 2004) (''Preliminary Results'').

We invited parties to comment on the Preliminary Results. We received case briefs from the American Honey Producers Association and the Sioux Honey Association (collectively, petitioners) and from Anhui Honghui, Eurasia, and Jiangsu Kanghong on December 29, 2004. We received rebuttal briefs from the same parties on January 7, 2005. Parties did not request a public hearing.

Scope of the Order

The products covered are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form. The merchandise under review is currently classifiable under item 0409.00.00, 1702.90.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Analysis of Comments Received

All issues raised in the briefs are addressed in the Issues and Decision Memorandum for the Final Results in the 2002/2003 New Shipper Reviews of Honey from the People's Republic of China from Barbara E. Tillman, Acting Deputy Assistant Secretary to Joseph A. Spetrini, Acting Assistant Secretary, dated February 17, 2005 (''Issues and Decision Memorandum''), which is hereby adopted by this notice. A list of the issues raised, all of which are in the Issues and Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in the briefs and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit (''CRU''), room B-099 of the Herbert H. Hoover Building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on the comments received from the interested parties, we have made changes to the margin calculations for Anhui Honghui, Eurasia, Jiangsu Kanghong, and Inner Mongolia Youth. For the final results, we revised our calculation of surrogate financial ratios for factory overhead, selling, general and administrative expenses (''SG&A''), and profit, to use the more contemporaneous 2003/2004 annual report from the Mahabaleshwar Honey Producers Cooperative (''MHPC''), and applied these new ratios in our margin calculations. *See e.g.,* Issues and Decision Memorandum at Comment 3.

We also revised our calculation of constructed export price (''CEP'') profit for Anhui Honghui, and Jiangsu Kanghong to use the surrogate profit ratio from MHPC's financial statements in accordance with the Department's practice. *See e.g.,* Issues and Decision Memorandum at Comment 5.

For Anhui Honghui and Eurasia, we have revised the treatment of marine insurance costs. *See e.g.,* Issues and Decision Memorandum at Comment 4. Also for Anhui Honghui we are no longer including marine insurance in the calculation of net U.S. price for certain sales on which those expenses were not incurred. *See Id.*

Final Results of New Shipper Reviews

We determine that the following antidumping margin percentages exist during the period of December 1, 2002, through November 30, 2003:

Exporter	Producer(s)	Margin (percent)
Anhui Honghui Foodstuff (Group) Co., Ltd	Anhui Honghui Foodstuff (Group) Co., Ltd	25.72
Eurasia Bee's Products Co., Ltd	Eurasia Bee's Products Co., Ltd. or Chuzhou Huadi Foodstuffs Co., Ltd.	50.35
Inner Mongolia Youth Trade Development Co., Ltd	Qinhuangdao Municipal Dafeng Industrial Co., Ltd	51.71
Jiangsu Kanghong Natural Healthfoods Co., Ltd	Jiangsu Kanghong Natural Healthfoods Co., Ltd	46.92

Assessment of Antidumping Duties

The Department shall determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we calculated importer- or customer-specific ad valorem duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. In accordance with 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties all entries of subject merchandise during the POR for which the importer- or customer-specific assessment rate is zero or de minimis (*i.e.,* less than 0.50 percent). The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of these reviews.

Cash Deposit Requirements

Bonding will no longer be permitted to fulfill security requirements for shipments from Anhui Honghui, Eurasia, Inner Mongolia Youth, and Jiangsu Kanghong of honey from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this notice in the **Federal Register**. The following cash deposit rates shall be required for merchandise subject to the order entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results for these new shipper reviews, as provided for by section 751(a)(1) of the Tariff Act of 1930, as amended: (1) The cash deposit rates for Anhui Honghui (*i.e.,* for subject merchandise both manufactured and exported by Anhui Honghui only); Eurasia (*i.e.,* for subject merchandise manufactured by Eurasia or Chuzhou Huadi Foodstuffs Co., Ltd. (''Chuzhou'') and exported by Eurasia); Inner Mongolia Youth (*i.e.,* for subject merchandise manufactured by Qinhuangdao Municipal Dafeng Industrial Co., Ltd. (''QDI'') and exported by Inner Mongolia Youth); and Jiangsu Kanghong (*i.e.,* for subject merchandise both manufactured and exported by Jiangsu Kanghong only) will be the rates indicated above; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC entity and for subject merchandise exported by Anhui Honghui not manufactured by Anhui Honghui; exported by Eurasia not manufactured by Eurasia or Chuzhou; exported by Inner Mongolia Youth not manufactured by QDI; and exported by Jiangsu Kanghong not manufactured by Jiangsu Kanghong, will continue to be the PRC- wide rate (*i.e.*, 183.80 percent); and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. There are no changes to the rates applicable to any other companies under this antidumping duty order.

Notification to Interested Parties

The Department will disclose calculations performed in connection with these final results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b) of its regulations. This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that

reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

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 section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/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.

The final results of these new shipper reviews and notice are in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: February 17, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix I—Issues in the Decision Memorandum

Comment 1: Appropriate Surrogate Value for Honey.

Comment 2: Whether the *Tribune* Article is Tainted by Conflict of Interest.

Comment 3: Calculation of the Financial Ratios.

Comment 4: Clerical Errors.

Comment 5: Recalculation of Constructed Export Price Profit.

Comment 6: Treatment of Non-dumped Sales.

Comment 7: Use of Indian Labor Rate for Valuing Labor.

Comment 8: Use of Regression-Based Wage Rate Information.

[FR Doc. E5–784 Filed 2–24–05; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904; Binational Panel Reviews: Notice of Termination of Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Withdrawal of Request for Panel Review of the final determination Under Section 129 of the Uruguay Round of Agreements Act; Countervailing Measure Concerning Certain Softwood Lumber Products from Canada made by the International Trade Administration, (Secretariat File No. USA–CDA–2005–1904–02).

SUMMARY: Pursuant to the Notice of Withdrawal of the Request for Panel Review by the complainants, the panel review is terminated as of February 17, 2005. A panel has not been appointed to this panel review. Pursuant to Rule 71(2) of the *Rules of Procedure for Article 1904 Binational Panel Review*, this panel review is terminated.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was requested and terminated pursuant to these Rules.

Dated: February 18, 2005.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. 05–3619 Filed 2–24–05; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021805D]

Fisheries of the Caribbean, Southeastern Data, Assessment and Review (SEDAR); Fisheries of the South Atlantic; Fisheries of the Gulf of Mexico; Public Meeting

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

ACTION: Notice of Assessment Workshop (SEDAR 8) for Caribbean Yellowtail Snapper and Spiny Lobster and South Atlantic and Gulf of Mexico Spiny Lobster.

SUMMARY: The SEDAR process for the Caribbean Yellowtail Snapper and Spiny Lobster consists of a series of three workshops: a data workshop, an assessment workshop, and a review workshop. This is the eighth SEDAR cycle. The data workshop is completed. This is a notice of scheduling for the remaining workshops.

DATES: The SEDAR 8 Assessment Workshop for yellowtail snapper and spiny lobster will take place March 14 18, 2005. The review workshop will be held May 16 20, 2005. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The Assessment Workshop will be held at the Divi Carina Bay Resort, 25 Estate Turner Hole, Christianised, USVI 00820. The Review Workshop will be held at the Best Western San Juan Airport Hotel, Luis Munoz Marin International Airport, 2nd Floor, Carolina, Puerto Rico 00981.

FOR FURTHER INFORMATION CONTACT: Graciela Garcia-Moliner, Caribbean Fishery Management Council, 268 Munoz Rivera Ave, Suite 1108, San Juan, PR 00918–2577; telephone: (787) 766–5927; or John Carmichael, SEDAR Coordinator, SEDAR/South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the SEDAR process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR typically includes three workshops: (1) Data Workshop, (2) Assessment Workshop, and (3) Review Workshop. The product of the Data Workshop and the Assessment Workshop is a stock assessment report, which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment report is independently peer reviewed at the Review Workshop. The products of the Review Workshop are a Consensus Summary Report, which reports Panel opinions regarding the strengths and weaknesses of the stock assessment and input data, and an

Advisory Report, which summarizes the status of the stock. Participants for SEDAR workshops are appointed by the Regional Fishery Management Councils. Participants include data collectors, database managers, stock assessment scientists, biologists, fisheries researchers, fishermen, environmentalists, Council members, international experts, and staff of Regional Councils, Interstate Commissions, and state and Federal agencies.

During the Assessment Workshop a stock assessment will be developed based on consensus data compiled during the Data Workshop. The product of the Assessment Workshop is a detailed assessment report which will comprise one component of the SEDAR 8 report. During the Review Workshop and independent panel of peers including stock assessment experts, biologists, researchers, fishermen, and environmentalists will review the assessment and data reports. The product of the Review Workshop will be a consensus summary detailing the review panel's opinions, recommendations, and conclusions regarding the stock assessment.

The Review Workshop for SEDAR 8 will also review a stock assessment of South Atlantic and Gulf of Mexico Spiny Lobster conducted by the State of Florida.

The Assessment Workshop will be held at the Divi Carina Bay Resort in Christiansted, St. Croix, USVI. The workshop schedule is as follows:

March 14, 2005, 1 p.m. – 10 p.m.
March 15 17, 2005, 8 a.m. – 10 p.m.
March 18, 2005, 8 a.m. – 12 p.m.

Please note that during the scheduled times there will be a mixture of workshop plenary sessions and dedicated group working sessions. The actual schedule of sessions during each day will be determined on an as-needed basis.

The Review Workshop will be held at the Best Western San Juan Airport in Carolina, Puerto Rico. The workshop schedule is as follows:

May 16, 2005, 1 p.m. – 10 p.m.
May 17 19, 2005, 8 a.m. – 10 p.m.
May 20, 2005, 8 a.m. – 12 p.m.

Please note that during the scheduled times there will be a mixture of workshop plenary sessions and dedicated group working sessions. The actual schedule of sessions during each day will be determined on an as-needed basis.

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 these meetings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the 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 the South Atlantic Fishery Management Council office (see **FOR FURTHER INFORMATION CONTACT**) at least 5 business days prior to the workshop.

Dated: February 22, 2005.

Alan D. Risenhoover,

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

[FR Doc. E5–769 Filed 2–24–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022205A]

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 its Law Enforcement Advisory Panel (LEAP).

DATES: The meeting will be held on Tuesday, March 15, 2005 from 1 p.m. to 5 p.m.

ADDRESSES: These meetings will be held at the Grand Hotel Marriott Resort, Golf Club and Spa, One Grand Boulevard, Point Clear, AL.

Council address: Gulf of Mexico Fishery Management Council, 3018 North U.S. Highway 301, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Deputy Executive Director, Gulf of Mexico Fishery Management Council; telephone: 813.228.2815.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) will convene the Law Enforcement Advisory Panel (LEAP) to review law enforcement concerns regarding violations of the Flower Garden Banks National Marine Sanctuary and the Tortugas Shrimp Sanctuary. The LEAP will also discuss problems with repackaging of foreign shrimp. With regard to ongoing activities of the Council, the LEAP will review and possibly make recommendations regarding alternatives in the Final Draft Amendment 13 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters, as well as an Options Paper that would potentially extend the existing moratorium on the issuance of new charter vessel permits, an Options Paper with alternatives for a Red Snapper Individual Fishing Quota (IFQ), and an Options Paper to potentially allow offshore aquaculture. The LEAP will also receive reports on the status of implementation for amendments and regulatory actions previously submitted by the Council and activity reports from the various state and Federal agencies.

The LEAP consists of principal law enforcement officers in each of the Gulf states, as well as the NMFS, U.S. Fish and Wildlife Service (FWS), the U.S. Coast Guard, and the National Oceanic and Atmospheric Administration's (NOAA) General Counsel. A copy of the agenda and related materials can be obtained by calling the Council office at 813–228–2815.

Although other non-emergency issues not on the agendas may come before the LEAP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the LEAP 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.

Special Accommodations

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 March 7, 2005.

Dated: February 22, 2005.

Peter H. Fricke,

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

[FR Doc. 05–3707 Filed 2–24–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022205D]

North Pacific Fishery Management Council; Teleconference Meeting

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

ACTION: North Pacific Fishery Management Council Ecosystem Committee; teleconference meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Ecosystem Committee will meet by teleconference; 907–271–2896.

DATES: March 14, 2005, 1 pm – 5 pm (AST).

ADDRESSES: North Pacific Fishery Management Council, Anchorage, Alaska.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Chris Oliver, Council staff, Phone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Council will review a draft discussion paper suggesting ways for the NPFMC to be involved in the development of Ecosystem Approaches to Management of the Alaska large marine ecosystem.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: February, 22, 2005.

Peter H. Fricke,

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

[FR Doc. 05–3705 Filed 2–24–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021805E]

Fisheries of the South Atlantic; Southeastern Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of the SEDAR black sea bass assessment workshop.

SUMMARY: The benchmark assessment of the South Atlantic black sea bass stock, completed in 2003 by SEDAR 2, will be updated with recent data during an assessment workshop to be held in Beaufort, NC.

DATES: The SEDAR South Atlantic black sea bass update assessment workshop will be held March 15, 2005, beginning at 8:30 a.m., through March 17, 2005, ending by 2 p.m.

ADDRESSES: The workshop will be held at the NOAA Center for Coastal Fisheries and Habitat Research, 101 Pivers Island Road Beaufort, NC 28516.

FOR FURTHER INFORMATION CONTACT: John Carmichael, SEDAR Coordinator, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520.

SUPPLEMENTARY INFORMATION: The baseline assessment developed by SEDAR 2 will be updated with catch, biosampling, and survey data through 2003. Workshop panelists will prepare an assessment update report.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the 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 the South Atlantic Council office (see **ADDRESSES**) by February 25, 2005.

Dated: February 22, 2005.

Alan D. Risenhoover,

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

[FR Doc. E5–768 Filed 2–24–05; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection; Comment Request—Customer Satisfaction Surveys (Fast-Track Recall Survey, Ombudsman Survey, State Partner Survey, Hotline Survey, Web Site Survey, and Clearinghouse Survey)

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) (PRA), the Consumer Product Safety Commission (CPSC) requests comments on a proposed request for an extension of its PRA approval to conduct surveys to determine customers' level of satisfaction with existing services. The Commission will consider all comments received in response to this notice before requesting approval of this collection of information from the Office of Management and Budget (OMB).

DATES: Written comments must be received by the Office of the Secretary not later than April 26, 2005.

ADDRESSES: Written comments should be captioned ''Customer Satisfaction Surveys'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to the attention of that office, room 419, North Tower, 4330 East-West Highway, Bethesda, Maryland, 20814. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at *cpsc-os@cpsc.gov*.

FOR FURTHER INFORMATION CONTACT: For information about this proposed extension of approval of the collection of information, or to obtain a copy of the questions to be used for this collection of information, call or write Linda L. Glatz, Management and Program Analyst, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; (301) 504–7671.

SUPPLEMENTARY INFORMATION:

A. Background

OMB has approved CPSC information collection activity using customer satisfaction surveys, OMB Control No. 0341–0128. CPSC seeks extension of that approval, for six customer satisfaction surveys to determine the kind and quality of services CPSC customers want and customers' level of satisfaction with existing services. ''Customers'' of CPSC include any individual or entity interested in or affected by agency activities. These

would include, but not be limited to: (1) Consumers that telephone the Hotline or access the CPSC web-site via the internet to report product-related incidents, or to obtain information; (2) consumers, industry members, or others that contact the National Injury Information Clearinghouse for information; (3) State representatives who work with CPSC on cooperative programs; (4) firms that use CPSC's Fast-Track Product Recall Program to report and simultaneously propose satisfactory product recall plans; and (5) small businesses that seek information or assistance from the CPSC's small business ombudsman.

These customer surveys are used by the CPSC Office of Planning and Evaluation to prepare sections of the agency's annual performance plan and accountability report in accordance with the Government Performance and Results Act of 1993. The information from the surveys will provide measures of the quality and effectiveness of agency efforts related to three goals in its strategic plan: informing the public, industry services, and customer satisfaction. If this information is not collected, the Commission would not have the means to measure its effectiveness in providing useful services to consumers and others, and lack information necessary to guide program development.

B. Estimated Burden

The surveys will be conducted by in-house staff through internet, telephone, or in writing. The CPSC staff may: (1) Conduct customer service follow-up queries with a sample of telephone Hotline callers; (2) survey a sample of firms that use Fast-Track Product Recall and Ombudsman Programs to assess their views and suggestions for improvements in the services aspects of the program; (3) conduct a sample survey of state partners and customers of the National Injury Information Clearinghouse; and (4) obtain Web-base survey information on customer satisfaction with the agency's web site. Fewer than 6 customer surveys or information collection activities a year would be conducted using this clearance.

The Commission staff estimates the number of annual respondents to be about 745. The anticipated sources and respondents for surveys conducted over a three-year period include:

Hotline	1,000
National Injury Information Clearinghouse	300
Small Businesses	200
State Partners	54
Web Site	500
Fast Track Product Recall Program	180
Total	2,234

The average time needed for each response is estimated at 4 minutes. Thus, the annual time burden would be about 2,980 (4 × 745) minutes or 50 hours. Using $23.41 an hour (the average hourly wage for all private industry workers, according to the June 2004 Department of Labor private industry employer compensation costs) times 50 hours, the cost would be negligible (a total of about $1,170 per year).

C. Requests for Comments

The Commission solicits written comments from all interested persons about the proposed extension. The Commission specifically seeks information relevant to the following topics:

—Whether the surveys described above are necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collections are accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: February 18, 2005.

Todd Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 05–3599 Filed 2–24–05; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection Renewal; 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. 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 the proposed revision of its Forbearance Request for National Service Form (OMB Number 3045–0030). Copies of the forms can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by April 26, 2005.

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

ADDRESSES: You may submit written input to the Corporation by any of the following methods:

(1) Electronically through the Corporation's e-mail address system to Bruce Kellogg at *Bkellogg@cns.gov*.

(2) By fax to (202) 565–2742, Attention Mr. Bruce Kellogg.

(3) By mail sent to: Corporation for National and Community Service, National Service Trust Office, 8th Floor, Attn: Mr. Bruce Kellogg, 1201 New York Avenue NW., Washington, DC 20525.

(4) By hand delivery or by courier to the Corporation's mailroom at Room 6010 at the mail address given in paragraph (3) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Send comments to Bruce Kellogg, National Service Trust, Corporation for National and Community Service, 1201 New York Ave., NW., Washington, DC, 20525.

FOR FURTHER INFORMATION CONTACT: Bruce Kellogg, (202) 606–5000, ext. 526.

SUPPLEMENTARY INFORMATION:

I. Background

The Corporation for National and Community Service supports programs that provide opportunities for individuals who want to become involved in national service. The service opportunities cover a wide range of activities over varying periods of time. After successfully completing a period of national service in an AmeriCorps project, an AmeriCorps member receives an ''education award'' that can be used to repay qualified student loans or pay for post secondary educational expenses. This award is an amount of money set aside in the member's ''account'' in the National Service Trust Fund. Members have seven years in which to draw against any unused balance.

By law, during the period of time the AmeriCorps members are participating in national service, they are eligible for a postponement (specifically, a forbearance) on the repayment of many federal student loans, and possibly on other student loans they have as well. The purpose of this is to temporarily suspend their obligation to make loan payments while they are earning a minimal living allowance in their national service position. Interest may continue to accrue during this period, but payments are not required.

In order for a loan holder to make a decision regarding the granting of certain types of forbearances and deferments, it requires proof that the borrower meets the criteria for obtaining the particular type of postponement. For example, for verification of military service or student status, certification made by an authorized military or school official attests that the conditions for the postponement are being met.

The purpose of the enclosed Forbearance Request for National Service Form is to provide AmeriCorps members a vehicle for requesting this forbearance. It also serves as a method for the participating programs to verify that the individual is serving in an approved national service position, thereby meeting the criteria for the mandatory forbearance based on national service.

II. Current Action

Currently, AmeriCorps members use an OMB-approved form titled Forbearance Request for National Service to obtain certification that they are eligible for forbearance based on their service. The form also serves as the borrower's official request to their loan companies for forbearance. Only the loan holder can grant forbearance.

The current form has been adopted by many of the larger loan holders (*e.g.*, Sallie Mae) and is given to their borrowers with the loan holders' own logo at the top of the forms. The form was originally developed with the assistance of representatives of several student loan associations. Having a separate form for forbearance based on AmeriCorps service clearly distinguishes it from forbearance requests based on one of the other conditions for which a borrower may be eligible—*e.g.*, military service, employment in certain low income areas, or student status.

The Corporation for National and Community Service seeks to continue using this particular form, albeit in a revised version. Along with minor formatting changes, such as replacing boxes with lines for the member's name and SSN to enhance legibility, the one significant modification designates the authorized program official as the certifying official for this form, in place of the National Service Trust official. Program certifying officials currently certify member enrollments and exits, and authorize education awards. Certifying, including verifying member information, signing, and mailing takes one minute per form. As the estimate for the member to complete that portion of the form is generous, the changes impose no additional burden.

The Corporation seeks to continue using this particular form, albeit in a revised version. The current form is due to expire May 31, 2005.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Forbearance Request for National Service Form.

OMB Number: 3045–0030.

Agency Number: None.

Affected Public: Individuals who have enrolled in a term of national service who wish to postpone loan payments on qualified loans while they serve.

Total Respondents: 16,000 responses annually (estimated annual average over the next three years).

Frequency: Experience has shown that some members do not have any qualified student loans and others have several).

Average Time Per Response: Total of 10 minutes (nine minutes for the AmeriCorps member's section and one minute for certification).

Estimated Total Burden Hours: 2,667 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 17, 2005.

Ruben Wiley,

Manager, National Service Trust.

[FR Doc. 05–3602 Filed 2–24–05; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection Renewal; 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. 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 the proposed revision of its Interest Accrual Form (OMB Number 3045–0053). Copies of the form can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by April 26, 2005.

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

ADDRESSES: You may submit written input to the Corporation by any of the following methods:

(1) Electronically through the Corporation's e-mail address system to Bruce Kellogg at *Bkellogg@cns.gov*.

(2) By fax to (202) 565–2742, Attention Mr. Bruce Kellogg.

(3) By mail sent to: Corporation for National and Community Service, National Service Trust Office, 8th Floor, Attn: Mr. Bruce Kellogg, 1201 New York Avenue NW., Washington, DC 20525.

(4) By hand delivery or by courier to the Corporation's mailroom at Room 6010 at the mail address given in paragraph (3) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Send comments to Bruce Kellogg, National Service Trust, Corporation for National and Community Service, 1201 New York Ave., NW., Washington, DC, 20525.

FOR FURTHER INFORMATION CONTACT: Bruce Kellogg, (202) 606–5000, ext. 526.

SUPPLEMENTARY INFORMATION:

I. Background

The Corporation for National and Community Service supports programs that provide opportunities for individuals who want to become involved in national service. The service opportunities cover a wide range of activities over varying periods of time. Upon successfully completing an agreed-upon term of service in an approved AmeriCorps program, a national and community service participant—an AmeriCorps member—receives an ''education award''. This award is an amount of money set aside in the member's name in the National Service Trust Fund. Members have seven years in which to draw against any unused balance.

The National Service Trust is the office within the Corporation that administers the education award program. This involves tracking the service for all AmeriCorps members, ensuring that certain requirements of the Corporation's enabling legislation are met, and processing school and loan payments that the members authorize.

II. Current Action

After an AmeriCorps member completes a period of national and community service, the individual receives an education award that can be used to pay against qualified student loans or pay for current post secondary educational expenses. Also, the Corporation's legislation requires that it pay, on behalf of AmeriCorps members, all or a portion of the interest that accrues during their service periods, if their loans were in forbearance during their service and if they successfully complete their terms of service. The intention is to keep the qualified student loan debt of an AmeriCorps member from increasing during his or her service period.

To pay the appropriate portion of the accrued interest, the Corporation must know the total amount of interest that accrued during the entire service period. Most loan holders will not release information regarding their borrowers unless they have a written statement authorizing this release. The Interest Accrual Form serves to (1) request that the loan holder calculate the amount of interest that accrued and (2) give permission to and direct the loan holder to release this information to the Corporation.

The form was first designed and some variation of it has been in use since the summer of 1994. Along with minor formatting changes, such as replacing boxes with lines for the member's name and SSN to enhance legibility, and wording to clarify certain sections of the existing form, for example regarding which interest is qualified or what time period should be excluded, the Corporation is requesting the name of the agency be cited, in cases where the loan is made by a state agency, in accordance with recent legislative changes. The changes impose no additional burden.

The Corporation seeks to continue using this particular form, albeit in a revised version. The current form is due to expire May 31, 2005.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Interest Accrual Form.

OMB Number: 3045–0053.

Agency Number: None.

Affected Public: Individuals who have completed a term of national service who wish the National Service Trust to pay certain interest accruing on qualified student loans.

Total Respondents: 7,000 responses annually (estimated annual average over the next three years).

Frequency: Experience has shown that some members do not have qualified student loans and others have several).

Average Time Per Response: Total of 10 minutes (three minutes for the AmeriCorps member and seven minutes for the loan holder).

Estimated Total Burden Hours: 1,167 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 17, 2005.

Ruben Wiley,

Manager, National Service Trust.

[FR Doc. 05–3603 Filed 2–24–05; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Defense Advisory Committee on Military Compensation

ACTION: Notice of establishment.

SUMMARY: The Defense Advisory Committee on Military Compensation is being established in consonance with the public interest and in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act,'' Title 5 U.S.C., Appendix 2. This advisory committee will provide advice and recommendations to the Secretary of Defense regarding matters pertaining to military compensation. The Committee shall identify approaches to balance military pay and benefits in sustaining recruitment and retention of high-quality people, as well as a cost-effective and ready military force.

The Committee will consist of a balanced membership of seven members from the private sector selected on the basis of their preeminence in the fields of military compensation. The members will be appointed by the Secretary of Defense.

FOR FURTHER INFORMATION CONTACT: Sheila Earle, OUSD (Personnel & Readiness), 703–697–8245.

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–3656 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Reserve Affairs; Meeting of the Defense Advisory Board (DAB) for Employer Support of the Guard and Reserve (ESGR)

ACTION: Notice of open meeting.

SUMMARY: This DAB meeting will focus on the status of the Reserve Forces outlook, the ESGR strategic plan and support of the Reserve Forces Retention efforts through ensuring supportive employee relations.

DATES: Tuesday, March 8, 2005, 9 a.m. to 4 p.m.

ADDRESSES: Deputy Secretary of Defense Conference Room (3E869), Pentagon.

FOR FURTHER INFORMATION CONTACT: Lt. Col. John Tansill at 703–696–1386 x532 or by e-mail at *john.tansill@osd.mil*.

Dated: February 1, 2005.

Jeannette Owings-Ballard,

Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–3661 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Policy Board Advisory Committee

AGENCY: Department of Defense, Defense Policy Board Advisory Committee.

ACTION: Notice.

SUMMARY: The Defense Policy Board Advisory Committee will meet in closed session at the Pentagon on March 10, 2005 from 0900 to 2000 and March 11, 2005 from 0845 to 1500.

The purpose of the meeting is to provide the Secretary of Defense, Deputy Secretary of Defense and Under Secretary of Defense for Policy with independent, informed advice on major matters of defense policy. The Board will hold classified discussions on national security matters.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App II (1982)), it has been determined that this meeting concerns matters listed in 5 U.S.C. 552B(c)(1)(1982), and that accordingly this meeting will be closed to the public.

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–3662 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Munitions System Reliability will meet in closed session on March 30–31, 2005, at SAIC, 4001 N. Fairfax Drive, Arlington, VA. On March 30, 2005 from 8:45 a.m.–10:45 a.m. the Task Force meeting will be open. Should you want to attend this open portion of the meeting please contact CDR David Waugh, USN, (703) 695–4158 by March 18, 2005. This Task Force will review the efforts thus far to improve the reliability of munitions systems and identify additional steps to be taken to reduce the amount of unexploded ordnance resulting from munitions failures. The Task Force will: Conduct a methodologically sound assessment of the failure rates of U.S. munitions in actual combat use; review ongoing efforts to reduce the amount of unexploded ordnance resulting from munitions systems failures, and evaluate whether there are ways to improve or accelerate these efforts; and identify other feasible measures the U.S. can take to reduce the threat that failed munitions pose to friendly forces and noncombatants.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will: Conduct a methodologically sound assessment of the failure rates of U.S. munitions in actual combat use; review ongoing efforts to reduce the amount of unexploded ordnance resulting from munitions systems failures, and evaluate whether there are ways to improve or accelerate these efforts; and identify other feasible measures the U.S. can take to reduce the threat that failed munitions pose to friendly forces and noncombatants.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. 2), it has been determined that these defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–3650 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on Red Lessons Learned will meet in closed session on March 16–17, 2005, at SAIC, 4001 N. Fairfax Drive, Arlington, VA. This Task Force will assess what useful information can our adversaries learn from U.S. military engagement and, particularly, what might they have learned from Operation Iraqi Freedom and Operation Enduring Freedom; identify the channels through which adversaries learn about U.S. capabilities; is there any evidence an adversary is adjusting to U.S. capabilities and what might the U.S. do to counter this; what are the indicators or observables that the Intelligence Community can focus on to determine if an adversary is engaging in this type of practice and do the indicators change in peacetime or wartime; do different technology insertion models exist; is there any evidence potential adversaries are targeting the seams in the U.S. command and control alignment and planning process; and the preceding areas of concern focus primarily on the military operations phases, are the potential adversaries observing, analyzing and adapting during the preparation and stabilization phase?

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. 2), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–3654 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board (DSB) Task Force on Strategic Strike Skills will meet in closed session on March 9–10, 2005; April 20–21, 2005; and May 12–13, 2005, in Arlington, VA. The Task Force will assess the future strategic strike force skills needs of the Department of Defense (DoD).

The mission of the DSB is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. Last summer the DSB assessed DoD needs for future strategic strike forces. Assessed was the application of technology for non-nuclear weapons systems, communications, planning systems, and intelligence as well as the integration of strategic strike with active defenses as part of the new triad. This ''skills'' study will complement the previous strategic forces study by focusing on the people and the skills necessary to develop, maintain, plan, and successfully execute future strategic strike forces. At this meeting, the Task Force will: Assess current skills available, both nuclear and non-nuclear of current long-range strike forces; identify, assess and recommend new/modified/enhanced skill sets necessary for successful future strike force development, planning, and operations; and recommend a strategy for the successful evolution of the current skills to those required by future strike forces.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. 2), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, the meeting will be closed to the public.

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–3655 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Critical Homeland Installation Protection will meet in closed sessions on February 23, 2005, at SAIC, 4001 N. Fairfax Drive, Suite 500, Arlington, VA. The Task Force will access best practices for protecting US homeland installations and recommend various approaches to enhancing security and protection of these facilities.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Task Force will assess investments in technology and manpower in order to ensure proper security levels at our nation's high-value installations with particular emphasis on airports, harbors, nuclear power facilities and military bases. To that end, the Task Force will review existing best practices in force protection and security at civil, industrial and military complexes; assess shortfalls and deficiencies associated with operational security, identify promising technology and/or processes that will enhance security, and recommend methods for reducing overall manpower requirements without relinquishing robust security measures.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, the meetings will be closed to the public.

Dated: February 5, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–3657 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Roles and Authorities of the Director of Defense Research and Engineering will meet in open session on February 24, 2005; March 14, 2005; April 18, 2005; May 16, 2005; and June 8, 2005, at SAI, 3601 Wilson Boulevard. The Task Force will examine the past and current roles and authorities for the Director of Defense Research and Engineering (DDR&E).

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Task Force will review and evaluate concepts to determine appropriate future roles and authorities of the DDR&E including an analysis of the relationship of the Director to other senior science and technology (S&T) and acquisition officials of the military departments and the Defense Agencies; the relationship of the Director to the performance of the following functions: planning, programming, and budgeting of the S&T programs of the DoD; management of DoD laboratories and technical centers; promotion of the rapid transition of technologies to acquisition programs within the DoD; promotion of the transfer of technologies into and from the commercial sector; the coordination of DoD S&T activities with organizations outside the DoD; technical review of DoD acquisition programs and policies; training and education activities for the national scientific and technical workforce; development of science and technology policies and programs relating to the maintenance of the national technology and industrial base; and the development of new technologies in support of the transformation of the Armed Forces. The Task Force will also examine the duties of the Director as the Chief Technology Office of the DoD.

FOR FURTHER INFORMATION CONTACT: CDR David Waugh, USN, Defense Science Board, 3140 Defense Pentagon, Room 3D865, Washington, DC 20301–3140, via e-mail at *david.waugh@osd.mil,* or via phone at (703) 695–4158.

SUPPLEMENTARY INFORMATION: Members of the public who wish to attend the meeting must contract CDR Waugh no later then February 14, 2005; February 28, 2005; April 4, 2005; May 2, 2005; and May 23, 2005, for further information about admission as seating is limited. Additionally, those who wish to make oral comments or delvier written comments should also request to be scheduled, and submit a written text of the comments by February 18, 2005; March 7, 2005; April 11, 2005; May 9, 2005; and May 30, 2005, to allow time for distribution to Task Force members prior to the meeting.

Individual oral comments will be limited to five minutes, with the total oral comment period not exceeding 30 minutes.

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–3658 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Meeting

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on Force Protection in Urban and Unconventional Environments will meet in closed session on SAI, 3601 Wilson Boulevard, Arlington, VA. February 16–17, 2005; March 9–10, 2005; April 27–28, 2005; and May 25–26, 2005, at SAI, 3601 Wilson Boulevard, Arlington, VA. This Task Force will review and evaluate force protection capabilities in urban and unconventional environments and provide recommendations to effect change to the future Joint Force.

The mission of the Defense Science board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. Specifically, the Task Force's foci will be to evaluate force protection in the context of post major combat operations that have been conducted in Iraq and Afghanistan. In the operations, loss of national treasure—military and civilian, U.S. and other nations—has resulted from actions executed by non-state and rogue actors. The threat and capabilities these insurgent, terrorist and criminal actions present post a most serious challenge to our ability to achieve unified action.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Dated: January 31, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–3660 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to add systems of records.

SUMMARY: The Office of the Secretary of Defense proposes to add an exempt system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on March 28, 2005 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Irvin at (703) 601–4722, extension 110.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on January 6, 2005, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

DCIFA 01

SYSTEM NAME:

CIFA Operational and Analytical Records.

SYSTEM LOCATION:

Counterintelligence Field Activity, 251 18th Street, Suite 1200, Arlington, VA 22202–3537.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in, or of interest to, DoD counterintelligence or law enforcement investigations, operations, or analytical projects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to the management of the DoD counterintelligence system and the coordination of DoD counterintelligence activities. Records relating to analytical or operational support for DoD counterintelligence, force protection, critical infrastructure protection, research and technology protection, threat analysis, and risk assessments. Records relating to the architecture and operation of DoD counterintelligence information systems. Reports of investigation, collection reports, statements of individuals, affidavits, correspondence, and other documentation pertaining to investigative or analytical efforts by DoD and other U.S. government agencies to identify or counter foreign intelligence and terrorist threats to the DoD and the United States. The system of records includes ad hoc or temporary databases established to support particular investigations, task forces, or analytical projects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 113, Secretary of Defense; 5 U.S.C. 301, Departmental Regulations; Executive Order E.O. 12, 333, United States Intelligence Activities, () as amended by E.O. 13284 and E.O. 13355, Amendment of Executive Orders, and Other Actions, in Connection With the Establishment of the Department of Homeland Security and; DoD Directive 5105.67, Department of Defense Counterintelligence Field Activity (DoD CIFA) (; and E.O. 9397 (SSN)).

PURPOSE(S):

Compiled for use by the Counterintelligence Field Activity in the development and management of DoD

counterintelligence programs and functions that support the protection of DoD, including counterintelligence support to protect DoD personnel, resources, critical information, research and development programs, technology, critical infrastructure, and U.S. interests against the activities of foreign powers and terrorist groups.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Federal Bureau of Investigation, the Central Intelligence Agency, the Department of Homeland Security and other Executive Branch intelligence, counterintelligence, law enforcement, or security agencies to assist them in matters within their jurisdiction pertaining to hostile foreign intelligence or terrorist activities.

The DoD 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper files and on electronic media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, and/or other personal identifiers.

SAFEGUARDS:

Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need to know. Access to computerized data is restricted by passwords, which are changed periodically.

RETENTION AND DISPOSAL:

Disposition pending (until the National Archives and Records Administration approves the retention and disposition of these records, treat as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Chief Information Officer, Counterintelligence Field Activity, 251 18th Street, Suite 1200, Arlington, VA 22202–3537.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy and Freedom of Information Coordinator, Counterintelligence Field Activity, 251 18th Street, Suite 1200, Arlington, VA 22202–3537.

Requests should contain the individual's name, date of birth, sufficient information to determine the type of records being sought, and the approximate date the records might have been created.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Privacy and Freedom of Information Coordinator, Counterintelligence Field Activity, 251 18th Street, Suite 1200, Arlington, VA 22202–3537.

Requests should contain the individual's name, date of birth, sufficient information to determine the type of records being sought, and the approximate date the records might have been created.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Investigative, operational, and/or analytical files of DoD and other Federal agencies with counterintelligence, intelligence, law enforcement, security, protective, or related responsibilities. Information collected by CIFA from public or commercial sources in compliance with DoD authorities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system of records is a compilation of information from other Department of Defense and U.S. Government systems of records. To the extent that copies of exempt records from those 'other' systems of records are entered into DCIFA 01, OSD hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 311. For additional information contact the system manager.

[FR Doc. 05–3665 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on March 28, 2005 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Irvin at (703) 601–4722, extension 110.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on (date), to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

DHA 11

SYSTEM NAME:

Defense Medical Personnel Preparedness Database.

SYSTEM LOCATION:

Department of Defense, TRICARE Management Activity, 5205 Leesburg

Pike, Suite 1100, Falls Church, VA 22041–3238.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Duty Military, Reserve, National Guard, and DoD civilian employees, to include non-appropriated fund employees and foreign nationals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, gender, work address and telephone number, Social Security Number, medical training information including class names and class dates, and personnel readiness documentation that includes immunization and other health information required to determine an individual's fitness to perform their duties related to the mission of the Armed Forces and the Military Health System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental regulations; E.O. 12656, Assignment of Emergency Preparedness Responsibilities; DOD–I 1322.24, Military Medical Readiness Skills Training; DoD 6013.13–M, Medical Expense Performance Reporting System (MEPRS) for Fixed, Medical/Dental Treatment Facilities; DoD 5136.1–P, Medical Readiness Strategic Plan (MRSP); and E.O. 9397 (SSN).

PURPOSE(S):

The Office of the Secretary is establishing a single Department of Defense electronic database that provides the preparedness of DoD medical personnel to meet national security emergencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in computers and computer output products.

RETRIEVABILITY:

Records are retrieved by individual's name and Social Security Number.

SAFEGUARDS:

The records are maintained in a government-controlled facility. Physical access is limited to personnel with appropriate clearance and need-to-know. Access to computerized data is restricted by password. Passwords are changed periodically.

RETENTION AND DISPOSAL:

Maintained for as long as DoD medical personnel are active and in Military Health Services System. Upon death or disenrollment from system, records are marked for inactive file and kept an additional five years. Storage media containing data with personal identifiers will be erased (degaussed) after the five-year inactive record retention.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, Resources Information Technology Program Office, 5205 Leesburg Pike, Suite 1100, Falls Church, VA 22041–3238.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the TRICARE Management Activity Privacy Office, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041–3238.

Requests must contain the individual's full name and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether information about themselves is contained within the system should address written inquiries to the TRICARE Management Activity Privacy Office, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041–3238.

Requests must contain the individual's full name and Social Security Number.

CONTESTING RECORD PROCEDURES:

Individuals may request a record be amended. Correspondence should be sent to TRICARE Management Activity Privacy Office, 511 Leesburg Pike, Suite 810, Falls Church, VA 22041–3238.

Individual must include as much information, documentation, or other evidence as needed to support your request to amend the pertinent record.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are contained in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORDS SOURCE CATEGORIES:

Information about individuals in the records is obtained primarily from DoD Pay and Personnel Systems, the Military Medical Eligibility System (known as the Defense Enrollment Eligibility Reporting System), and from personnel who work at DoD Medical facilities. Additional information may be obtained from DoD supervisors or DoD operational records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 05–3672 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to add a record system.

SUMMARY: The Department of the Air Force proposes to add a system of records notice to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The actions will be effective on March 28, 2005, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Mrs. Eugenia Harms, Air Force Privacy Act Officer, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Eugenia Harms at (703) 696–6280.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 26, 2005, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

F033 AF E

SYSTEM NAME:

Air Force Directory Services (AFDS).

SYSTEM LOCATION:

Air Force Directory Services, HQ Standard Systems Group (SSG)/DOPP, 201 E. Moore Drive, Building 856, Room 108, Gunter Annex, Maxwell AFB, AL, 36114–2014.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty, reserve and guard members, civilian employees, contractors, foreign nationals, and retirees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information includes name, Electronic Data Interchange-Personal Identifier (EDI–PI), Social Security Number, date of birth, gender, citizenship status, MAJCOM, base name, office symbol, assigned and attached unit/PAS, personal category code, duty assigned code, generational qualifier, pay plan, pay grade, rank, reservist/ANG category code, non-publish Status (protected airman), phone number, fax number, e-mail address, DoD PKI certificate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; Air Force Instruction 33–213, Identity Management; and E.O. 9397 (SSN).

PURPOSE(S):

This database serves as broker of authoritative personnel identification data used by various network applications. It is used to consolidate and distribute data from a number of authoritative sources. To simplify the management of identification data elements about war fighters within individual application by giving systems access to near real time data about their users.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in computer and computer output products.

RETRIEVABILITY:

Records are retrieved by a unique 10-digit identifier, Electronic Data Interchange-Personal Identifier (EDI–PI).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. The storage area network hosting the data is located in a controlled area secured by an electronic entry system relying on a security token and PIN. Access to the automated records is controlled and limited.

RETENTION AND DISPOSAL:

Deleted when superseded, obsolete, or no long needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, Air Force Directory Services, Program Management Office, HQ SSG/DOP, 501 E. Moore Dr., Suite 1200H, Gunter Annex—Maxwell AFB, AL 36114–3014.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records may contact Air Force Directory Services Technical Lead, 501 E. Moore Dr., Suite 1254, Gunter Annex—Maxwell AFB, AL 36114–3014.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system of records may contact Air Force Directory Services Technical Lead, 501 E. Moore Dr., Suite 1254, Gunter Annex—Maxwell AFB, AL 36114–3014, E-mail: *afds@gunter.af.mil.*

CONTESTING RECORDS PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is derived from Air Force Personnel Center, Global Data System, the Defense Manpower Data Center, and the Air Force Global Address List.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 05–3668 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF THE DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is proposing to alter a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 28, 2005, unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information Privacy Division, U.S. Army Records Management and Declassification Agency, Attn: AHRC–PDD–FPZ, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 428–6497.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on February 2, 2005, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 12, 2005.

Jeanette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

A0601–270 USMEPCOM

SYSTEM NAME:

U.S. Military Entrance Processing Reporting System (March 29, 2000, 65 FR 16568).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with ''A0601–270 USMEPCOM DoD''.

SYSTEM NAME:

Delete entry and replace with ''U.S. Military Processing Command Integrated Resources System (USMIRS).''

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''All individuals who report to a mobile examining team site or MEPS to be aptitudinally tested and/or medically examined to determine their fitness for entry into one of the Armed Services''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Various personal data, such as individual's name, Social Security Number, Alien Registration number, date and place of birth, home address and telephone number, results of aptitude tests, physical examination, background screening through the use of fingerprinting, and relevant documentation concerning individual's acceptance/rejection for military service.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 3013, Secretary of the Army, 10 U.S.C. 8013, Secretary of the Air Force, 10 U.S.C. 5013, Secretary of the Navy; DoD Directive 1145.2, United States Military Entrance Processing Command; Army Regulation 601–270/Air Force Regulation 33–7/Marine Corps Order P1100.75A, Military Entrance Processing Station (MEPS); MEPCOM Regulation 680–3, U.S. Military Processing Command Integrated Resources System (USMIRS); and E.O. 9397 (SSN).''

PURPOSE(S):

Delete entry and replace with ''To determine qualifications of applicants for the Armed Forces through aptitude testing, medical examination, identity verification, background screening, and administrative processing. Records will also be used to determine patterns and trends in the military population, and for statistical analyses.''

* * * * *

STORAGE:

Delete entry and replace with ''Paper records in file folders and in electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''Individual's name, Social Security Number, and/or biometric images.''

* * * * *

RETENTION AND DISPOSAL:

Delete from entry ''records will be maintained until all requirement of Pub. L. 104–201 are met and until a records disposition is obtained from the National Archives and Records Administration''.

* * * * *

A0601–270 USMEPCOM DoD

SYSTEM NAME:

U.S. Military Processing Command Integrated Resources System (USMIRS).

SYSTEM LOCATION:

Primary location: United States Military Entrance Processing Command, 2834 Green Bay Road, North Chicago, IL 60064–3094. Segments exist at 65 military entrance processing stations in the continental United States, Alaska, Puerto Rico, and Hawaii. Official mailing addresses are published as an appendix to the Army's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who report to a mobile examining team site or MEPS to be aptitudinally tested and/or medically examined to determine their fitness for entry into one of the Armed Services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Various personnel data, such as individual's name, Social Security Number, date and place of birth, home address and telephone number, results of aptitude tests, physical examination, and relevant documentation concerning individual's acceptance/rejection for military service.

Various personal data, such as individual's name, Social Security Number, Alien Registration number, date and place of birth, home address and telephone number, results of aptitude tests, physical examination, background screening through the use of fingerprinting, and relevant documentation concerning individual's acceptance/rejection for military service.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army, 10 U.S.C. 8013, Secretary of the Air Force, 10 U.S.C. 5013, Secretary of the Navy; DoD Directive 1145.2, United States Military Entrance Processing Command; Army Regulation 601–270/Air Force Regulation 33–7/Marine Corps Order P1100.75A, Military Entrance Processing Station (MEPS); MEPCOM Regulation 680–3, U.S. Military Processing Command Integrated Resources System (USMIRS); and E.O. 9397 (SSN).

PURPOSE(S):

To determine qualifications of applicants for the Armed Forces through aptitude testing, medical examination, identity verification, background screening, and administrative processing. Records will also be used to determine patterns and trends in the military population, and for statistical analyses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information is disclosed to the Selective Service System (SSS) to update the SSS registrant database.

Information may also be disclosed to local and State Government agencies for compliance with laws and regulations governing control of communicable diseases.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and in electronic storage media.

RETRIEVABILITY:

Individual's name, Social Security Number, and/or biometric images.

SAFEGUARDS:

All data are retained in locked room/compartments with access limited to personnel designated as having official need therefore. Access to computerized data is by use of a valid user ID and password code assigned to the individual video display terminal operator.

RETENTION AND DISPOSAL:

Each military entrance processing station retains a copy of reporting system source documents for each enlistee for 90 days after shipment. For all other applicants, each station retains, if applicable, a copy of the Report of Medical Examination with supporting documentation, the Report of Medical History, and any other reporting source documents, for a period not to exceed 2 years, after which they are destroyed. Originals or copies of documents are filed permanently in Official Personnel Files for acceptable applicants and transferred to the gaining Armed Force. Information relating to the individual's who become seriously ill or are injured while at MEPS, or were found disqualified for a condition considered dangerous to the individual's health if left untreated.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Military Entrance Processing Command, 2834 Green Bay Road, North Chicago, IL 60064–3094.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Commander, U.S. Military Entrance Processing Commander, U.S. Military Entrance Processing Command, 2834 Green Bay Road, North Chicago, IL 60064–3094.

Individual should provide the full name, Social Security Number, and military status or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Commander, U.S. Military Entrance Processing Command, 2834 Green Bay Road, North Chicago, IL 60064–3094.

Individual should provide the full name, Social Security Number, and military status or other information verifiable from the record itself.

On personal visits, individual should provide acceptable identification such as valid driver's license, employer identification card, building pass, etc.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in the Department of the Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, physicians, results of tests, Federal/State/local law enforcement activities/agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 05–3659 Filed 2–29–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Department of the Army is proposing to add an exempt system of records to its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The exemption ((j)(2)) will increase the value of the system of records for criminal law enforcement purposes.

DATES: Comments must be received on or before March 28, 2005, to be considered by this agency.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, Attn: AHRC–PDD–FPZ, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 428–6497.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on February 7, 2005, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

A0195–2c USACIDC DoD

SYSTEM NAME:

DoD Criminal Investigation Task Force (CITF) Files.

SYSTEM LOCATION:

U.S. Army Criminal Investigation Command, Criminal Investigation Task Force, 6010 6th Street, Fort Belvoir, VA 22060–5506.

Decentralized segments are located at DoD Criminal Investigation Task Force (CITF) field offices and resident offices worldwide. Official mailing addresses are published as an appendix to Army's compilation of system of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual involved in, suspected of being involved in witnessing or reporting, war crimes or acts of terrorism affecting U.S. interests (*e.g.*, property located in or outside of the United States), other U.S. national, and/or U.S. personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, rank, date and place of birth, chronology of events; reports of investigation and intelligence reports containing statements of witnesses, suspects, subject and agents; laboratory reports, polygraph reports, documentary evidence, physical evidence, summary and administrative data pertaining to preparation and distribution of reports; basis for allegations; modus operandi and other investigative information from Federal, State, and local investigative and intelligence agencies and departments; and similar relevant documents; names and personal identifiers of persons who have been subjects of electronic surveillance; agencies, firms, Army and Defense Department organizations which were the subjects or victims of war crimes investigations; and disposition of offenders, witness identification data, and relevant information pertaining to the investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 113, Secretary of Defense; 10 U.S.C. 821 and 836; 10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; Pub. L. 107–40, Authorization for Use of Military Force Joint Resolution; Military Order of November 13, 2001, Detention,

Treatment, and Trail of Certain Non-Citizens in the War Against Terrorism; Army Regulation 195–2, Criminal Investigation Activities; and E.O. 9397 (SSN).

PURPOSE(S):

To conduct and exercise overall responsibility within the Department of Defense for all matters pertaining to the investigation of alleged war crimes and acts of terrorism committed against U.S. citizens, U.S. property or interests; used in judicial and adjudicative proceedings including litigation or in accordance with a court order; and reporting of statistical data to Department of Defense officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information concerning war crimes or acts of terrorism activities are disclosed to Federal, State, local and/or foreign law enforcement agencies in accomplishing and enforcing laws (such as provisions of the Status of Forces Agreements or Treaties), analyzing modus operandi, detecting organized criminal activities.

To the Department of State, the Department of Treasury, the Department of Justice, the Federal Bureau of Investigation, the Drug Enforcement Administration, U.S. Customs Service, the Bureau of Alcohol, Tobacco and Firearms, the Central Intelligence Agency, for the purpose of collaborating on production of intelligence product and terrorist acts. The distribution of investigative information is based on the Army's evaluation of the requesting agency needs and the relevance of the information to the use for which it is provided.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETIRING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS:

STORAGE:

Paper records in file folders and on electronic media.

RETRIEVABILITY:

By individual's name, Social Security Number and date and place of birth.

SAFEGUARDS:

Access is limited to designated authorized individuals having official need for the information in the performance of their duties. Buildings employ alarms, security guards, and or rooms are security-controlled areas accessible only to authorized persons. Electronically and optically stored records are maintained in ''fail-safe'' system software with password-protected access. All records are accessible only to authorized persons with a need-to-know who are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Disposition pending (until the National Archives and Records Administration has approved retention and disposition of these records, treat as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Criminal Investigation Command, Criminal Investigation Task Force, 6010 6th Street, Fort Belvoir, VA 22060–5506.

NOTIFICATION PROCEDURES:

Individual seeking access to information about themselves contained in this system should address written inquiries to the U.S. Army Criminal Investigation Command, Criminal Investigation Task Force, 6010 6th Street, Fort Belvoir, VA 22060–5506.

For verification purposes, individual should provide their full name, date and place of birth, current address, telephone numbers, and signature.

RECORD ACCESS PROCEDURES:

Individual seeking access to information about themselves contained in this system should address written inquiries to the U.S. Army Criminal Investigation Command, Criminal Investigation Task Force, 6010 6th Street, Fort Belvoir, VA 22060–5506.

For verification purposes, individual should provide their full name, date and place of birth, current address, telephone numbers, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Suspects, witnesses, victims, DoD personnel, informants; various Department of Defense, federal, state, and local investigative agencies; departments or agencies of foreign governments; and any other individual or organization which may supply pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency that performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. 05–3664 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Army is proposing to amend a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 28, 2005, unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Office Division, U.S. Army Records Management and Declassification Agency, Attn: AHRC–PDD–FPZ, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 428–6597.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

A0025–2 SAIS

SYSTEM NAME:

Information Assurance for Automated Information Systems (AIS) and Department of Defense Biometric Information Systems (December 28, 2004, 69 FR 77741).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Department of Defense Biometrics Fusion Center, 347 West Main Street, Clarksburg, WV 26306–2947 and at any Department of Defense system that collects, stores, accesses, retrieves, or uses biometrics technology to recognize the identity, or verify the claimed identity of an individual.

* * * * *

A0025–2 SAIS

SYSTEM NAME:

Information Assurance for Automated Information Systems (AIS) and Department of Defense Biometric Information Systems.

SYSTEM LOCATION:

Department of Defense Biometrics Fusion Center, 347 West Main Street, Clarksburg, WV 26306–2947 and at any Department of Defense system that collects, stores, accesses, retrieves, or uses biometrics technology to recognize the identity, or verify the claimed identity of an individual.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered include, but is not limited to, military, civilian, and contractor personnel; military reserve personnel; Army and Air National Guard personnel, and other persons requiring or requesting access to DoD information and facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Operator's/user's name, Social Security Number, organization, telephone number, and office symbol; security clearance; level of access; subject interest code; user identification code; data files retained by users; assigned password; magnetic tape reel identification; abstracts of computer programs and names and phone numbers of contributors; similar relevant information; biometrics templates, biometric images, supporting documents, and biographic information including, but not limited to, name, date of birth, place of birth, height, weight, eye color, hair color, race and gender.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 106–246, Section 112; 10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; Department of Defense Directive 8500.1, Information Assurance (IA); DoD Instruction 8500.2, Information Assurance Implementation; Army Regulation 25–2, Information Assurance; and E.O. 9397 (SSN).

PURPOSE(S):

To administer passwords and identification numbers for operators/users of data in automated media; to identify date processing and communication customers authorized access to or disclosure from data residing in information processing and/or communication activities; and to determine propriety of individual access into the physical data residing in automated media.

To control logical and physical access to DoD information and facilities and to identify or verify the identity of individuals by using a measurable physical or behavioral characteristic.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b) (3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Name, Social Security Number, subject, application program key word/author, and biometric template, and other biometric data.

SAFEGUARDS:

Computerized records maintained in a controlled area are accessible only to authorized personnel. Physical and electronic access is restricted to designated individuals having a need therefore in the performance of official duties.

RETENTION AND DISPOSAL:

Individual data remain on file while a user of computer facility; destroyed on person's reassignment or termination.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Information Officer, Department of the Army, 107 Army Pentagon, Washington, DC 20310–0107.

Director, Department of Defense Biometrics Management Office, 2530 Crystal Drive, Arlington, VA 22202–3934.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief Information Officer, Department of the Army, 107 Army Pentagon, Washington, DC 20310–0107.

For verification purposes, individual should provide full name, sufficient details to permit locating pertinent records, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Chief Information Officer, Department of the Army, 107 Army Pentagon, Washington, DC 20310–0107.

For verification purposes, individual should provide full name, sufficient details to permit locating pertinent records, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, DoD security offices, system managers, computer facility managers, automated interfaces for user codes on file at Department of Defense sites.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 05–3667 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend system of records.

SUMMARY: The Department of the Army is proposing to amend the Preamble to its Compilation of Privacy Act systems of records notices by updating the telephone number of the POINT OF CONTACT.

DATES: This proposed action will be effective without further notice on March 28, 2005 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Office Division, U.S. Army Records Management and Declassification Agency, ATTN: AHRC–PDD–FPZ, 7701 Telegraph Road, Casey Building, suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 428–6497.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific change to the Preamble is set forth below. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

Within the Preamble to the Department of the Army's Compilation of Privacy Act systems of records notices, revise the following entry to read as follows:

* * * * *

Point of Contact: Mrs. Rose Marie Christensen and Ms. Janice Thornton at (703) 428–64978. DSN 328–64978.

* * * * *

[FR Doc. 05–3669 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy.

ACTION: Notice to add a system of records.

SUMMARY: The Department of the Navy proposes to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The Navy is proposing to exempt the system of records to protect the objectivity or fairness of the test or examination process within the Naval Criminal Investigation Service.

DATES: This action will be effective on March 28, 2005, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act, was submitted on January 4, 2005, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (61 FR 6427, February 20, 1996).

Dated: February 18, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

N12410–2

SYSTEM NAME:

NCIS Training Academy Records.

SYSTEM LOCATION:

NCIS Training Academy, NCIS Townhouse 394 Federal Law Enforcement Training Center, Glynco, GA 31524–2002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students and instructors of the Naval Criminal Investigative Service (NCIS) Academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual Training Records: Name, Social Security Number, rank, e-mail address, duty station address, etc.; training evaluations (grades/scores) and indicating whether program was completed (either satisfactory or unsatisfactory); documentation of course completion; qualifications of students; waivers or exemptions requested or granted and verification of physical abilities (as required) either as a prerequisite or as a final qualification.

Instructor Training Records: Name, Social Security Number, rank, e-mail address, etc.; personal training history; attendance records; exemptions or waivers requested/granted; evaluations; qualification notifications; certifications; re-certifications; and verifications of ability.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy and E.O. 9397 (SSN).

PURPOSE(S):

To maintain course and training demands, requirements and achievements; identify waivers or exemptions requested or granted, verify physical abilities required; document attendance and/or course completion, provide academic and performance evaluations and for other training administration requirements necessary to meet the Federal Law Enforcement Training Accreditation's (FLETA) requirements necessary for accreditation of the NCIS Training Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside to DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Manual records are maintained in file cabinets under the control of authorized personnel during working hours. The office space in which the file cabinets are located is locked outside of official working hours. Computer terminals are located in supervised areas. Access is controlled by password or other user code system.

RETENTION AND DISPOSAL:

For student records: Retire hardcopy records to the Federal Records Center

when 4 years old. Destroy 40 years after the end of the training year.

For instructor records: Destroy records 4 years after departure from Academy.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Director, Training, NCIS Training Academy, NCIS Townhouse 394 FLETC, Glynco, GA 31524–2002.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Director, Naval Criminal Investigative Service Headquarters (Code 00LJF), 716 Sicard Street, SE., Suite 2000, Washington Navy Yard, DC 20388–5380.

Written requests should include the full name, Social Security Number, and address of the individual and be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Director, Naval Criminal Investigative Service Headquarters (Code 00LJF), 716 Sicard Street, SE., Suite 2000, Washington Navy Yard, DC 20388–5380.

Written requests should include the full name, Social Security Number and address of the individual and be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; school and educational institutions, medical authorities, military agencies, instructors, and FLETA for instructor accreditation records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal or military service, if the disclosure would compromise the objectivity or fairness of the test or examination process may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

[FR Doc. 05–3671 Filed 2–24–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

Smaller Learning Communities Program

AGENCY: Office of Vocational and Adult Education, Department of Education.

ACTION: Notice of proposed priority, requirements, definitions, and selection criteria for Fiscal Year (FY) 2004 and subsequent years' funds.

SUMMARY: The Assistant Secretary for Vocational and Adult Education proposes a priority, requirements, definitions, and selection criteria under the Smaller Learning Communities (SLC) program. The Assistant Secretary will use the priority, requirements, definitions, and selection criteria for a competition using fiscal year (FY) 2004 funds and may use them in later years.

DATES: We must receive your comments on or before March 28, 2005.

ADDRESSES: Address all comments about the proposed priority, requirements, definitions, and selection criteria to Deborah Williams, U.S. Department of Education, OVAE, 400 Maryland Avenue SW., Potomac Center Plaza, Room 11064, Washington, DC 20202–7241. If you prefer to send your comments through the Internet, use the following address: *deborah.williams@ed.gov.* You must include the term ''SLC Proposed Requirements'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Deborah Williams. Telephone: (202) 245–7770 or via Internet: *deborah.williams@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding the proposed priority, requirements, definitions, and selection criteria. To ensure that your comments have maximum effect in developing the notice of final priority, requirements, definitions, and selection criteria, we urge you to identify clearly the specific proposed priority, requirement, definition, or selection criterion that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from the proposed priority, requirements, definitions, and selection criteria. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed priorities, requirements, definitions, and selection criteria at Potomac Center Plaza, Room 11064, 550 12th Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed requirements and selection criteria. If you want to schedule an appointment for this type of aid, please contact Deborah Williams. Telephone: (202) 245–7770 or via Internet: *deborah.williams@ed.gov.*

Background

The Smaller Learning Communities program is authorized under title V, part D, subpart 4 of the Elementary and Secondary Education Act of 1965 (ESEA) (20 U.S.C. 7249), as amended by Public Law 107–110, the No Child Left Behind Act of 2001.

A strategy that may hold promise for improving the academic performance of our Nation's young people is the establishment of smaller learning communities as components of comprehensive high school improvement plans. The problems of large high schools and the related question of optimal school size have been debated for the last 40 years and are of growing interest today.

While the research on school size to date has been largely non-experimental, some evidence suggests that smaller schools may have advantages over larger schools. Research suggests that the

positive outcomes associated with smaller schools stem from the schools' ability to create close, personal environments in which teachers can work collaboratively, with each other and with a small set of students, to challenge students and support learning. A variety of structures and operational strategies are thought to provide important supports for smaller learning environments; some data suggest that these approaches offer substantial advantages to both teachers and students (Ziegler 1993; Caroll 1994).

Structural changes for recasting large schools as a set of smaller learning communities (SLCs) are described in the Conference Report for the Consolidated Appropriations Act, 2000 (Pub. L. 106–113, H.R. Conference Report No. 106–479, at 1240 (1999)). Such methods include establishing small learning clusters, ''houses,'' career academies, magnet programs, and schools-within-a-school. Other activities may include: freshman transition activities, advisory and adult advocate systems, academic teaming, multi-year groupings, ''extra help'' or accelerated learning options for students or groups of students entering below grade level, and other innovations designed to create a more personalized high school experience for students. These structural changes and personalization strategies, by themselves, are not likely to improve student academic achievement. They might, however, create valuable opportunities to improve the quality of instruction and curriculum and to provide the individualized attention and academic support that all students need to excel academically. The SLC program encourages local educational agencies (LEAs) to set higher academic expectations for all of their students and to implement reforms that will provide the effective instruction and personalized academic and social support students need to meet those expectations.

The Department's ongoing efforts to ensure improved outcomes for students enrolled in programs funded by the SLC program are reflected in this notice. Many of the proposed changes represent an effort to provide grantees with sufficient time and resources to carry out their plans for raising academic achievement through comprehensive structural and instructional reforms. Toward that end, the notice proposes to extend the project period from three to five years. In addition, we are proposing an increase in the award amounts for individual grants.

In an attempt to facilitate the application process, encourage more LEAs to apply, and raise the quality of proposals received, we have streamlined the number of selection criteria from the previous competition. The priority, requirements, definitions, and selection criteria in this notice continue to focus on making the curriculum more rigorous and improving instruction through SLC structures and strategies.

Discussion of Priority

We will announce the final priority, requirements, definitions, and selection criteria in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or using additional priorities, requirements, definitions, and selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use a priority, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Priority

Proposed Priority: Helping All Students To Succeed in Rigorous Academic Courses

This proposed priority would support projects to create or expand SLCs that will implement a coherent set of strategies and interventions that are designed to ensure that all students who enter high school with reading/language arts or mathematics skills that are significantly below grade level ''catch up'' quickly so that, by no later than the end of the 10th grade, they have acquired the reading/language arts and mathematics skills they need to participate successfully in rigorous academic courses that will equip them with the knowledge and skills necessary to transition successfully to postsecondary education, apprenticeships, or advanced training.

These accelerated learning strategies and interventions must:

(1) Be grounded in the findings of scientifically based and other rigorous research;

(2) Include the use of age-appropriate instructional materials and teaching and learning strategies;

(3) Provide additional instruction and academic support during the regular school day, which may be supplemented by instruction that is provided before or after school, on weekends, and at other times when school is not in session; and

(4) Provide sustained professional development and ongoing support for teachers and other personnel who are responsible for delivering instruction.

Application Requirements

Proposed Application Requirements

The Assistant Secretary proposes the following application requirements for this SLC competition. These proposed requirements are in addition to the content that all SLC grant applicants must include in their applications as required by the program statute under title V, part D, subpart 4, section 5441(b) of the ESEA. LEAs, including schools funded by the Bureau of Indian Affairs and educational service agencies, applying on behalf of large public high schools, are eligible to apply for a grant. A discussion of each proposed application requirement follows.

Eligibility

We propose that, to be considered for funding, LEAs must identify in their applications the name(s) of the eligible large high school(s) and the number of students enrolled in each school. A large high school is defined as one having grades 11 and 12, with 1,000 or more students enrolled in grades 9 and above. Enrollment figures would be based upon data from the current school year or data from the most recently completed school year. We would not accept applications from LEAs applying on behalf of schools that are being constructed and do not have an active student enrollment at the time of application. We propose that LEAs may apply on behalf of no more than 10 schools.

Rationale

The Department needs this information to determine if each school identified in an application meets the proposed definition of a large high school and to ensure that an LEA is not

applying for more than 10 schools. Schools under construction do not have actual enrollment data to be used to determine eligibility.

School Report Cards

We propose to require that LEAs provide, for each school included in the application, the most recent ''report card'' produced by the State or the LEA to inform the public about the characteristics of the school and its students, including information about student academic achievement and other student outcomes. These ''report cards'' would include, at a minimum, the following information that LEAs are required to report for each school under section 1111(h)(2)(B)(ii) of the ESEA: (1) Whether the school has been identified for school improvement; and (2) information that shows how the academic assessments and other indicators of adequate yearly progress compare to those indicators for students in the LEA as a whole and also shows the performance of the school's students on statewide assessments.

Rationale

The Department needs the ''report cards'' to verify the accuracy of the information the LEA provides in its application about student academic achievement and other student outcomes at each school.

Types of Grants

We propose awarding implementation grants to applicants to support the creation or expansion of an SLC or SLCs within each targeted high school. We do not propose funding any planning grants this year.

Grants will be awarded for a period up to 60 months. We propose to require that applicants provide detailed, yearly budget information for the total grant period requested. Understanding the unique complexities of implementing a program that affects a school's organization, physical design, curriculum, instruction, and preparation of teachers, we anticipate awarding the entire grant amount at the time of the initial award.

To apply for grant funds, applicants must be prepared to implement a new SLC project within each targeted high school or to expand an existing SLC project. The first year of grant funds is not to be used for planning purposes.

Rationale

Effectively implementing an SLC project requires significant prior planning and preparation, as well as extensive consultation with, and participation by, school personnel, parents, students, and community leaders. It requires fundamentally rethinking how a school is organized and how instruction and other direct services to students are delivered. It is not a discrete activity that can be carried out by a handful of teachers and school personnel without the involvement of the larger school community. Grants would be available to those LEAs that have engaged in extensive planning activities and developed plans for implementing or expanding an SLC project at one or more high schools.

Since the inception of the SLC program in 2000, the Department has funded grants dedicated to SLC planning activities. Planning grants have been awarded to more than 350 districts. Now, resources, planning tools, and SLC research are much more prevalent and accessible for schools and districts than was the case at the outset of the SLC program. Therefore, in order to focus the SLC program on the actual implementation of SLC strategies designed to improve student achievement, this year the Department will not offer a separate competition for planning grants. Schools receiving SLC grants need to be fully prepared to take on the activities outlined in their proposals and be able to document well-established support for the SLC project.

Our proposal to extend the maximum length of the project period of grants from 36 to 60 months is appropriate, given the nature and focus of the SLC grant. Students who enter high school in the first year of the grant will be only in 11th grade by the end of a three-year grant; their experiences in the 12th grade and their post-high school outcomes will be unknown. The experiences of the LEAs that received the first SLC grants in FY 2000 also suggest that some schools may need more time to undertake the extensive restructuring associated with a successful SLC project that makes meaningful changes in curriculum and instructional practices. Therefore, we propose extending the grant period to a maximum of five years.

Consortium Applications and Educational Service Agencies

In an effort to encourage systemic, district-level reform efforts, we propose permitting an individual LEA to submit only one grant application in a competition, specifying in each application which high schools the LEA intends to fund.

In addition, we propose to require that an LEA applying for a grant under this competition apply only on behalf of a high school or high schools for which it has governing authority, unless the LEA is an educational service agency that includes in its application evidence that the entity that has governing authority over the eligible high school supports the application. An LEA, however, may form a consortium with another LEA and submit a joint application for funds. The consortium must follow the procedures for group applications described in 34 CFR 75.127–75.129 in the Education Department General Administrative Regulations (EDGAR).

An LEA is eligible for only one grant whether the LEA applies independently or as part of a consortium.

Rationale

This requirement is designed to ensure that each LEA that receives assistance under this program will manage and coordinate school-level activities as part of a single, coherent, district-wide reform strategy. This will help LEAs make the most effective and efficient use of SLC resources and assist them in aligning SLC activities with other district-level initiatives, including the implementation of activities carried out under other programs funded by the ESEA and the Carl D. Perkins Vocational and Technical Education Act. For the same reason, we are proposing to require that the LEA have governing authority over each high school it includes in its application. A high school will have considerable difficulty implementing or expanding an SLC project without the involvement of the entity that has governing authority over the school and has responsibility for implementing other Federal, State, and local programs and initiatives that involve the school.

We are proposing to make an exception for an educational service agency that applies on behalf on an eligible high school with the concurrence of the entity that has governing authority over that school, because educational service agencies are organized for the explicit purpose of providing education-related services to entities with governing authority over schools, to schools, and to their students. We note that educational service agencies are included in the ESEA statutory definition of LEA but typically do not have governing authority over high schools they serve. Generally, the administrative control or direction of a high school is vested in a public board of education or another public authority other than an educational service agency. However, we recognize that not all entities that have administrative control or direction of eligible high schools have the capacity to apply for and administer an

SLC grant. For some districts and schools, educational service agencies provide resources and expertise to assist them in performing functions that they otherwise could not, by themselves, perform efficiently or at all.

Budget Information for Determination of Award

We propose that LEAs may receive, on behalf of a single school, up to $1,175,000, depending upon the size of the school, during the 60-month project period. LEAs applying on behalf of a group of eligible schools could receive up to $11,750,000 per grant. To ensure that sufficient funds are available to support SLC activities, we propose a limit of 10 schools that an LEA may include in a single application for a grant.

The following chart provides the ranges of awards per high school size that we are proposing:

SLC GRANT AWARD RANGES

Student enrollment	Award ranges per school
1,000–2,000 Students	$650,000–$800,000
2,001–3,000 Students	$650,000–$925,000
3,001–4,000 Students	$650,000–$1,050,000
4,001 and Up	$650,000–$1,175,000

The actual size of awards would be based on a number of factors. These factors include the scope, quality, and comprehensiveness of the proposed project and the range of awards indicated in the application.

Applications that request more funds than the maximum amounts specified for any school or for the total grant would not be read as part of the regular application process. However, if after the Secretary selects applications to be funded, it appears that additional funds remain available, the Secretary may choose to read those additional applications that requested funds exceeding the maximum amounts specified. If the Secretary chooses to fund any of those additional applications, applicants would be required to work with the Department to revise their proposed budgets to fit within the appropriate funding range.

Rationale

In previous SLC competitions, some applicants have requested more funds than the amount that we indicated would be available for a grant. Their applications included activities that could only be implemented if the applicants received a funding amount that exceeded the maximum amount specified in the notice. This strategy put at a competitive disadvantage other applicants that requested funds within the specified funding range and outlined a less extensive set of activities. For this reason, we propose to fund only those applications that request an amount that does not exceed the maximum amounts specified for the grants.

We determined these amounts after reviewing the experiences of previous recipients of SLC funds and examining the design and outcomes of other similar Federal, State, and privately funded programs.

Requiring applicants to provide detailed, yearly budget information for the total grant period requested is necessary for us to determine appropriate grant amounts based on the needs of the LEA and high schools. We are proposing to increase the individual amount per school to $1,175,000 and the maximum LEA award amount to $11,750,000 for a grant of 10 schools. In previous competitions, the grant amount was substantially less, as was the allowed project period. Because we are proposing to increase the project period from 36 months to 60 months, we believed it necessary to increase the grant amount accordingly. The proposed grant amount also was increased to provide additional support for independent evaluation activities and for comprehensive strategies and interventions to assist students who enter high school with reading or math skills that are significantly below grade level, both of which we propose to require SLC grantees to implement. Moreover, we have also been seeking to focus SLC grantees on the more difficult work of making the curriculum more rigorous and improving instruction, and cautioning them against pursuing structural changes alone. Implementing these more complex reforms is likely to be more costly than changing the organizational structure of schools alone.

Student Placement

We propose that applicants for SLC grants must include a description of how students will be selected or placed in an SLC and an assurance that students will not be placed according to ability or any other measure, but will be placed at random or by student/parent choice and not pursuant to testing or other judgments.

Rationale

As in all previous SLC competitions, the Department needs this information to ensure that each funded project complies with the requirements of the statute regarding random assignment or student/parent choice for SLC placement of students. Section 5441(b)(13) of the ESEA, as amended by the No Child Left Behind Act of 2001, requires applicants for SLC grants to describe the method of placing students in the SLC or SLCs, ''such that students are not placed according to ability or any other measure, but are placed at random or by their own choice and not pursuant to testing or other judgments.'' For instance, projects that place students in any SLC on the basis of their prior academic achievement or performance on an academic assessment are not eligible for assistance under this program.

Including All Students

We propose to require applicants for grants to implement or expand an SLC project that will include every student within the school by no later than the end of the fifth school year of implementation. Elsewhere in this notice, we propose to define an SLC as an environment in which a group of teachers and other adults within the school knows the needs, interests, and aspirations of each student well, closely monitors each student's progress, and provides the academic and other support each student needs to succeed.

Rationale

The purpose of creating SLCs within large high schools is to provide students with individualized attention, support, and instruction that will help them excel academically and acquire the knowledge and skills they need to succeed after high school. Young people have many different needs and personal resources, but most young people could benefit from participating in a well-implemented SLC. While it may be easier to implement incremental reforms that include only a limited number of students, we do a disservice to young people when we narrow our sights in this way. For this reason, we propose to support only projects that will include every student within an SLC.

Performance Indicators

We propose to require applicants to identify in their application specific performance indicators and annual performance objectives for each of these indicators. Specifically, we propose to require applicants to use the following performance indicators to measure the progress of each school:

(1) The percentage of students who score at the proficient and advanced levels on the reading/language arts and mathematics assessments used by the State to determine whether a school has made adequate yearly progress under part A of title I of the ESEA, as well as

these percentages disaggregated by subject matter and the following subgroups:

(A) Major racial and ethnic groups;

(B) Students with disabilities;

(C) Students with limited English proficiency; and

(D) Economically disadvantaged students.

(2) The school's graduation rate, as defined in the State's approved accountability plan for part A of title I of the ESEA;

(3) The percentage of graduates who enroll in postsecondary education, apprenticeships, or advanced training for the semester following graduation;

(4) The percentage of graduates who are employed by the end of the first quarter after they graduate (e.g., for students who graduate in May or June, this would be September 30);

(5) Other appropriate indicators the LEA may choose to identify in its application, such as rates of average daily attendance and year-to-year retention; achievement and gains in English proficiency of limited English proficient students; the incidence of school violence, drug and alcohol use, and disciplinary actions; or the percentage of students completing advanced placement courses, and the rate of passing advanced placement tests (such as Advanced Placement and International Baccalaureate) and courses for college credit.

Applicants would be required to include in their applications baseline data for each of these indicators and identify performance objectives for each year of the project period. We further propose to require recipients of grants to report annually on the extent to which each school achieves its performance objectives for each indicator during the preceding school year. We propose to require grantees to include in these reports comparable data, if available, for the preceding three school years so that trends in performance will be more apparent.

Rationale

While creating SLCs can appeal to teachers, students, and parents for many reasons, their fundamental purpose is to improve academic achievement and to prepare all young people to participate successfully in postsecondary education or advanced training, the workforce, and our communities. Assistance provided under the SLC project should also support and enhance the efforts of LEAs and schools to fulfill the ambitious goals of the No Child Left Behind Act of 2001.

For these reasons, it is important that projects measure their progress in improving student academic achievement and related outcomes. Two of the indicators we propose to use, student performance on reading/language arts and mathematics assessments and the graduation rate, are the same indicators used by States to measure the progress of LEAs and high schools under part A of title I of ESEA. Performance objectives for these indicators should equal or exceed the measurable annual objectives established by the State in its approved accountability plan for part A of title I of ESEA.

In today's economy, completing some form of postsecondary education or training beyond high school is often a prerequisite to securing employment that pays family-supporting wages and offers opportunities for career advancement. Most parents and students understand this well, and they consider preparing young people for postsecondary education or further learning to be one of the central missions of the American high school. The third indicator we are proposing, entrance into postsecondary education or advanced training, will measure the success of LEAs and schools in fulfilling these expectations. Performance objectives for this indicator should exceed the baseline level of performance and give particular emphasis to narrowing any gaps between students in general and economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency.

Our high schools also must prepare young people to succeed in the workforce. All high school graduates should have the necessary skills to obtain gainful employment, whether they decide to work in order to help pay for postsecondary education and their living expenses or decide to enter the workforce full-time after high school. The extent to which graduates are able to find employment after leaving high school is another important measure of the success of a high school in meeting the needs of its students.

Certainly, LEAs and schools will have other goals they hope to achieve through the implementation or expansion of an SLC project. For this reason, we propose to give applicants for grants the opportunity to identify and establish performance objectives for other indicators that they consider useful and appropriate, such as, for example, rates of average daily attendance or incidents of violence and drug and alcohol use.

Evaluation

We propose to require each applicant to provide assurances that it will support an evaluation of the project that provides information to the project director and school personnel, and that will be useful in gauging the project's progress and in identifying areas for improvement. We propose that each evaluation include an annual report for each of the first four years of the project period and a final report that would be completed at the end of the fifth year of implementation and that will include information on implementation during the fifth year as well as information on the implementation of the project across the entire project period. We would require grantees to submit each of these reports to the Department.

In addition, we propose to require that the evaluation be conducted by an independent third party, selected by the applicant, whose role in the project is limited to conducting the evaluation.

Rationale

Implementing or expanding an SLC project is difficult and complex work that administrators, teachers, and other school personnel must carry out at the same time that they are carrying out other demanding, day-to-day responsibilities. An evaluation that provides regular feedback on the progress of implementation and its impact can help the project director and school personnel identify their successes and how they may need to revise their strategies to accomplish their goals. To be most useful, the evaluation should be objective and be carried out by an independent third party who has no other role in the implementation of the project.

High-Risk Status and Other Enforcement Mechanisms

Because the requirements listed in this notice are material requirements, we propose that failure to comply with any requirement or with any elements of the grantee's application would subject the grantee to administrative action, including but not limited to designation as a ''high-risk'' grantee, the imposition of special conditions, or termination of the grant. Circumstances that might cause the Department to take such action include, but are not limited to: The grantee showing a decline in student achievement after two years of implementation of the grant; the grantee's failure to make substantial progress in completing the milestones outlined in the management plan included in the application; and the grantee's expenditure of funds in a manner that is inconsistent with the budget as submitted in the application.

Rationale

Part of the Department's role in administering grant funds under the SLC program is to ensure that those funds are used in a manner consistent with the aims of the grant program. To help ensure proper use of funds, the Department reserves the right to use the enforcement actions listed above if grantees fail to meet the requirements of the law or the SLC program, or if student achievement appears to be declining during implementation of the grant.

Required Meetings Sponsored by the Department

Applicants must set aside adequate funds within their proposed budget to send their project director to a two-day project directors' meeting in Washington, DC, and to send a team of five key staff members, including their external evaluator, to attend a two-and-a-half-day Regional Institute. Both meetings will be hosted by the Department.

Rationale

Convening all project directors at an initial meeting allows Federal staff to provide introductory information on grants administration and Department regulations, the evaluation process, and other topics of interest to new grantees. Regional Institutes provide grantee teams the opportunity to attend forums on topics relevant to the Department's high school-related activities.

Previous Grantees

We propose to allow an LEA to apply on behalf of a school that received funds for an implementation grant under the original FY 2000 SLC program competition to apply on behalf of the school for a second SLC grant under the terms set forth in this notice. LEAs applying on behalf of schools that received funding for an implementation grant under the FY 2000 competition would be required to submit a copy of the final report for their FY 2000 implementation grant. LEAs would not be able to apply for funding on behalf of schools that received an SLC implementation grant under the competitions in fiscal years 2001, 2002, or 2003.

Rationale

The performance period for implementation grants awarded in FY 2000 has ended. These grantees are no longer receiving Federal assistance to implement SLCs. The performance period for implementation grants awarded in fiscal years 2001, 2002, and 2003 has not yet expired. Moreover, the original SLC grantees that were awarded funds in FY 2000 were not required to undertake a number of the activities that have been required in subsequent competitions, including implementing SLCs ''wall-to-wall,'' interventions for students who enter high school with reading/language arts or mathematics skills that are significantly below grade level, and an external evaluation. Allowing LEAs to apply on behalf of these schools for further funding will enable them to implement activities that were required of schools that were awarded funds in subsequent SLC competitions.

Definitions

Proposed Definitions

In addition to the definitions set out in the authorizing statute and 34 CFR 77.1, we propose that the following definitions also apply to this program:

BIA School means a school operated or supported by the Bureau of Indian Affairs.

Large High School means an entity that includes grades 11 and 12 and has an enrollment of 1,000 or more students in grades 9 and above.

Smaller Learning Community (SLC) means an environment in which a core group of teachers and other adults within the school know the needs, interests, and aspirations of each student well, closely monitor each student's progress, and provide the academic and other support each student needs to succeed.

Selection Criteria

Proposed Selection Criteria

We propose that the following selection criteria be used to evaluate applications for new grants under this program. We may apply these selection criteria to any SLC competition in the future.

Note: The maximum score for all of these criteria will be 100 points. We will inform applicants of the points or weights assigned to each criterion and sub-criterion in a notice published in the Federal Register.

Need for the Project

In determining the need for the proposed project, we will consider the extent to which the applicant will:

(1) Assist schools that have the greatest need for assistance, as indicated by, relative to other high schools within the State, one or more of the factors below:

(A) Student performance on the academic assessments in reading/language arts and mathematics administered by the State under part A, title I of the ESEA, including gaps in the performance of all students and that of student subgroups, such as economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, or students with limited English proficiency.

(B) The school's dropout rate, and gaps in the graduation rate between all students and student subgroups.

(C) Disciplinary actions.

(D) The percentage of graduates who enroll in postsecondary education, apprenticeships, or advanced training in the semester following graduation, and gaps between all students and student subgroups.

Foundation for Implementation

In determining the quality of the implementation plan for the proposed project, we will consider the extent to which:

(1) Teachers and administrators within each school support the proposed project and have been and will continue to be involved in its planning and development, including, particularly, those teachers who will be directly affected by the proposed project.

(2) Parents, students, and other community stakeholders support the proposed project and have been involved in its planning and development.

(3) The proposed project is consistent with, and will advance, State and local initiatives to increase student achievement and narrow gaps in achievement between all students and student subgroups.

(4) The applicant demonstrates that it has carried out sufficient planning and preparatory activities to enable it to implement the proposed project at the beginning of the school year immediately following receipt of an award.

Quality of the Project Design

In determining the quality of the project design for the SLC project, we will consider the extent to which—

(1) The applicant will implement or expand strategies, new organizational structures, or other changes in practice that are likely to create an environment in which a core group of teachers and other adults within the school know the needs, interests, and aspirations of each student well, closely monitor each student's progress, and provide the academic and other support each student needs to succeed;

(2) The applicant proposes research-based strategies that are likely to improve overall student achievement and other outcomes (including

graduation rates and enrollment in postsecondary education), narrow any gaps in achievement between all students and student subgroups, and address the particular needs identified by the school under the paragraph titled Need for the Project, such as—

(A) More rigorous academic curriculum for all students, and the provision of academic support to struggling students who need assistance to master more challenging academic content;

(B) More intensive and individualized educational counseling and career and college guidance, provided through mentoring, teacher advisories, adult advocates, or other means;

(C) Strategies designed to increase average daily attendance, increase the percentage of students who transition from the 9th to 10th grade, and improve the graduation rate; and

(D) Expanding opportunities for students to participate in advanced placement courses and other academic and technical courses that offer both high school and postsecondary credit.

(3) The applicant will implement accelerated learning strategies and interventions that will assist students who enter the school with reading/language or mathematics skills that are significantly below grade level and that:

(A) Are designed to equip participating students with grade-level reading/language arts and mathematics skills by no later than the end of the 10th grade; and that—

(B) Are grounded in scientifically based research;

(C) Include the use of age-appropriate instructional materials and teaching and learning strategies;

(D) Provide additional instructional and academic support during the regular school day, which may be supplemented by instruction that is provided before or after school, on weekends, and at other times when school is not in session;

(E) Will be delivered with sufficient intensity to improve the reading/language arts or math skills, as appropriate, of participating students; and

(F) Include sustained professional development and ongoing support for teachers and other personnel who are responsible for delivering instruction.

(4) The applicant will provide high-quality professional development throughout the project period that advances the understanding of teachers, administrators, and other school staff of effective, research-based instructional strategies for improving the academic achievement of students, including, particularly, students with academic skills that are significantly below grade level, and provide the knowledge and skills those staff need to participate effectively in the development, expansion, or implementation of an SLC.

(5) The proposed project fits into a comprehensive district high school improvement strategy to increase the academic achievement of all district high school students, reduce gaps between the achievement of all students and student subgroups, and prepare students to enter postsecondary education or the workforce.

(6) The proposed project is part of a cohesive plan that uses funds provided under the ESEA, the Carl D. Perkins Vocational and Technical Education Act, or other Federal programs, as well as local, State, and private funds sufficient to ensure continuation of efforts after Federal support ends.

Quality of the Management Plan

In determining the quality of the management plan for the proposed project, we consider the following factors:

(1) The adequacy of the proposed management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities and detailed timelines and milestones for accomplishing project tasks;

(2) The extent to which time commitments of the project director and other key personnel are appropriate and adequate to implement the SLC project effectively.

(3) The qualifications, including relevant training and experience, of the project director and other key personnel; and

(4) The adequacy of resources, including the extent to which the budget is adequate and costs are directly related to the objectives and design of the research evaluation and SLC activities.

Quality of the SLC Project Evaluation

In determining the quality of the proposed project evaluation conducted by an independent, third-party evaluator, we consider the following factors—

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed SLC project;

(2) The extent to which the evaluation will collect and report accurate qualitative and quantitative data that will be useful in assessing the success and progress of implementation, including, at a minimum—

(A) Measures of student academic achievement that provide data for the performance indicators identified in the application, including results that are disaggregated for economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, students with limited English proficiency, and other subgroups identified by the applicant; and

(B) Other measures identified by the applicant in the application as performance indicators;

(3) The extent to which the methods of evaluation will provide timely and regular feedback to the LEA and the school on the success and progress of implementation, and identify areas for needed improvement.

(4) The qualifications and relevant training and experience of the independent evaluator.

Executive Order 12866

This notice of proposed priority, requirements, definitions, and selection criteria has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with this notice of proposed priority, requirements, definitions, and selection criteria are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed priority, requirements, definitions, and selection criteria, we have determined that the benefits of the proposed priority, requirements, definitions, and selection criteria justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Number 84.215L, Smaller Learning Communities Program)

Dated: February 22, 2005.

Susan Sclafani,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. E5–767 Filed 2–24–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection package to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The package requests a three-year extension of its ''Procurement Reporting and Record Keeping Burdens,'' OMB Control Number 1910–4100. This information collection package collects data that is used by the Department to exercise management oversight and control over contractors including management and operating (M&O) contractors operating DOE's facilities and other contractors furnishing goods and services with regard to implementation of applicable statutory, regulatory and contractual requirements and obligations. The information collection requires that contractors submit information pertaining to their Procurement activities such as acquisition of real property, facilities management, and subcontracting goals and reporting requirements. The collection is critical to ensure that the Government has sufficient information to judge the degree to which contractors are meeting requirements, that public funds are spent in an efficient and effective manner and that fraud, waste and abuse are avoided. The Department published a Notice and Request for Comment for this collection in the **Federal Register** on December 10, 2004 at 69 FR 71807. No comments were received in response to the Notice.

DATES: Comments regarding this collection must be received on or before March 28, 2005. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

ADDRESSES: Written comments should be sent to: DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW., Washington, DC 20503.

Comments should also be addressed to: Sharon A. Evelin, Director, IM–11/Germantown Bldg., U.S. Department of Energy, 1000 Independence Ave SW., Washington, DC 20585–1290, and to: Richard L. Langston, Procurement Policy Analyst, ME–63 L'Enfant Plaza Building, 1000 Independence Ave. SW., Washington, DC 20585–1615.

FOR FURTHER INFORMATION CONTACT: Sharon A. Evelin and Richard L. Langston, at the addresses listed above in **ADDRESSES**.

SUPPLEMENTARY INFORMATION: This package contains:

(1) *OMB No.:* 1910–4100.

(2) *Package Title:* Procurement Reporting and Record Keeping Burdens.

(3) *Purpose:* This information is required by the Department to ensure that DOE contracts including management and operation contractors operating DOE facilities are managed efficiently and effectively and to exercise management oversight of DOE contractors.

(4) *Estimated Number of Respondents:* 1,616.

(5) *Estimated Total Burden Hours:* 893,359.

(6) *Number of Collections:* The package contains 41 information and/or recordkeeping requirements.

Statutory Authority: Department of Energy Organization Act, Public Law 92–01.

Issued in Washington, DC, on February 18, 2005.

Sharon A. Evelin,

Director, Records Management Division, Office of the Chief Information Officer.

[FR Doc. 05–3648 Filed 2–24–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–411–000, Corps Application # CENAP–OP–R–200500146; Docket No. CP04–416–000, Corps Application # CENAP–OP–R–200500145]

U.S. Army Corps of Engineers, Philadelphia District, Crown Landing, L.L.C., Texas Eastern Transmission, L.P.; Notice of Availability of the Draft Environmental Impact Statement, the Scheduling of Joint Public Hearings and the Submission of Two Department of the Army Permit Applications to the U.S. Army Corps of Engineers for the Proposed Crown Landing LNG and Logan Lateral Projects in Gloucester County, NJ, New Castle County, DE and Delaware County, PA

February 18, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) in cooperation with the U.S. Army Corps of Engineers (COE), U.S. Coast Guard, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, and the National Oceanic and Atmospheric Administration Fisheries has prepared a draft Environmental Impact Statement (EIS) for a liquefied natural gas (LNG) import terminal (referred to as the Crown Landing LNG Project) proposed by Crown Landing, L.L.C. (Crown Landing), a BP Energy Company (BP) affiliate, and natural gas pipeline facilities (referred to as the Logan Lateral Project) proposed by Texas Eastern Transmission, L.P. (Texas Eastern) in the above-referenced dockets.

This is a joint public notice by the FERC and COE to advertise:

- The availability of the draft EIS;
- The scheduling of joint public meetings/hearings on March 29, 30, and 31, 2005; and
- The submission of two Department of the Army permit applications (CENAP–OP–R–200500145 and CENAP–OP–R–200500146) to the COE for the Crown Landing LNG and Logan Lateral Projects in Gloucester County, New Jersey, New Castle County, Delaware and Delaware County, Pennsylvania.

The draft EIS has been prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). The FERC concludes that if the project is constructed and operated in accordance with Crown Landing's and Texas Eastern's proposed mitigation and our recommended mitigation measures, the proposed facilities would have limited adverse environmental impact. The draft EIS identifies and evaluates the preferred alternative proposal and other alternatives, including system alternatives, alternative sites for the LNG import terminal, and pipeline alternatives, and requests comments on them.

The proposed LNG terminal would be located on the shoreline of the Delaware River in Logan Township, Gloucester County, New Jersey, and would consist of facilities capable of unloading LNG ships, storing up to 450,000 cubic meters (m3) of LNG (9.2 billion cubic feet of natural gas equivalent), vaporizing the LNG, and sending out natural gas at a baseload rate of 1.2 billion cubic feet per day (Bcfd) and a maximum rate of 1.4 Bcfd (using spare equipment). Crown Landing proposes to interconnect the LNG facilities onsite with three pipelines. One interconnect would be with the new pipeline that Texas Eastern proposes to construct and operate (*i.e.,* Logan Lateral) between its existing Chester Junction facility in Brookhaven Borough, Pennsylvania and the proposed LNG terminal. The other two interconnects would be with existing pipelines that currently cross the LNG terminal site. One of these pipelines is owned and operated by Columbia Gas Transmission Company (Columbia Gas). The other pipeline is owned and operated by Transcontinental Gas Pipe Line Corporation (Transco). To date, neither Columbia Gas nor Transco have filed applications with the FERC to construct and operate the interconnects. The Crown Landing LNG Project would have a maximum delivery capacity of 0.5 Bcfd to the Columbia Gas pipeline system, 0.6 Bcfd to the Transco pipeline system, and 0.9 Bcfd to the Texas Eastern pipeline system.

The proposed preferred project construction site, referenced above, is approximately 175 acres in size (waterward of the low water line on the Delaware River). Within the site there are uplands, wetlands (federally regulated) and intertidal river shoreline (also federally regulated). Construction of the proposed LNG terminal (Crown Landing) would involve the dredging of shallow water riverbottom and the filling of a small area of intertidal river shoreline for the installation of berthing structures in the Delaware River. No permanent filling of federally regulated wetlands is proposed for construction of the terminal facilities. The proposed new pipeline (Texas Eastern) connection would involve the installation of about 11.00 miles of new underground pipeline from the storage and transfer facility in Gloucester County, New Jersey, crossing Birch Creek, Raccoon Creek, the Delaware River, Chester Creek and several smaller waterways on both sides of the Delaware River, to an existing pipeline junction facility in Pennsylvania.

The Birch Creek, Raccoon Creek, Delaware River, and Chester Creek crossings would all be accomplished by Horizontal Directional Drilling (HDD) method. All smaller waterway crossings would be accomplished by open-cut trenching. The rigging for the HDD crossing of the Delaware River would be set-up on the Pennsylvania bank of the river in Chester. The pipeline would be ''pulled under'' the river from the old Ferry Road roadbed on the New Jersey side.

The draft EIS addresses the potential environmental effects of the construction and operation of the following LNG and natural gas pipeline facilities:

- A ship unloading facility capable of receiving LNG ships with capacities up to 200,000 m^3;
- Three 150,000 m^3 (net capacity) full-containment LNG storage tanks, comprised of 9 percent nickel steel inner tank, pre-stressed concrete outer tank, and a concrete roof;
- A closed-loop shell and tube heat exchanger vaporization system;
- Various ancillary facilities, including administrative offices, warehouse/maintenance building, main control center, guardhouse, and a pier control room;
- Three meter and regulation stations located on the proposed LNG terminal site; and
- Approximately 11.00 miles of 30-inch-diameter natural gas pipeline (4.92 miles in Pennsylvania and 6.08 miles in New Jersey), a pig launcher and receiver facility at the beginning and end of the pipeline, a mainline valve, and a meter and regulation station at the end of the pipeline.

Crown Landing and Texas Eastern have applied, concurrently, to the COE for two Department of the Army Individual permits pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) for the proposed structures in and under navigable waters and the discharge of dredged, excavated, and/or fill material into waters of the United States, including wetlands to construct the preferred alternative identified in the draft EIS. The decision whether to issue the permits will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed projects on the public interest. The decision will reflect the national concern for the protection and utilization of important resources. The benefits, which would be reasonably expected to accrue from the proposed projects, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposed work, will be considered, including the cumulative effect thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply, and consideration of property ownership, and in general, the needs and welfare of the people. Department of the Army permit(s) will be granted by the COE unless it is determined that the proposed work would be contrary to the public interest.

Joint FERC Public Meetings/COE Public Hearings will be held to provide interested individuals with the opportunity to testify about the effects of the projects, including their social, economic and environmental effects. These meetings/hearings provide the opportunity to present views, opinions, and information that will be considered by the FERC and COE in evaluating the proposed projects.

Comment Procedures and Public Meetings

Any person wishing to comment on the draft EIS may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St. NE., Room 1A, Washington, DC 20426;
- Reference Docket No. CP04–411–000, *et al.*;
- Label one copy of your comments for the attention of Gas Branch 1, PJ–11.1; and
- Mail your comments so that they will be received in Washington, DC on or before April 18, 2005.

Please note that the Commission strongly encourages electronic filing of any comments or interventions to this proceeding. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments you will need to create a free account, which can be created by clicking on ''Login to File'' and then ''New User Account.''

In addition to or in lieu of sending written comments, we invite you to attend the public comment meetings we will conduct three meetings in the project area. The locations and times of these meetings are listed below.

March 29, 2005, 7 p.m. (EST), Holiday Inn, One Pureland Drive, Swedesboro, NJ 08085, (856) 467–3322;

March 30, 2005, 7 p.m. (EST), Crozer Community Hospital, 2600 West 9th St., Chester, PA 19013, (610) 494–0700;

March 31, 2005, 7 p.m. (EST), Holiday Inn, 630 Naamans Road, Claymont, DE 19703, (302) 791–4603.

Information regarding these meetings is also posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information. Interested groups and individuals are encouraged to attend and present oral comments on the draft EIS. Transcripts of the meetings will be prepared.

After these comments are reviewed, any significant new issues are investigated, and modifications are made to the draft EIS, a final EIS will be published and distributed by the staff. The final EIS will contain the staff's responses to timely comments received on the draft EIS.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).

Anyone may intervene in this proceeding based on this draft EIS. You must file your request to intervene as specified above.[1] You do not need intervenor status to have your comments considered.

The draft EIS has been placed in the public files of the FERC and is available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies are available from the FERC Public Reference Room identified above. In addition, copies of the draft EIS have been mailed to federal, state, and local agencies; public interest groups; individuals and affected landowners who requested a copy of the draft EIS; libraries; newspapers; and parties to this proceeding.

The draft EIS is also available for review and inspection (not for distribution) at the locations listed below: Gloucester County Library, 415 Swedesboro Road, Gibbstown, NJ 08027;

Gloucester County Library, 101 Beckett Road, Logan Township, NJ 08085;

J. Lewis Crozier Library, 620 Engle Street, Chester, PA 19013;

Aston Public Library, 3720 Concord Road, Aston, PA 19014;

Brandywine Hundred Branch of the New Castle County Library, 1300 Foulk Road, Wilmington, DE 19803;

U.S. Army Corps of Engineers, Regulatory Branch, John Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107, (215) 656–5940.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. The draft EIS can be accessed on this Web site. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the FERC, such as orders, notices, and rulemakings.

In addition, the FERC now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to the eSubscription link on the FERC Internet Web site.

Magalie R. Salas,

Secretary.

[FR Doc. E5–783 Filed 2–24–05; 8:45 am]

BILLING CODE 6717–01–P

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF05–7–000]

Southern Natural Gas Company; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Cypress Pipeline Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings

February 18, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of Southern Natural Gas Company's (Southern) proposed Cypress Pipeline Project. The project involves the construction and operation of natural gas pipeline and compressor facilities in various counties in Georgia and Florida as discussed below.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help determine which issues need to be evaluated in the EIS. Please note that the scoping period will close on April 7, 2005.

This notice is being sent to affected landowners; Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. State and local government representatives are asked to notify their constituents along this proposed project and encourage them to comment on their areas of concern.

Comments regarding this project may be submitted in written form or verbally. Further details on how to submit written or electronic comments are provided in the public participation section of this notice. In lieu of or in addition to sending written comments, we invite you to attend the public scoping meetings we have scheduled as follows:

Date: Tuesday, March 8, 2005, 7 p.m. (EST).

Location: Bloomingdale Community Center, 202 East Moore Street,

Bloomingdale, Georgia 31302, (912) 748–0970.

Date: Wednesday, March 9, 2005, 7 p.m. (EST).

Location: Embassy Suites, 500 Mall Boulevard, Glynn Place Mall, Brunswick, Georgia 31525, (912) 264–6100.

Date: Thursday, March 10, 2005, 7 p.m. (EST).

Location: Clarion Hotel Airport, Conference Center, 2101 Dixie Clipper Drive, Jacksonville, Florida 32218, (904) 741–1997.

The FERC will be the lead Federal agency for the preparation of the EIS. The document will satisfy the requirements of the National Environmental Policy Act (NEPA). The U.S. Army Corps of Engineers (COE) has agreed to participate as a cooperating agency in the preparation of the EIS to satisfy its NEPA responsibilities under section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act.

With this notice, we[1] are asking other Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EIS. These agencies may choose to participate once they have evaluated Southern's proposal relative to their responsibilities. Agencies that would like to request cooperating status should follow the instructions for filing comments described later in this notice.

If you are a landowner receiving this notice, you may be contacted by a Southern representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the FERC, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need To Know?'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the FERC's proceedings.

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Office of Energy Projects.

Summary of the Proposed Project

Southern proposes to construct and operate new pipeline facilities to provide approximately 500 million cubic feet per day of natural gas capacity to the project area in southeastern Georgia and northern Florida. Specifically, Southern seeks authority to construct and operate:

About 165 miles of 24-inch-diameter mainline pipeline in Chatham, Effingham, Bryan, Liberty, Long, McIntosh, Glynn, Camden, and Charlton Counties, Georgia, and Nassau, Duval, and Clay Counties, Florida;

About 10 miles of 30-inch-diameter pipeline loop[2] in Chatham and Effingham Counties, Georgia;

10,350 horsepower (hp) of gas turbine-driven compression at the proposed Compressor Station #1 in Liberty County, Georgia;

10,350 hp of gas-turbine driven compression at the proposed Compressor Station #2 in Glynn County, Georgia;

10,350 hp of gas-turbine driven compression at the proposed Compressor Station #3 in Nassau County, Florida;

Four new meter stations including:

—Atlanta Gas Light Meter Station in Glynn County, Georgia,
—South Georgia Natural Gas Meter Station in Nassau County, Florida,
—Brandy Branch Power Plant Meter Station in Duval County, Florida,
—Florida Gas Transmission Meter Station in Clay County, Florida;

A pig[3] launcher/receiver facility at the beginning of the 30-inch-diameter pipeline loop at Port Wentworth in Chatham County, Georgia; a regulator setting and a pig launcher/receiver facility at the end of the 30-inch-diameter pipeline loop near Rincon in Effingham County, Georgia; a pig launcher/receiver facility at the beginning of the 24-inch-diameter mainline pipeline near Rincon in Effingham County, Georgia; two pig launcher/receiver facilities at the Compressor Station #2 site in Glynn County, Georgia; and a pig launcher/receiver facility at the end of the 24-inch-diameter mainline pipeline at the Florida Gas Transmission Meter Station in Clay County, Florida; and

14 mainline valves.

Southern is requesting approval to begin construction of the proposed facilities in the Fall of 2006 and proposes an in-service date of Spring 2007. A general overview map of the major project facilities is provided in Appendix 1.[4]

[2] A loop is segment of pipeline that is usually installed adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through the system.

[3] A pig is an internal tool that can be used to clean and dry a pipeline and/or to inspect it for damage or corrosion.

Land Requirements for Construction

Construction of the proposed facilities would require about 2,105.2 acres of land. Following construction, about 1,045.0 acres would be maintained as permanent right-of-way and aboveground facility sites. The remaining 1,060.2 acres of temporary workspace would be restored and allowed to revert to its former use. About 98 percent of the pipeline route would parallel existing utility rights-of-way.

The typical construction right-of-way for the mainline pipeline would be 95 feet wide, consisting of 28 feet within an existing powerline easement and 67 feet of new temporary workspace. Additional right-of-way width and temporary extra workspace would be required at certain feature crossings (*e.g.,* roads, railroads, waterbodies) and areas requiring topsoil segregation and special construction techniques. After construction, Southern would retain a 50-foot-wide permanent right-of-way adjacent to the existing powerline right-of-way.

The typical construction right-of-way for the pipeline loop would be 95 feet wide, consisting of 50 feet within Southern's existing easement and 45 feet of new temporary workspace. Additional temporary extra workspace would be required as described above for the mainline pipeline. The loop would be installed within Southern's existing easement at a 20-foot offset from the existing 20-inch-diameter pipeline. No new permanent right-of-way would be required.

Each compressor station would be located on an approximate 30-acre parcel of land that Southern would acquire. After construction, each compressor station would require 15 acres for operation; the remaining acreage would be retained as a buffer. The meter stations would each require about 1.5 acres of land. The pig launcher and receiver facilities and mainline valves would be installed

[4] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies are available on the Commission's Internet Web site (*http://www.ferc.gov*) at the ''eLibrary'' link or from the Commission's Public Reference Room at (202) 502–8371. For instructions on connecting to eLibrary, refer to the end of this notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to Southern (see *http://www.cypresspipeline.com* for contact information).

within the permanent right-of-way or within the boundaries of other aboveground facility sites.

The EIS Process

NEPA requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues and reasonable alternatives.

Although no formal application has been filed, we have already initiated our NEPA review under the FERC's Pre-Filing Process. The purpose of the Pre-Filing Process is to encourage the early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC.

As part of our Pre-Filing Process review, representatives from the FERC met with the COE on February 8, 2005 to discuss the involvement of the COE in the scoping process and the preparation of the EIS. In addition, representatives from the FERC participated in public open houses sponsored by Southern in the project area on February 15–17, 2005 to explain the environmental review process to interested stakeholders and take comments about the project. During March 2005, the FERC staff will be conducting interagency scoping meetings in the project area to solicit comments and concerns about the project from jurisdictional agencies. By this notice, we are formally announcing our preparation of the EIS and requesting additional agency and public comments to help us focus the analysis in the EIS on the potentially significant environmental issues related to the proposed action.

Our independent analysis of the issues will be included in a draft EIS. The draft EIS will be mailed to Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; affected landowners; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 45-day comment period will be allotted for review of the draft EIS. We will consider all timely comments on the draft EIS and revise the document, as necessary, before issuing a final EIS.

Currently Identified Environmental Issues

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project under the general resource headings listed below. We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Southern. This preliminary list of issues may be changed based on your comments and our additional analysis.

- Geology and Soils.
  - —Assessment of potential geologic hazards, including sinkholes.
  - —Potential impact on mineral resources and mining operations.
  - —Effect on hydric soils and soils with a high potential for compaction.
- Water Resources and Wetlands.
  - —Effect on groundwater resources.
  - —Potential effect on perennial streams, intermittent streams, and ponds crossed by or close to the route.
  - —Effect on waterbodies designated under federal or state programs, including the Altamaha, Satilla, and St. Mary's Rivers.
  - —Evaluation of temporary and permanent effects on wetlands.
- Fisheries, Wildlife, and Vegetation.
  - —Effect on fisheries, wildlife, and vegetation resources, including planted pine and forested habitats.
  - —Effect on vegetative nuisance species.
- Endangered and Threatened Species.
  - —Potential effect on federally and state-listed species, including the red-cockaded woodpecker, eastern indigo snake, flatwoods salamander, gopher tortoise, and gopher frog.
- Cultural Resources.
  - —Effect on historic and prehistoric sites.
  - —Native American and tribal concerns.
- Land Use.
  - —Impact on residential areas.
  - —Effect on existing and future land use along the proposed right-of-way, including forested wetlands and pine plantations.
  - —Effect on recreation and public interest areas, including wildlife management areas, State Forests, a historic canal, and scenic trail systems.
  - —Visual effect of the aboveground facilities on surrounding areas.
- Socioeconomics.
  - —Effect of construction workforce demands on public services and temporary housing.
- Air Quality and Noise.
  - —Effect on local air quality and noise environment from construction and operation of the proposed facilities.
- Reliability and Safety.
  - —Assessment of public safety factors associated with natural gas facilities.
- Alternatives.
  - —Assessment of alternative routes, systems, and energy sources to reduce or avoid environmental impacts.
  - —Assessment of alternative compressor station sites.
- Cumulative Impacts.
  - —Assessment of the effect of the proposed project when combined with other projects that have been or may be proposed in the same region and similar time frame.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the proposal. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please mail your comments so that they will be received in Washington, DC on or before April 7, 2005 and carefully follow these instructions:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Gas Branch 1, DG2E; and
- Reference Docket No. PF05–7–000 on the original and both copies.

The public scoping meetings to be held on March 8–10, 2005 in Bloomingdale and Brunswick, Georgia and Jacksonville, Florida, respectively, are designed to provide another opportunity to offer comments on the proposed project. Interested groups and individuals are encouraged to attend these meetings and to present comments on the environmental issues they believe should be addressed in the EIS. Transcripts of the meetings will be made so that your comments will be accurately recorded.

We will include all comments that we receive within a reasonable time frame in our environmental analysis of the project. To expedite our receipt and consideration of your comments, the Commission strongly encourages

electronic submission of any comments on this project. See Title 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can submit comments, you will need to create a free account which can be created on-line.

Once Southern formally files its application with the Commission, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''eFiling'' link on the Commission's Web site. Please note that you may not request intervenor status at this time. You must wait until a formal application is filed with the Commission.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding that would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

If you received this notice, you are on the environmental mailing list for this project and will continue to receive project updates including the draft and final EIS. If you do not want to remain on our mailing list, please return the Remove From Mailing List Form included in Appendix 2. If you return this form, you will be removed from the Commission's environmental mailing list.

Availability of Additional Information

Additional information about the project is available from the Commission(s Office of External Affairs at 1–866–208 FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (i.e., PF05–7). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, Southern has established an Internet Web site for its project at *http://www.cypresspipeline.com.* The Web site includes a description of the project and links to related documents.

Magalie R. Salas,

Secretary.

[FR Doc. E5–782 Filed 2–24–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

February 18, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No.:* 2543–064.

c. *Date Filed:* December 28, 2004.

d. *Applicant:* Clark Fork and Blackfoot, LLC.

e. *Name of Project:* Milltown.

f. *Location:* The project is located at the confluence of the Clark Fork and Blackfoot Rivers in Missoula County, Montana.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Michael J. Young, Esq., Clark Fork and Blackfoot, LLC, 123 S. Dakota Avenue, Sioux Falls, SD 57104, (605) 978–2836.

i. *FERC Contact:* Regina Saizan, (202) 502–8765.

j. *Deadline for filing comments and or motions:* March 21, 2005.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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. Please include the project number (P–2543–064) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Amendment:* The applicant requests that the license termination date be extended from December 31, 2009, to December 31, 2010. The applicant states that while the U.S. Environmental Protection Agency published its Record of Decision (ROD) on December 20, 2004, for the Milltown Superfund site, setting forth the selected remedy involving the removal of Milltown Dam, the interested parties continue to negotiate a consent decree, setting forth the terms and conditions of the settlement including implementation of the remedy set forth in the ROD. In light of the uncertainty over whether an acceptable consent decree will be negotiated and executed by the relevant parties, the applicant requests the extension to mitigate any license renewal risk in the unlikely event the parties fail to successfully negotiate a consent decree for the Milltown Superfund site. On December 27, 2004, the applicant filed a notice of intent to relicense the project with the understanding that its notice would become moot if its request to extend the term of the license is granted.

l. *Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representative.

Magalie R. Salas,

Secretary.

[FR Doc. E5–781 Filed 2–24–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. AD04–13–000, RM05–4–000, RM02–1–000, RM02–12–000, NJ04–2–000, NJ05–1–000, and NJ05–2–000]

Assessing the State of Wind Energy in Wholesale Electricity Markets, Interconnection for Wind Energy and Other Alternative Technologies, Standardization of Generator Interconnection Agreements and Procedures, Standardization of Small Generator Interconnection Agreements and Procedures, Basin Electric Power Cooperative, United States Department of Energy, Western Area Power Authority, United States Department of Energy, Bonneville Power Administration; Notice of Meeting

February 16, 2005.

Take notice that the Federal Energy Regulatory Commission is meeting with representatives of Indian tribal governments, the Western Area Power Authority, and Basin Electric Power Cooperative on Wednesday, February 23, 2005, to discuss general and regional issues regarding the development and interconnection of tribal wind energy resources. Topics related to the above dockets may be discussed at this meeting. This notice is being published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b (2004).

The meeting will be held from 3 pm to 6 pm (CST) in Aurora Ballroom #3 at the Alerus Center, 1200 42nd Street South, Grand Forks, North Dakota 58201. Commission members and staff will participate in this meeting.

Be advised that concurrently with this meeting, the Alerus Center will be hosting a Renewable Energy Conference. Registration for the Renewable Energy Conference, sponsored by University of North Dakota Energy and Environmental Research Center and others, is not required for attendance at the Commission's meeting with Indian tribes. Information regarding the Renewable Energy Conference can be obtained at *http://www.undeerc.org/reconference.*

Members of the public may attend the Commission's meeting, however, participation will be limited to tribal representatives, Commission representatives, the Western Area Power Authority, and Basin Electric Power Cooperative.

The following is an overview of the meeting agenda, a more detail agenda will be distributed at the meeting:

3 p.m. to 4:15 p.m. Issues related to the development and interconnection of wind energy resources
4:15 p.m. to 4:30 p.m. Break
4:30 p.m. to 6 p.m. Wind interconnection issues in the Upper Midwest

The goal of this meeting is to further the Commission's, Western Area Power Authority's, and Basin Electric Power Cooperative's understanding of Indian tribes' interests and concerns regarding the development and interconnection of wind energy resources. This meeting will not be transcribed. If meeting participants, or public observers, would like to include comments in the record for any particular Commission proceeding regarding topics addressed at this meeting, such comments must be filed with the Commission in the appropriate docket.

Registration is not required to attend this meeting, however, meeting participants and public observers are encouraged to contact Rollie Wilson, the Commission's Tribal Liaison at 202–502–8787, or *rollie.wilson@ferc.gov*, to help ensure adequate meeting space, discuss meeting topics, or any other questions.

Magalie R. Salas,

Secretary.

[FR Doc. E5–779 Filed 2–24–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the Record Communications; Public Notice

February 18, 2005.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part

of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers in ascending order. These filings are 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 (FERRIS) link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	Date filed	Presenter or requester
Prohibited:		
1. CP04–36–000	2–3–05	Jerry M. Landay
CP04–41–000		
CP04–223–000		
CP04–293–000		
Exempt:		
1. CP04–36–000	2–3–05	Hon. Edward M. Lambert, Jr.
CP04–41–000		
CP04–223–000		
2. CP04–36–000,	2–3–05	Hon. Jack Reed
CP04–41–000		
CP04–223–000		
CP04–293–000		
3. CP04–36–000	2–7–05	Hon. Thomas F. Reilly
CP04–41–000		
4. CP04–36–000	2–9–05	Heather Ferree
CP04–223–000	(Memo to File—Workshop Summary).	
5. CP04–36–000	2–10–05	Chris Zerby
CP04–223–000	(Memo to File—Workshop Summary).	
6. CP04–36–000	2–17–05	Hon. Jack Reed
CP04–223–000		Hon. Lincoln D. Chaffee
		Hon. Patrick J. Kennedy
		Hon. James R. Langevin
7. CP04–386–000	2–10–05	Jennifer Kerrigan
CP04–400–000		
8. CP05–19–000	2–7–05	Jennifer Kerrigan
9. CP05–25–000	2–3–05	Richard E. Walesky
10. Project No. 1971–000	2–3–05	Hon. Larry E. Craig
		Hon. Michael D. Crapo
		Hon. Mike Simpson
		Hon. C.L. "Butch" Otter
11. Project No. 1971–000	2–17–05	Colleen Fagan
12. Project No. 2042–013	2–4–05	Hon. Cathy McMorris
13. Project No. 2210–108	2–3–05	Allan Creamer [1]

[1] Documents from participants in FERC Scoping Meeting for Smith Mountain Hydroelectric Project.

Magalie R. Salas,

Secretary.

[FR Doc. E5–780 Filed 2–24–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OAR–2005–0049; FRL–7877–5]

Agency Information Collection Activities: Proposed Collection; Comment Request; National Volatile Organic Compound Emission Standards for Architectural Coatings, EPA ICR Number 1750.04, OMB Control Number 2060–0393

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*), this document announces that the Environmental Protection Agency (EPA) is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request to renew an existing approved collection. The existing ICR is scheduled to expire on April 30, 2005. Before submitting the ICR renewal to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before April 26, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OAR–2005–0049, to EPA online using EDOCKET (our preferred method), by electronic mail (e-mail) to *a-and-r-docket@epa.gov*, or by mail to: EPA Docket Center, EPA, National Volatile Organic Compound Emission Standards for Architectural Coatings, 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Salman, Emission Standards Division (C539–03), EPA, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0859; fax number: (919) 541–5689; e-mail address: *salman.dave@epa.gov.*

SUPPLEMENTARY INFORMATION: *Docket.* The EPA has established a public docket for the ICR under Docket ID number OAR–2005–0049 (formerly A–92–18), which is available for public viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft supporting statement for the proposed information collection, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to the ICR should be submitted to EPA within 60 days of this notice. The EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Affected entities: Entities potentially affected by this action are those which manufacture or import architectural coatings for sale or distribution in the United States, including the District of Columbia and all United States territories.

Title: National Volatile Organic Compound Emission Standards for Architectural Coatings, OMB Control No. 2060–0393; EPA ICR No. 1750.04; renewal of EPA ICR No. 1750.03 expires April 30, 2005.

Abstract: The information collection includes initial reports, annual reporting, and recordkeeping necessary for EPA to ensure compliance with Federal standards for volatile organic compounds in architectural coatings. Respondents are manufacturers and importers of architectural coatings. Responses to the collection are mandatory under 40 CFR part 59, subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings. All information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in 40 CFR part 2, subpart B—Confidentiality of Business 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.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement: The total industry burden for the renewal information collection is estimated to be 22,761 hours per year, at a total labor cost of $1,599,707 per year. There are no capital costs associated with this collection. More details are available in the draft supporting statement for the renewal information collection which is available in the docket. Burden was calculated based on the following assumptions:

(i) Initial Notification Reports will be submitted by five new respondents per year. The estimated 500 existing regulated entities have already submitted their initial notification reports under the existing and previous ICR.

(ii) Reading the rule to obtain the recordkeeping and reporting instructions would require 2 hours per new respondent.

(iii) Completion of the Initial Notification Report, including the date code explanation, would require 3 hours per new respondent.

(iv) Notification of change in date code would require 2 hours per respondent.

(v) Annual planning for recordkeeping activities would require 8 hours per new respondent.

(vi) Labeling products would require 67 hours per respondent.

(vii) An additional recordkeeping and annual reporting burden, required only for those who choose the recycled coating provision, exceedance fee provision, or tonnage exemption in lieu of meeting the coating volatile organic compound content limits, is based on the assumptions that 25 respondents per year will use the recycled coating provision; 120 will use the exceedance fee provision; and 150 will use the tonnage exemption. The burden estimates for these provisions are 133 hours, 92 hours, and 40 hours per respondent, respectively.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and

requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: February 17, 2005.

Gregory A. Green,

Acting Director, Office of Air Quality, Planning, and Standards.

[FR Doc. 05–3683 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6660–8]

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 14, 2005, through February 18, 2005, pursuant to 40 CFR 1506.9.

EIS No. 050065, Final EIS, AFS, MT, North Belts Travel Plan and the Dry Range Project, Provision of Motorized and Non-motorized Recreation, Helena National Forest, Broadwater, Lewis and Clark and Meagher Counties, MT, Wait Period Ends March 28, 2005, Contact: Beth Ihle (406) 266–3425.

EIS No. 050066, Draft EIS, FAA, MA, New Bedford Regional Airport Improvements Project, To Enhance Aviation Capacity, Air Traffic, Jet Traffic, Air Cargo and General Aviation Traffic, Southeastern Massachusetts Region, City of New Bedford, Bristol County, MA, Comment Period Ends: April 20, 2005, Contact: John C. Silva (781) 238–7602.

EIS No. 050067, Final EIS, FHW, OR, U.S. 101/Oregon Coast Highway Reconstruction, Pacific Way in the City of Gerhart to Dooley Bridge in the City of Seaside, Funding and COE Section 404 Permit, Clatsop County, OR, Wait Period Ends: March 28, 2005, Contact: John Gernhauser (503) 399–5749.

EIS No. 050068, Draft EIS, AFS, AK, OK, Quachita National Forest, Proposed Revised Land and Resource Management Plan, Impementation, several counties, AR and LeFlore and McCurtain Counties, OK, Comment Period Ends: April 11, 2005, Contact: Bill Pell (501) 321–5320. This document is available on the Internet at: *http://www.aokforests.com/.*

EIS No. 050069, Final Supplement, BLM, NV, Pipeline/South Pipeline Pit Expansion Project, Updated Information on Modifying the Extending Plan of Operations (Plan), Gold Acres Mining District, Launder County, NV, Wait Period Ends: March 28, 2005, Contact: Pam Jarnecke (775) 635–4144.

EIS No. 050070, Final EIS, FHW, LA, Kansas Lane Connector Project, Construction between U.S. 80 (Desiard Street) and U.S. 165 and the Forsythe Avenue Extension, U.S. Army COE Section 10 and 404 Permits Issuance, City of Monroe, Quachita Parish, LA, Wait Period Ends: March 31, 2005, Contact: William C. Farr (225) 757–7615.

EIS No. 050071, Final EIS, FHW, MI, I–94/Rehabilitation Project, Transportation Improvements to a 6.7 mile portion of I–94 from east I–96 west end to Conner Avenue on the east end, Funding and NPDES Permit, City of Detroit, Wayne County, MI, Wait Period Ends: March 28, 2005, Contact: Abdelmoez Abdalla (517) 702–1820.

EIS No. 050072, Draft EIS, FHW, CA, 1st Street Viaduct and Street Widening Project, To Replace Two Traffic Lanes on the 1st Street Viaduct between Vignes Street and Mission road, Funding, in the City and County of Los Angeles, CA, Comment Period Ends: April 11, 2005, Contact: Cindy Vigue (916) 498–5042.

EIS No. 050073, Final EIS, AFS, ID, South Bear River Range Allotment Management Plan Revisions, Continued Livestock Grazing on Ten Allotments, Caribou-Targhee National Forest, Montpelier Ranger District, Bear Lake and Franklin Counties, ID, Wait Period Ends: March 28, 2005, Contact: Heidi Heyrend (208) 847–0375.

EIS No. 050074, Draft EIS, NAS, FL, New Horizons Mission to Pluto, Continued Preparations and Implementation to Explore Pluto and Potentially the Recently Discovered Kuiper Belt, Cape Canaveral Air Force Station, FL , Comment Period Ends: April 11, 2005, Contact: Kurt Lindstrom (202) 358–1588.

EIS No. 050075, Draft EIS, FRC, NJ, DE, PA, Crown Landing Liquefied Natural Gas Terminal, Construct and Operate in Gloucester County, NJ and New Castle County, DE; and Logan Lateral Project, Construct and Operate a New Natural Gas Pipeline and Ancillary Facilities in Gloucester County, NJ and Delaware County, PA, Comment Period Ends: April 18, 2005, Contact: Magalie R. Salas (202) 502–8371. The Federal Energy Regulatory Commission and U.S. Army Corps of Engineers are Joint Lead Agencies for the above Project.

EIS No. 050076, Draft EIS, NOA, ME, RI, CT, Atlantic Large Whale Take Reduction Plan, Proposed Amendments to Implement Specific Gear Modifications for Trap/Pot and Gillnet Fisheries, Broad-Based Gear Modifications, Exclusive Economic Zone (EEZ), ME, CT and RI , Comment Period Ends: April 26, 2005, Contact: Mary Colligan (978) 281–9328.

EIS No. 050077, DRAFT EIS, AFS, AR, Ozark-St. Francis National Forests, Proposed Revised Land and Resource Management Plan, Implementation, Several Counties, AR, Comment Period Ends: May 26, 2005, Contact: Cary Frost (479) 864–7507.

Amended Notices

EIS No. 040554, Draft EIS, FHW, CO, Programmatic–I–70 Mountain Corridor Tier 1 Project, from Glenwood Springs and C–470 Proposes to Increase Capacity, Improve Accessibility and Mobility, and Decrease Congestion, Colorado, Garfield, Eagle, Summit, Clear Creek and Jefferson Counties, CO, Comment Period Ends: May 24, 2005, Contact: Jean Wallace (720) 963–3015.

Revision of FR Notice Published on 12/10/04: CEQ Comment Period Ending 03/10/2005 has been Extended to 05/24/2005.

Dated: February 22, 2005.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 05–3686 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6660–9]

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 the **Federal Register** dated April 2, 2004 (69 FR 17403).

Draft EISs

ERP No. D–FHW–F40427–WI Rating EC2, WI–23 Highway Project, Transportation Improve between Fond du Lac and Plymouth, Funding, Fond du Lac and Sheboygan Counties, WI.

Summary: EPA has environmental concerns about the proposed project's impacts to wetlands, water quality, air quality, stormwater management, noise, cumulative impacts, and leaking underground storage tanks.

ERP No. D–FHW–J40168–UT Rating EC2, 11400 South Project, Proposed Improvement to the Transportation Network in the Southern Salt Lake Valley from 12300/12600 South to 10400/10600 South, and from Bangerter Highway to 700 East, Salt Lake City, Salt Lake County, UT.

Summary: EPA has environmental concerns about the proposed project regarding indirect and cumulative impacts, which were not adequately analyzed in the document.

ERP No. D–IBR–K30031–CA Rating 3, Central Valley Project, San Luis Unit Long-Term Water Service Contract Renewal, West San Joaquin Division, Cities of Avenal, Coalinga and Huron, Fresno, King and Merced Counties, CA.

Summary: EPA commented that the Draft EIS did not analyze the proposed federal action of full delivery of contract quantities, the existing conditions and ongoing water quality degradation in the area, or the influence of drainage management on the proposed action. EPA recommended a Revised or Supplemental EIS be prepared that fully analyzes the proposed federal action and its potential environmental impacts.

ERP No. D–NPS–K65275–AZ Rating EC2, Colorado River Management Plan, To Provide a Wilderness-Type River Experience for Visitors, General Management Plan, Grand Canyon National Park, Colorado River, Coconino County, AZ.

Summary: EPA expressed concerns about the project's potential impacts to water quality and insufficient information regarding appropriate mitigation to minimize and avoid those impacts. EPA recommended that the National Park Service, Hualapai Tribe, and other partners obtain baseline and periodic water quality monitoring information in the lower gorge and adaptively manage activities over the life of this plan.

ERP No. DR–CBP–K99031–AZ Rating EC2, Programmatic EIS—Office of Border Patrol Operational Activities within the Border Areas of the Tucson and Yuma Sectors, Expansion of Operations of Technology-Based Systems, Completion and Maintenance of Approved Infrastructure, Cochise, Pima, Santa Cruz and Yuma Counties, AZ.

Summary: EPA expressed environmental concerns about the project's impacts to air quality and wildlife habitat and requested additional information regarding the proposed action, mitigation, and the relationship to JTF–6 be included in the Final EIS.

Final EISs

ERP No. F–FHW–G40179–TX, Kelly Parkway Project, Construction from U.S. 90 to TX–16, to Improvement Transportation Mobility, Facilitate Economic Development, and Enhance Safety, Funding and U.S. Army COE Section 404 Permit, San Antonio, Bexar County, TX.

Summary: EPA did not send a comment letter on the Final EIS.

ERP No. F–IBR–K39080–CA, Mendota Pool 10-Year Exchange Agreements, Water Provision to Irrigable Lands, Central Valley Project Improvement Act (CVPIA), Fresno and Madera Counties, CA.

Summary: EPA expressed continuing concerns regarding the potential for adverse impacts to groundwater quality in the Mendota Pool area, and requested more frequent monitoring and commitments to mitigate impacts.

ERP No. F–NRS–A36450–00, Programmatic EIS—Emergency Watershed Protection Program, Improvements and Expansion, To Preserve Life and Property Threatened by Disaster-Caused Erosion and Flooding, U.S. 50 States and Territories except Coastal Area.

Summary: EPA continued to recommend that the NRCS take steps to better integrate management of its watershed programs. EPA also requested clarification as to whether the NRCS will discontinue the use of a ''least-cost'' criterion when deciding whether to apply the principles of natural stream dynamics and bioengineering to the design of EWP restoration efforts.

ERP No. F–NSF–A99224–00, Development and Implementation of Surface Travese Capabilities in Antarctia Comprehensive Environmental Evaluation, Antarctica.

Summary: EPA has no objections to the proposed action.

ERP No. F–SFW–J64009–CO, Rocky Flats National Wildlife Refuge Comprehensive Conservation Plan, 15–Year Guidance for Management of Refuge Operations, Habitat Restoration and Visitor Services, Implementation, Jefferson and Boulder Counties, CO.

Summary: EPA acknowledge that the Final EIS was generally responsive to EPA's concerns and provided additional information environmental issues associated with the DOE-retained lands and the potential transportation corridor impacts on the wildlife refuge. EPA continued to express concerns that the indirect impacts of proposed development could have been more strongly encouraged.

Dated: February 22, 2005.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 05–3687 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2005–0008; FRL–7700–3]

Workshops on How to Report for the 2006 Inventory Update Rule (IUR) Information Collection; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is convening four public workshops to provide training for affected parties responsible for reporting during the 2006 Inventory Update Rule (IUR) information collection. The workshops will focus on the instructions for reporting. These instructions were revised in response to amendments to 40 CFR part 710 promulgated on January 7, 2003 (68 FR 847) (FRL–6767–4). These workshops are open to the public.

DATES: All workshops will take place over 1 day. Each workshop will begin at approximately 8:30 a.m. and end at 4:30 p.m. The workshops will be held in early 2005: Dallas, TX (March 7); Kansas City, MO (April 4); Atlanta, GA (April 18); Philadelphia, PA (May 2).

ADDRESSES: Persons planning to attend the workshops are directed to the IUR website at *http://www.epa.gov/oppt/iur/*. This website contains specific workshop location information, as well as IUR background information, draft documents, and a link to the workshop registration site. All workshop materials can be downloaded from the IUR website or the EPA electronic docket at *http://www.epa.gov/edocket/* in portable document format (PDF).

FOR FURTHER INFORMATION CONTACT: *For general 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 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Franklyn Hall, Economics, Exposure, and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8522; e-mail address: *hall.franklyn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture chemical substances currently subject to reporting under the IUR as amended on January 7, 2003 (68 FR 847) and codified as 40 CFR part 710. Persons who process chemical substances but who do not manufacture or import chemical substances are not required to comply with the requirements of 40 CFR part 710. Potentially affected entities may include, but are not limited to:

- Chemical manufacturers and importers currently subject to IUR reporting (NAICS 325, 32411), e.g., manufacturers, importers, processors, and users of chemicals.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions at 40 CFR 710.48. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPPT–2005–0008. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the 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 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. Background

EPA is convening four workshops to train stakeholders on how to report for the 2006 Partial Updating of the TSCA Chemical Substance Inventory. EPA is required by section 8(b) of the Toxic Substances Control Act (TSCA) to compile and update an inventory of chemical substances manufactured or imported into the United States. Every four years, manufacturers (including importers) of certain chemical substances on the Chemical Substance Inventory have been required to report data specified in the TSCA section 8(a) IUR, 40 CFR part 710. Past updates included information on the chemical's production volume, site-limited status, and plant site information. Amendments to the IUR promulgated on January 7, 2003 (68 FR 847) expanded the data reported on certain chemicals to assist EPA and others in screening potential exposures and risks resulting from manufacturing, processing, and use of TSCA chemical substances. At the same time, EPA amended the IUR regulations to increase the production volume threshold which triggers reporting requirements from 10,000 pounds per year to 25,000 pounds per year and established a new higher threshold of 300,000 pounds per year above which manufacturers must report additional information on downstream processing and use of their chemical substances. The 2003 amendments to the IUR also revoked the exemption from reporting for inorganic chemical substances, provided a partial exemption from reporting of processing and use information for chemical substances of low current interest, and continued the current exemption from reporting for polymers, microorganisms, and naturally occurring chemical substances. These changes modify requirements for information collected in calendar year 2005 and submitted in 2006 and thereafter. These workshops may be of interest to persons currently reporting under the IUR and to manufacturers of inorganic chemical substances.

The workshops will include a series of presentations by representatives of EPA on the instructions for reporting the 2006 Partial Updating of the TSCA Chemical Substance Inventory. Subjects discussed will include reporting requirements, instructions for completing the reporting form, how to assert confidentiality claims, how to submit completed reports to EPA, and case studies illustrating different aspects of reporting. During the workshops, persons in attendance will be able to ask questions regarding the material being presented. The purpose of these meetings is to provide training to persons who must report in 2006 under the IUR.

III. How Can I Request to Participate in this Meeting?

You may register to participate in this meeting by directing your web browser to *http://www.epa.gov/oppt/iur/*. There is a workshop registration link on this website that will allow you to provide all necessary information for participation. There is no charge for attending this public meeting.

List of Subjects

Environmental protection, Chemicals, Reporting and recordkeeping requirements.

Dated: February 9, 2005.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 05–3531 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0044; FRL–7700–4]

Full Tribal Pesticide Program Council Meeting; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Tribal Pesticide Program Council (TPPC) will hold a 2 and 1/2-day meeting, beginning on March 16 and ending on March 18, 2005. This notice announces the location and times for the meeting, and sets forth the tentative agenda topics. One Tribal Caucus scheduled each day.

DATES: The meeting will be held on March 16–17 2005 from 9:00 A.M. to 5:00 P.M. and a half day training for Tribes on March 18.

ADDRESSES: The meeting will be held at Embassy Suites Hotel, Crystal City, 1300 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Georgia McDuffie, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 605–0195; fax number: (703) 308–1850; e-mail address: *mcduffie.georgia@epa.gov* or Lillian Wilmore, TPPC Facilitator, P.O. Box 470829 Brookline Village, MA. 02447–0829; telephone number: (617) 232–5742; fax (617) 277–1656; e-mail address: *naecology@aol.com*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are interested in TPPC's information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process. All parties are invited and encouraged to attend the meetings and participate as appropriate. Potentially affected entities may include, but are not limited to those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). 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 either person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2005–0044.

The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to 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. Tentative Agenda

1. TPPC State of the Council Report.
2. Presentation, Questions, and Answers by U.S. EPA Office of Pesticide Programs and Field and External Affairs Division.
3. Reports from Working Groups and TPPC Participation in Other Meetings:

Tribal Traditional Lifeways, Tribal Strategy and FOSTTA, Western Region Pesticide Conference, Federal Inspectors Meeting.

4. Tribal Caucus (two).
5. Reports from Other Organizations:

State FIFRA Issues Research and Evaluation Group, TOC, Regional Tribal Operations Committee, Intertribal Agriculture Council, National Tribal Environmental Council, Intertribal Agriculture Council, and TASWER.

6. Endangered Species Protection Program - Update.
7. Homeland Security Update.
8. Development of a Pesticides Pamphlet for Basketweavers.
9. OECA Enforcement Priorities.
10. Memorandum of Understanding Between U.S. EPA Region 7 and 8, Nebraska Department of Agriculture, and Oglala Sioux - Update.
11. FIFRA Section 18 and 24c Issues: Yakama Pilot Project 12.
12. Tribes and Certification and Training (C and T) Issues Discussion.
13. QAPPs and Quality Management Development.
14. Tribal Training Discussion.
15. Data Collection to Support the Need for Resources for Tribal Pesticide Programs: Discussion and Training (Tribes only).
16. Regions Updates - Sub-lead Region 9.
17. TPPC Working Group Invasive Species: the Tribal Invasive Species Committee.
18. Mosquito Misters - State FIFRA Issue Research and Evaluation Group (SFIREG) paper.
19. Performance Measures Update.
20. Report on 2004 Special Project Awards and Information the 2005 Special Projects Solicitation.
21. Lifeline Project Update.

List of Subjects

Environmental protection, insert additional terms as appropriate.

Dated: February 14, 2005.

William R. Diamond,

Acting Division Director, Field External Affairs Division, Office of Pesticide Programs.

[FR Doc. 05–3674 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0411; FRL–7692–7]

Ametryn Risk Assessments and Preliminary Risk Reduction Options Phase 3 of 4-Phase Process; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's risk assessments, preliminary risk reduction options, and

related documents for ametryn, a triazine herbicide, and opens a public comment period on these documents. The public also is encouraged to suggest risk management ideas or proposals to address the risks identified. EPA is developing a Reregistration Eligibility Decision (RED) for ametryn through a modified, 4-phase public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments, identified by docket identification (ID) number OPP–2004–0411, must be received on or before April 26, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Mark T. Howard, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; courier address: 1801 S. Bell St., Arlington, VA 22202; telephone number: (703) 308–8172; fax number: (703) 308–8172; e-mail address: *howard.markt@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may 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 Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2004–0411. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic

public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2004–0411. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID number OPP–2004–0411. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID number OPP–2004–0411.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number OPP–2004–0411. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Background

A. What Action is the Agency Taking?

EPA is releasing for public comment its human health and environmental fate and effects risk assessments, preliminary risk reduction options, and related documents for the triazine herbicide, ametryn, and encouraging the public to suggest risk management ideas or proposals. EPA developed the risk assessments and preliminary risk reduction options for ametryn and two related degradates through a modified version of its public process for making pesticide reregistration eligibility and tolerance reassessment decisions. Through these programs, EPA is ensuring that pesticides meet current standards under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

Ametryn is a preplant and pre-emergent herbicide used to control broadleaf and grass weeds that can interfere with growing corn, pineapple, and sugar cane. Based on a provisional cancer risk factor, there are potential cancer risks of concern for exposure to the general population through drinking water. There are also three (aerial application) occupational exposure scenarios in which workers using minimal personal protective equipment have risks of concern. To adequately protect workers, the general population, or endangered species in the environment, it may be necessary to reduce application rates, delete certain uses, and restrict aerial application or add engineering controls. These proposed risk mitigation measures are fully discussed in a separate document available in the ametryn Docket.

EPA is providing an opportunity, through this notice, for interested parties to provide comments and input on the Agency's risk assessments for ametryn. Such comments and input could address, for example, the availability of additional data to further refine the risk assessments, such as additional cancer data, worker exposure data, environmental fate properties monitoring data, percent crop treated information, typical application rates and their timing, and residue data from food processing studies, etc. Or comments could address the Agency's risk assessment methodologies and assumptions as applied to ametryn use.

EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to

ametryn, compared to the general population.

EPA also is releasing for public comment its preliminary risk reduction options for ametryn, and is providing an opportunity for interested parties to provide risk management proposals or otherwise comment on risk management. Considering EPA's preliminary risk reduction options, such comments and proposals should further discuss ways to manage ametryn's dietary, occupational, and/or ecological risks resulting from its use on corn, sugarcane, and pineapple as discussed in the Agency's risk assessments.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** of May 14, 2004 (69 FR 26819) (FRL–7357–9), explains that in conducting these programs, the Agency is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of the issues, and degree of public concern associated with each pesticide. For ametryn, a modified, 4-phase process with one comment period and ample opportunity for public consultation seems appropriate in view of its refined risk assessments, limited use, and few complex issues. However, if as a result of comments received during this comment period EPA finds that additional issues warranting further discussion are raised, the Agency may lengthen the process and include a second comment period, as needed. EPA may issue the ametryn RED for public comment.

All comments should be submitted using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**, and must be received by EPA on or before the closing date. Comments will become part of the Agency Docket for ametryn. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product-specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the FFDCA, 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: February 16, 2005.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 05–3530 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0380; FRL–7701–2]

Dimethipin Risk Assessments; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's risk assessments and related documents for the pesticide Dimethipin, and opens a public comment period on these documents. The public also is encouraged to suggest risk management ideas or proposals to address the risks identified. EPA is developing a Reregistration Eligibility Decision (RED), for Dimethipin through a modified, 4-Phase public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments, identified by docket identification (ID) number OPP–2004–0380, must be received on or before April 26, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Amaris Johnson, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–305–9542; fax number: 703–308–8041; e-mail address: *johnson.amaris@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may 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 Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2004–0380. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is 703–305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets.

Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2004–0380. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2004–0380. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2004–0380.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2004–0380. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Background

A. What Action is the Agency Taking?

EPA is releasing for public comment its human health and environmental fate and effects risk assessments and related documents for Dimethipin, and encouraging the public to suggest risk management ideas or proposals. Dimethipin is a plant growth regulator and a post-emergence herbicide used solely on cotton and non-bearing apple tree nurseries. It functions by stressing the plant's stomatal system causing it to lose water resulting in leaf abscission. EPA developed the risk assessments for Dimethipin through a modified version of its public process for making pesticide reregistration eligibility and tolerance reassessment decisions. Through these programs, EPA is ensuring that pesticides meet current standards under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

EPA is providing an opportunity, through this notice, for interested parties to provide comments and input on the Agency's risk assessments for Dimethipin. Such comments and input could address, for example, the availability of additional data to further refine the risk assessments, such as a ground water monitoring study, plant toxicity data, and estuarine marine fish and aquatic invertebrate data, or could address the Agency's risk assessment methodologies and assumptions as applied to this specific pesticide.

EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have a typical, unusually high exposure to Dimethipin, compared to the general population.

EPA is applying the principles of public participation to all pesticides under going reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in conducting these programs, the Agency is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of the issues, and degree of public concern associated with each pesticide. For Dimethipin, a modified, 4-Phase process with one comment period and ample opportunity for public consultation seems appropriate in view of its low toxicity and use solely on cotton and non-bearing apple nursery stock. However, if as a result of comments received during this comment period EPA finds that additional issues warranting further discussion are raised, the Agency may lengthen the process and include a second comment period, as needed.

All comments should be submitted using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**, and must be received by EPA on or before the closing date. Comments will become part of the Agency Docket for Dimethipin. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the FFDCA, 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: February 16, 2005.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 05–3533 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0233; FRL–7372–3]

Carboxin and Oxycarboxin; Availability of Reregistration Eligibility Decision Documents for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces availability and starts a 60–day public comment period on the Reregistration Eligibility Decision (RED) documents for the pesticide active ingredients carboxin and oxycarboxin. The RED represents EPA's formal regulatory assessment of the human health and environmental effects data base of the subject chemicals and presents the Agency's determination regarding which pesticidal uses are eligible for reregistration.

DATES: Comments, identified by docket identification (ID) number OPP–2004–0233, must be received on or before April 26, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Lance Wormell, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 603–0523; e-mail address: *wormell.lance@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or the Federal Food, Drug, and Cosmetic Act (FFDCA); environmental, human health, and agricultural advocates; pesticides users; and members of the public interested in the use of pesticides. 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 Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2004–0233. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. To access RED documents and RED fact sheets electronically, go directly to the REDs table on EPA's Office of Pesticide Programs Home Page, at *http://www.epa.gov/pesticides/reregistration/status.htm*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in EPA's Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2004–0233. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2004–0233. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access''

system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2004–0233.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2004–0233. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

The Agency has issued an eligiblity decision for the fungicides carboxin and oxycarboxin. Under FIFRA, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of carboxin and oxycarboxin is substantially complete, and the risks have been mitigated so that they will not pose unreasonable risks to people or the environment when used according to their approved labeling. In addition, EPA is reevaluating existing pesticides and reassessing tolerances under the Food Quality Protection Act (FQPA) of 1996. The tolerances for carboxin were reassessed in December 2002. Carboxin has been found to meet the FQPA safety standard. There are no tolerances for oxycarboxin.

There are no registered residential uses of carboxin or oxycarboxin. Aggregate chronic exposure to carboxin in food and drinking water is below the Agency's level of concern. Very limited residential exposure to oxycarboxin may be possible if treated ornamentals are obtained from an enclosed commercial structure such as a nursery or greenhouse and then brought back to a residence; however, this residential exposure would be minimal and does not exceed levels of concern. The Agency has determined that aggregate chronic exposure to carboxin in food and drinking water and oxycarboxin in plants treated in enclosed commercial structures is not of concern.

All registrants of pesticide products containing carboxin or oxycarboxin will be sent the RED, and must respond to labeling requirements and product specific data requirements within 8 months of receipt. Products also containing other pesticide active ingredients will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

The reregistration program is being conducted under Congressionally mandated time frames, EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing these eligibility decisions as final documents with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the REDs. If any comment significantly affects a RED, EPA will amend the RED by publishing the amendment in the **Federal Register**.

B. What is the Agency's Authority for Taking this Action?

The legal authority for the RED falls under FIFRA, as amended in 1988 and 1996. Section 4(g)(2)(A) of FIFRA directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product specific data on individual end-use products, and either reregistering products or taking ''other appropriate regulatory action.''

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: February 17, 2005.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 05–3534 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0107; FRL–7700–9]

Imazalil; Availability of Reregistration Eligibility Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the Reregistration Eligibility Decision (RED) document for the pesticide active ingredient imazalil. The RED represents EPA's formal regulatory assessment of the human health and environmental data base of imazalil and presents the Agency's determination regarding which pesticidal uses are eligible for reregistration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

FOR FURTHER INFORMATION CONTACT: Meghan French, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8004; fax number: (703) 308–8005; e-mail address: *french.meghan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or the Federal Food, Drug, and Cosmetic Act (FFDCA); environmental, human health, and agricultural advocates; pesticides users; and members of the public interested in the use of pesticides. 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 Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2004–0107. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although, a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to 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. Background

A. What Action is the Agency Taking?

The Agency has issued the imazalil RED. Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of imazalil is substantially complete, and the risks associated with imazalil use have been mitigated so that it will not pose unreasonable risks to people or the environment when used according to its approved labeling. EPA had previously evaluated the tolerances for imazalil under the Food Quality Protection Act (FQPA) of 1996. The dietary risk assessment and tolerance reassessment for imazalil can be found in the Tolerance Reassessment Decision document (TRED) issued for imazalil on July 12, 2002. That document concluded that imazalil did meet the FQPA safety standards. To view this TRED, visit EPA Dockets at *http://www.epa.gov/edocket.* Additional supporting documents can be viewed at *http://www.epa.gov/pesticides/reregistration/status.htm.*

All registrants of pesticide products containing imazalil have been sent the RED, and must respond to labeling requirements and product-specific data requirements (if applicable) within 8 months of receipt. Products also containing other pesticide active ingredients will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

There have been two public comment periods for the imazalil RED development, March 27, 2002 (67 FR 14710) and June 25, 2003 (68 FR 37809). EPA is not providing an additional comment period at this time. However, if there are questions or comments on the imazalil RED, they can be directed to the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is the Agency's Authority for Taking this Action?

The legal authority for these REDs falls under FIFRA, as amended in 1988 and 1996. Section 4(g)(2)(A) of FIFRA directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product-specific data on individual end-use products, and either reregistering products or taking ''other appropriate regulatory action.''

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: February 15, 2005.

Debra Edwards,

Director, Office of Pesticide Programs.

[FR Doc. 05–3532 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0183; FRL–7696–6]

Thiram Reregistration Eligibility Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide thiram. The Agency's risk assessments and other related documents also are available in the thiram docket. EPA has reviewed thiram

through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

FOR FURTHER INFORMATION CONTACT:

Craig Doty, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0122; fax number: (703) 308–8041; e-mail address:*doty.craig.@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may 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 Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2004–0183. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at*http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to 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. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the pesticide, thiram under section 4(g)(2)(A) of FIFRA. EPA has determined that the data base to support reregistration is substantially complete and that products containing thiram are eligible for reregistration depending on their specific uses, provided the risks are mitigated either in the manner described in the RED.

Thiram is a member of the dithiocarbamate class of non-systemic fungicides. It is used as a fungicide to prevent crop damage in the field and to protect harvested crops (apples, peaches, and strawberries) from deterioration in storage or transport. It is also used as a seed protectant (e.g., small seeded vegetables, large seeded vegetables, cereal grains and other seeds, coniferous seeds, cotton seed, ornamental seeds, and soybeans) and to protect turf from fungal diseases. In addition, thiram is used as an animal repellent to protect crops from damage by rabbits, rodents, and deer. Thiram is available in a variety of formulations including dust, wettable powder, water dispersable granule, flowable concentrate, dry flowable, soluble concentrate, and ready-to-use liquid. Thiram is applied both by commercial seed treaters and on-farm applicators.

An aggregate risk assessment looks at the combined risk from dietary exposure (food and drinking water pathways) as well as exposures from non-occupational sources (e.g., residential uses). Acute risks from aggregate exposures are not of concern, due to removal of strawberries from the label, a voluntary request for cancellation of apple uses, and requests for voluntary cancellation of most residential uses. Short-term aggregate risks are not of concern. The Agency concludes with reasonable certainty that aggregate exposure to food and drinking water will not result in an unacceptable chronic risk. The Agency's human heath risk assessment indicates no risks of concern. Thiram will no longer be available for sale or use by homeowner applicators. As such, all residential risks were calculated related to the non-residential turf uses that include golfing for adults and toddler exposures in areas that can be treated with thiram by certified pesticide applicators. No risk mitigation measures are required to address this scenario.

To protect children from scenarios of concern for exposure to thiram-treated turf and to further protect from exposure to ornamentals treated with thiram as a deer repellent, the Agency is requiring label modifications as outlined in the RED.

The Agency calculated the potential exposure and risk to pesticide handlers from 28 major occupational exposure scenarios based on the types of equipment and techniques that potentially can be used for thiram applications. For the most part, current label requirements (for personal protection single layer clothing, gloves, and no respirator) appear to be generally adequate. To reduce worker exposure, the Agency has determined that the following measures for specific scenarios are appropriate and required for reregistration eligibility:

- Comply with label changes with updated Worker Protection Standard and other regulations.
- Cancellation of the aerial and hand/spoon applications of granular formulations.
- Require water soluble bags be instituted for all wettable powder formulations.
- Cancellation of on-farm seed treatment for peanuts.

Workers can also be exposed to thiram residues by entering previously treated areas to perform activities. The Restricted Entry Interval (REI) is used by the Agency to manage risks for post-application workers doing activities that require contact with treated surfaces. The REI is the amount of time required after application before residues decline to a level so entry into the treated area and engaging in any task or activity would not result in exposures which are of concern. Current REIs are protective for most crops; however, risks for re-entry workers are of concern for very

high exposure activities. The following mitigation addresses the risks of concern for high exposure activities associated with apples and sod:

- Cancellation of all turf applications for turf grown for sale or other commercial use such as sod.
- Cancellation of all apple uses.

The ecological risk assessment for birds shows risks for reproductive effects to birds. There is a chronic effect to mammals including endangered species. The Agency's assessment suggested that a number of endangered species may potentially be impacted by thiram; however, this RED includes only risk mitigation for the Attwater's Prairie Chicken (*Tympanuchus cupido attwateri*). The RED outlines mitigation measures that address the Agency's ecological risks of concern.

EPA must review tolerances and tolerance exemptions that were in effect when the Food Quality Protection Act (FQPA) was enacted in August 1996, to ensure that these existing pesticide residue limits for food and feed commodities meet the safety standard established by the new law. Tolerances are considered reassessed once the safety finding has been made or a revocation occurs. EPA has reviewed and made the requisite safety finding for the thiram tolerances included in this notice.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** of May 14, 2004 (69 FR 26819) (FRL–7357–9), explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, thiram was reviewed through the full 6-phase public participation process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for thiram. Tolerances for residues in/on food and feed commodities are currently expressed in terms of residues of thiram (40 CFR 180.132) per se and are established at 7 parts per million for apples, peaches, and strawberries. Seed treatments are considered to be non-food uses and therefore do not require a tolerance.

The reregistration program is being conducted under congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. All issues related to this pesticide were resolved through consultations with stakeholders. The Agency therefore is issuing the Thiram RED without a comment period.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended, directs that, after submission of alldata concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product-specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: February 16, 2005.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 05–3535 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 017370NF.
Name: Antilles Wholesale Company.
Address: 7201 NW. 35th Avenue, Miami, FL 33147.
Date Revoked: January 26, 2005.
Reason: Failed to maintain valid bonds.

License Number: 018385N.
Name: California Freight System, Inc.
Address: 601 W Carob Street, Compton, CA 90220.
Date Revoked: January 28, 2005.
Reason: Failed to maintain a valid bond.

License Number: 004666NF.
Name: Magnum Freight Corporation.
Address: 6701 NW. 7th Street, Suite 165, Miami, FL 33126.
Date Revoked: January 17, 2005.
Reason: Failed to maintain valid bonds.

License Number: 017770NF.
Name: Moog International, Inc.
Address: 1223 Grove Road, Pittsburgh, PA 15234.
Date Revoked: February 2, 2005.
Reason: Failed to maintain valid bonds.

License Number: 001636F.
Name: Packers Enterprises, Inc. dba Packers, Ltd.
Address: 100 Broad Avenue, Wilmington, CA 90744.
Date Revoked: February 5, 2005.
Reason: Failed to maintain a valid bond.

License Number: 004233NF.
Name: Rodi International Corp.
Address: 7022 NW. 50th Street, Miami, FL 33166.
Date Revoked: January 26, 2005.
Reason: Failed to maintain valid bonds.

License Number: 004635NF.
Name: World Shipping America Inc.
Address: 333 Sylvan Avenue, Suite 209, Englewood Cliffs, NJ 07632.
Date Revoked: January 19, 2005.
Reason: Failed to maintain valid bonds.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 05–3689 Filed 2–24–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

Copacabana Enterprises Group, Inc., 6370 SW., 16th Street, Miami, FL 33155.
Officers: Lourdes M. Rabel, Vice

President (Qualifying Individual), Jorge Y. Castresana, President.

J & DL International, Inc., 8170 NW., 66th Street, Miami, FL 33166.
Officer: Ricardo H. Jimenez, President (Qualifying Individual).

Maria's Cargo Express Inc., 4283 Park Avenue, Bronx, NY 10457.
Officers: F. Omar Gilbert, President (Qualifying Individual), Tito E. Vasquez, Secretary.

Ubique Logistics, Inc., 179–14 149th Road, Jamaica, NY 11434.
Officers: Jeonghak (Joseph) Yoo (Qualifying Individual), Yoon Young Choi, Secretary.

Trident Universal, Inc., dba Atlantic European, Container Line, 18710 Chopin Drive, Lutz, FL 33558.
Officer: Andrew J. Nangano, President (Qualifying Individual).

United Logistics Management Inc., 200 W. 140th Street, #102–A, Los Angeles, CA 90061.
Officers: Ray Kao, Secretary (Qualifying Individual), Syed Ali, President.

Midwest Ag Enterprises Inc., 601 Ontario Road, Marshall, MN 56258.
Officers: James Daniel Moline, President (Qualifying Individual), John C. Pollock, Vice President.

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Vantaged International Incorporated dba, Trans Cargo Services, 13523 Densmore Avenue N., Seattle, WA 98133.
Officers: Victor VQ Tran, Director (Qualifying Individual), Sid Hoa Tran, Director.

J.B.G.C., Incorporated dba Herman's International Moving, 26701 Quail Creek, Suite 30, Laguna Hills, CA 92656.
Officer: Jodi Byrne, Owner (Qualifying Individual).

C&L USA, Inc., 1500 Midway Court W201, Elk Grove Village, IL 60007.
Officers: Kim C. Komacki, Vice President (Qualifying Individual), Nelson Tsiao, President.

James Worldwide, Inc., 550 E. Carson Plaza Drive, #123, Carson, CA 90748.
Officers: Joong Yul Lee, President (Qualifying Individual), Young S. Lee, CFO.

Cibaeno Shipping Express Corp., 34–31 110th Street, Apt. 1–A, Corona, NY 11368.
Officers: Rafael Cespedes, Vice President (Qualifying Individual), Franklyn Vargas, President.

Custino Enterprises Eli N. Custino dba Custino Enterprises, 1710 South Amphlett Blvd, Suite 250, San Mateo, CA 94402, Eli N. Custino, Sole Proprietor.

M & H Shipping Corporation, 9420 Telstar Avenue, Suite 205, El Monte, CA 91731.
Officers: Dorothy Sung, CEO (Qualifying Individual), Hui Zhu, Secretary.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Edlow International Company, 1666 Connecticut Avenue, Suite 201, Washington, DC 2009.
Officers: Jack Edlow, President (Qualifying Individual).

Custom Freight Sales, Inc., One Specialty Place, Dayton, OH 45408.
Officers: Cathy J. McCoy, Vice President (Qualifying Individual), Carl M. Bridges, President.

Rolando Transport Inc., 21 W. Henry Street, Linden, NJ 07036, Rolando Reyes, Sole Proprietor.

Dated: February 18, 2005.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 05–3691 Filed 2–24–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Rescission of Order of Revocation

Notice is hereby given that the Order revoking the following license is being rescinded by the Federal Maritime Commission pursuant to sections 14 and 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515.

License Number : 017952N.
Name: Uniworld Cargo Shipping Lines, LLC.
Address: 4000 West Side Avenue, North Bergen, NJ 07047.
Order Published: FR: 02/04/05 (Volume 70, No. 23, Pg. 6006).

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 05–3690 Filed 2–24–05; 8:45 am]

BILLING CODE 6730–01–P

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer Meeting

The Depository Library Council to the Public Printer (DLC) will meet on Sunday, April 17, 2005, through Wednesday, April 20, 2005, in Albuquerque, New Mexico. The sessions will take place from 8 a.m. to 5 p.m. on Sunday through Tuesday, and 8 a.m. to 12 noon on Wednesday. The meeting will be held at the Sheraton Old Town Hotel, 800 Rio Grande Blvd. NW., Albuquerque, New Mexico. The purpose of this meeting is to discuss the Federal Depository Library Program. All sessions are open to the public.

There are no more sleeping rooms available at the Sheraton Old Town Hotel for the Government rate of $68 per night. We have made arrangements with the Best Western Rio Grande Inn to get additional sleeping rooms for our attendees. The Best Western Rio Grande Inn has offered us rooms from Saturday, April 16 through Wednesday, April 20. Rates will be $68 per night (plus tax) single or double. This rate will be honored through March 18, 2005.

You can reserve your room by calling the hotel directly at 505–843–9500 and mention that you are with the U.S. Government Printing Office group. The Best Western Grande Inn is in compliance with the requirements of Title III of the Americans With Disabilities Act and meets all Fire Safety Act regulations.

William H. Turri,

Deputy Public Printer.

[FR Doc. 05–3600 Filed 2–24–05; 8:45 am]

BILLING CODE 1520–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Domestic Violence Prevention Enhancement and Leadership Through Alliances (DELTA) Program

Announcement Type: New.
Funding Opportunity Number: RFA 05039.
Catalog of Federal Domestic Assistance Number: 93.136.
Key Dates:
Application Deadline: April 26, 2005.

I. Funding Opportunity Description

Authority: U.S. Code Title 42 Chapter 110 Section 10418 Demonstration Grants for Community Initiatives.

Background: Intimate Partner Violence (IPV): The long-term (10+ years) health impact of the Domestic Violence Prevention Enhancement and Leadership Through Alliances (DELTA) Program is a reduction in the incidence (i.e., number of new cases) of IPV in

communities that receive DELTA funding and support. The definition of IPV that informs the DELTA Program derives from two CDC publications *Intimate Partner Violence Surveillance: Uniform Definitions and Recommended Data Elements* (Saltzman, Fanslow, McMahon, & Shelley, 1999) and the *Morbidity and Mortality Weekly Report, 49* (2000). Specifically, these definitions define IPV as including physical violence, sexual violence, threats of physical or sexual violence, psychological/emotional abuse and stalking. The types of intimate partnerships included are current spouses, former spouses, current non-marital partners, and former non-marital partners. There is no minimum time requirement for a relationship to be considered an intimate partner relationship as first dates and long-term boyfriend and girlfriend relationships are included under the term non-marital partners. Additionally, being an intimate partner does not require current cohabitation or sexual activities between two individuals. Intimate partners may also be of the same-sex or opposite sex. Many practitioners and researchers use the term domestic violence rather than the term intimate partner violence to refer to the same public health problem. However, the DELTA Program uses the term intimate partner violence to clarify that this program does not address other public health problems that are also referred to as domestic violence (*i.e.*, child abuse and elder abuse by relatives other than an intimate partner).

Research has indicated that IPV exists on a continuum from episodic violence to battering (Johnson, 1995). Battering IPV occurs when one partner seeks to develop and maintain power and control over the other partner, while episodic violence occurs with less frequency and intensity than battering IPV, and does not include one partner seeking to develop and maintain power and control over the other partner. DELTA seeks to address the entire continuum of IPV, not just the type of IPV referred to as battering.

The magnitude of the public health problem of IPV in the United States can be understood in terms of fatalities and assaults. The Federal Bureau of Investigation (FBI) (2001) *Supplemental Homicide Reports* indicate that in 1999 more than 1,600 women and men died at the hands of an intimate partner. Of these homicides, more than 1,200 or 75 percent were women. The IPV homicides represented 10.6 percent of all homicides in the United States, 32.1 percent of all female homicides, and 3.6 percent of all male homicides that year. In terms of nonfatal assaults, Tjaden and Thoennes (2000) estimate, based on data from the National Violence Against Women Survey, 25 million women and 7 million men have experienced an IPV assault at some point in their lives, where IPV assault includes physical assaults, rape and stalking behavior.

Coordinated Community Responses (CCR): Initial efforts to address IPV in the United States focused on developing stand-alone interventions such as battered women's shelters, protective order projects, and mandatory arrest policies (American Prosecutors Research Institute & National Council of Juvenile and Family Court Judges, 1998). The lack of coordination among stand-alone projects often had the unintended consequence of decreasing rather than increasing a victim's safety. For instance, a pro-arrest policy by a police department might be undermined by a lack of pro-prosecution policy by the prosecutor's office. In this case, the perpetrator may use violence against his partner with the knowledge that he will experience the minor consequence of arrest and a night in jail rather than the more severe consequence of long-term probation and/or prison as the prosecutor will refuse to prosecute the case. Accordingly, in the late 1970s and early 1980s the CCR model, or local IPV coordinating coalition, was developed to coordinate a community's public and private IPV intervention resources and services. The CCR definition that informs the DELTA Program is: an organized effort, representing diverse service sectors (e.g., public health, victim services and law enforcement, faith) and populations of a local community, to prevent and intervene in IPV. CCRs work to integrate prevention and intervention strategies and services through increased communications, cooperation, and coordination between participating service sector and populations. A CCR may be formally organized (i.e., operating as a 501(c)(3) nonprofit organization or as a government council) or informally organized (i.e. operating without legal status as a group of concerned citizens). Task forces, coordinating councils, and coalitions operating within a defined geographical area to coordinate services that prevent or intervene in IPV are considered to be CCRs.

Prevention: As noted above, when developed two decades ago, CCRs were initially organized to coordinate local community IPV intervention services. Today, they still maintain a focus on intervening in IPV or reducing the number of re-assaults, rather than preventing IPV from initially occurring. Thus, the DELTA Program seeks to integrate prevention principles, concepts and practices into local CCRs that address IPV, such that the incidence of IPV (i.e., number of new cases) is reduced. These prevention principles, concepts and practices include the following:

- Preventing first-time perpetration and first-time victimization,
- Reducing risk-factors associated with IPV perpetration or victimization,
- Promoting protective-factors that reduce the likelihood of IPV perpetration or victimization,
- Evidence-based prevention program planning,
- Use of behavior and social change theories in prevention program planning,
- Addressing all levels of the social ecology (i.e. individual, relationship, community, and society) in prevention program planning and evaluation,
- Evaluating prevention programs and activities and using results to inform future prevention plans, programs and activities.

DELTA Structure: To develop the DELTA Program structure, the research literature on community coalitions and CCRs was reviewed. Specifically, Florin, Mitchell and Stevenson (1993) note that when there are multiple local coalitions addressing the same health issue within the same state, an organization, known as an intermediary organization, is needed. An organization with statewide reach and influence is needed to provide these local coalitions with training, individualized technical assistance, and funding in order to support their development and adoption of state-of-the-field practices. In the case of DELTA, an intermediary organization is needed to provide training, technical assistance and funding to CCRs to support their adoption of state-of-the-field IPV prevention principles, concepts and practices. Thus, the DELTA Program seeks to fund one nonprofit organization per state to provide prevention-focused training, technical assistance, and funding to local CCRs throughout its state. As CDC's environmental scan of CCRs operating in 14 states revealed that most CCRs are not formally organized, a local nonprofit organization in each community will act as the fiscal agent to receive local DELTA funding that will support the local CCR's adoption of prevention practices, concepts and practices. In order to receive DELTA funding, cooperative agreement applicants must have at least 18 months experience in providing prevention focused training and technical assistance to, and at least 12 months monitoring and funding of local CCRs,

as this RFA is not intended to support initial capacity building in these areas. Local fiscal agents and their respective CCRs are required to have at least 12 months of prevention program planning experience, as this RFA is not intended to support initial prevention program planning capacity-building efforts at the local level.

The structure of the DELTA Program requires applicants to contract with an evaluator. This evaluator will be expected to cooperate with the CDC's cross-site evaluator, adhere to the steps and terminology in the CDC's publication ''Framework for Program Evaluation in Public Health,'' and work from an ''empowerment evaluation'' framework to:

- Assist in the development of the state-level Intimate Partner Progress Report and Prevention Plan.
- Assist local fiscal agents and their CCRs in their development of an Intimate Partner Violence Progress Report and Prevention Plan.
- Increase state and local capacity regarding evidence-based planning, use of behavior change and social change theories, and evaluation by teaching and supporting DELTA participants in the use of these concepts as they develop their Intimate Partner Violence Progress Report and Prevention Plan.
- Leave an infrastructure of training materials, databases, report templates, data collection protocols, etc. such that state and local levels are poised to update their Intimate Partner Violence Progress Report and Prevention Plan on a bi-annual basis.

Purpose: The purpose of the DELTA program is to integrate prevention principles, concepts and practices into local CCRs that address IPV, such that the incidence of IPV (i.e., number of new cases) is reduced. This program addresses the ''Healthy People 2010'' focus area(s) of Injury and Violence Prevention.

Measurable outcomes of the program will be in alignment with the following performance goal for the National Center for Injury Prevention and Control (NCIPC): Increase the capacity of injury prevention and control programs to address prevention of injuries and violence.

This announcement is only for non-research activities supported by CDC/ATSDR. If research is proposed, the application will not be reviewed. For the definition of research, please see the CDC Web site at the following Internet address: *http://www.cdc.gov/od/ads/opspoll1.htm*.

Activities:

Awardee activities for this program are as follows:

Activities to build capacity in local CCRs:

- Provide prevention-focused training, technical assistance and funding to local CCRs and their fiscal agents. Prevention-focused training and technical assistance may be provided to local CCRs and other local programs that are not direct beneficiaries of DELTA Program funding, but this training and technical assistance should not divert resources from full support of CCRs and their fiscal agents that receive DELTA support. Prevention-focused training and technical assistance should meet the definition of prevention principles, concepts and practices listed in Section I.
- Provide training and technical assistance to local CCRs and their fiscal agents on the topics of community organization, CCR development and maintenance, and strategic planning. This type of training and technical assistance may be provided to local CCRs and other local programs that are not direct beneficiaries of DELTA Program funding, but this training and technical assistance should not divert resources from the full support of CCRs and fiscal agents that receive DELTA support.
- Contract with an in-state evaluator to support local CCRs and their fiscal agents in the development of their Intimate Partner Violence Progress Report and Prevention Plan.
- Assist and monitor local DELTA CCRs and their fiscal agents in the development and publication of an Intimate Partner Violence Progress Report and Prevention Plan by March 30, 2008. The development of this publication is a requirement for local fiscal agents and local CCRs that receive DELTA Program funding. Local CCRs and their fiscal agents should be poised to update and revise this publication on a bi-annual basis as this activity is intended to increase the local CCR's capacity and continued use of prevention principles, concepts and practices, especially evidence-based planning, behavior change theories, and evaluation.
- Assist local fiscal agents in institutionalizing prevention principles, concepts and practices within their own agencies beyond the knowledge and skills of the staff member(s) responsible for the local implementation of the DELTA Program.

Activities to build capacity within Applicant's Organization:

- Participate in training and technical assistance activities and opportunities directly related to the DELTA Program provided by CDC and training and technical assistance activities and opportunities indirectly related to the DELTA Program (*i.e.*, UNC PREVENT) where appropriate and feasible.
- Institutionalize prevention principles, concepts and practices within applicant's own organization beyond the knowledge and skills of the DELTA Program staff member.
- Monitor progress of local CCRs and their fiscal agents receiving DELTA Program funding.
- Attend and participate in technical assistance and planning meetings coordinated by CDC for all DELTA Program cooperative agreement applicants.
- Compile and disseminate DELTA Program results within their state.

Activities to Build Capacity Across Applicant's State:

- Organize and facilitate a DELTA Steering Committee to develop and publish a state-level Intimate Partner Violence Progress Report and Prevention Plan by June 30, 2008. The Steering committee should be representative of the racial, ethnic and gender diversity within the state. As prevention of perpetration of IPV by men is a priority area for the Division of Violence Prevention due to research indicating that the majority of IPV is perpetrated by men, the Steering Committee should include individuals who can inform the development and implementation of prevention activities and programs directed at men and boys. CDC considers the participation of state health department staff who oversee violence against women programs in the Steering Committee and in the development of this report as paramount.
- Contract with an in-state evaluator to support the DELTA Steering Committee in the development of the state-level Intimate Partner Violence Progress Report and Prevention Plan.

Activities to build capacity across the nation:

- Collaborate with the CDC, other DELTA cooperative agreement applicants, and the CDC-selected evaluation/training contractors in establishing mutually-agreed upon goals and objectives; the development and implementation of the cross-site evaluation and the translation of prevention practices; concepts, and principles for use by local CCRs and local fiscal agents.
- Disseminate DELTA prevention principles, concepts and practices and lessons learned by presenting at a minimum of one state-wide conference that addresses IPV in other non-DELTA states in Program Periods two or three.
- Disseminate DELTA prevention principles, concepts and practices and

lessons learned by presenting at a minimum of one national conference that addresses IPV in Program Periods two or three.

• Attend and participate in the National Center for Injury Prevention and Control Conference in Washington, DC in 2007.

In a cooperative agreement, CDC staff is substantially involved in the program activities, above and beyond routine grant monitoring.

CDC Activities for this program are as follows:

• Participate in the translation and/or identification of prevention principles, concepts, practices, and measures into prevention-focused evidenced-based planning, activities, strategies, policies and evaluation practices that can be integrated into the CCR model.

• Provide guidance on how to hire an evaluation contractor and approving the hire of applicant's evaluation contractor.

• Approve the staff and contractors funded through the DELTA Program.

• Contract with a third-party to conduct a cross-site evaluation.

• Coordinate capacity-building prevention-focused training and technical assistance for DELTA grantees by contracting with a third-party(ies).

• Provide assistance in the management and technical performance of the implementation of prevention principles, concepts, practices, leadership, activities, strategies and policies at the state and local level.

• Arrange for information sharing among DELTA grantees.

• Analyze cross-site evaluation/research information for presentation and publication.

II. Award Information

Type of Award: Cooperative Agreement.

CDC anticipates funding this Program Announcement in two cycles depending on availability of funds.

Cycle 1: Fiscal Year Funds: 2005.

Approximate Total Funding: $1.6 million. (This amount is an estimate, and is subject to availability of funds.)

Approximate Number of Awards: 9.

Approximate Average Award: $187,000. (This amount is for the first 12-month budget period, and includes both direct and indirect costs.)

Floor of Award Range: $125,000. (CDC will not make an award smaller than the floor amount.)

Ceiling of Award Range: $220,000. (This ceiling is for the first 12-month budget period. CDC will not make an award for larger than the ceiling amount.)

Cycle 2: Fiscal Year Funds: 2006.

Approximate Total Funding: $1,070,000. (This amount is an estimate, and is subject to availability of funds.)

Approximate Number of Awards: 5.

Approximate Average Award: $214,000. (This amount is for the first 12-month budget period, and includes both direct and indirect costs.)

Floor of Award Range: $168,000. (CDC will not make an award smaller than the floor amount.)

Ceiling of Award Range: $255,000. (This ceiling is for the first 12-month budget period. CDC will not make an award for larger than the ceiling amount.)

Anticipated Award Date(s): September 30, 2005 (Cycle 1) and January 30, 2006 (Cycle 2).

Budget Period Length: 12 months.

Project Period Length: Three years.

Throughout the project period, CDC's commitment to continuation of awards will be conditioned on the availability of funds, evidence of satisfactory progress by the applicant (as documented in required reports), and the determination that continued funding is in the best interest of the Federal Government.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by nonprofit private organizations that are current recipients of the Domestic Violence Prevention Enhancement and Leadership Through Alliances (DELTA) Program, funding opportunity number 02122. The authorizing statute, 42 U.S.C. 10418, requires that funding shall only be awarded to nonprofit private organizations organized for the purpose of coordinating community projects for the intervention and prevention of domestic violence. Only one application per state will be awarded.

The competition for this cooperative agreement is being limited to current DELTA Program recipients for the following reasons:

1. The three-year program period of the DELTA Program, funding opportunity number 02122, was a planning period where CDC, DELTA grantees, local fiscal agents and CCRs developed the prevention framework that is to be integrated into the coordinated community response model.

2. The three year program period for this current DELTA cooperative agreement will be an implementation and evaluation period where DELTA grantees, local fiscal agents and CCRs start implementing the prevention framework and evaluating their results.

3. The evaluation for the DELTA Program, funding opportunity number 02122, is a dissemination evaluation that is assessing the development of prevention capacity within CCRs. The valid measure of prevention capacity building relies on local CCRs being given the opportunity to implement and evaluate their prevention efforts. Thus, a second program period of three years is needed in order for the evaluation to produce reliable, valid and useful results that can inform the field.

As CDC's environmental scan of CCRs operating in 14 states revealed that most CCRs are not formally organized, a local nonprofit organization in each community will act as the fiscal agent to receive local DELTA funding that will support the local CCR's adoption of prevention practices, concepts and practices. In order to receive DELTA funding, cooperative agreement applicants must have at least 18 months experience in providing prevention focused training and technical assistance to, and at least 12 months monitoring and funding of local CCRs, as this RFA is not intended to support initial capacity building in these areas. Local fiscal agents and their respective CCRs are required to have at least 12 months of prevention program planning experience, as this RFA is not intended to support initial prevention program planning capacity-building efforts at the local level. These fiscal agents shall be member agencies of their respective CCRs and understand that the DELTA Program is to be community-owned by the CCR and not agency-driven by the fiscal agent.

III.2. Cost Sharing or Matching

The DELTA Program project period is three years. For the third year of this project period, DELTA cooperative agreement applicants will be required to cost share or match 15 percent of the program's cost. This is a fixed percentage and is non-negotiable. As cost sharing or matching is not required until the third year of the project period, the applicant's documentation verifying their ability to meet this requirement is not a responsiveness criterion (*i.e.*, applications that do not propose matching or cost sharing as specified will not be returned without review). Thus, an applicants' documentation verifying their ability to meet this requirement is not included in the evaluation criteria and applicants are not asked to provide any pre-award documentation verifying their ability to meet this cost sharing/matching requirement. The applicant will be expected to meet at least half of the 15 percent cost share or match requirement through cash contributions. In-kind contributions may provide no more than

half of the 15 percent cost share or match requirement.

The regulatory basis for the cost share or matching is 45 CFR parts 74 and 92 as interpreted in the Awarding Agency Grants Administration Manual 3.02.102–3A.1.

By requiring a 15 percent cost share or match during the final year of the project period, CDC seeks to encourage DELTA cooperative agreement applicants to identify community and state resources that can sustain DELTA activities within the state once the three year DELTA Program period ends. As CDC is only requiring a 15 percent cost share or match, CDC believes this will not unduly burden DELTA cooperative agreement applicants, while encouraging them to actively plan the sustainability of the DELTA Program within their state. CDC also believes that the DELTA Program within each state will have a greater likelihood of success if cooperative agreement applicants contribute to the costs of the project by obtaining state and local support.

III.3. Other

If you request a funding amount greater than the ceiling of the award range, your application will be considered non-responsive, and will not be entered into the review process. You will be notified that your application did not meet the submission requirements.

Special Requirements

If your application is incomplete or non-responsive to the special requirements listed in this section, it will not be entered into the review process. You will be notified that your application did not meet submission requirements.

- Late applications will be considered non-responsive. See section ''IV.3. Submission Dates and Times'' for more information on deadlines.
- Non-profit 501 (c)(3) status—provide copy of IRS determination letter with application.
- *Note:* Title 2 of the United States Code Section 1611 states that an organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

IV. Application and Submission Information

IV.1. Address To Request Application Package

To apply for this funding opportunity use application form PHS 5161–1.

Electronic Submission: CDC strongly encourages you to submit your application electronically by utilizing the forms and instructions posted for this announcement on *http://www.Grants.gov*, the official Federal agency wide E-grant Web site. Only applicants who apply online are permitted to forego paper copy submission of all application forms.

Paper Submission: Application forms and instructions are available on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm*.

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) staff at: 770–488–2700. Application forms can be mailed to you.

Program Technical Assistance Conference Call

There will be a Program Technical Assistance Conference Call on Thursday, March 3, 2005 from 3–4:30 p.m. EST. Please e-mail Pam Cox at *pcox@cdc.gov* by February 28, 2005 to request the conference call number and code. The conference call number and code will be provided via e-mail.

IV.2. Content and Form of Submission Application

Electronic Submission: You may submit your application electronically at: *http://www.grants.gov*. Applications completed online through Grants.gov are considered formally submitted when the applicant organization's Authorizing Official electronically submits the application to http://www.grants.gov. Electronic applications will be considered as having met the deadline if the application has been submitted electronically by the applicant organization's Authorizing Official to Grants.gov on or before the deadline date and time.

It is strongly recommended that you submit your grant application using Microsoft Office products (*e.g.*, Microsoft Word, Microsoft Excel, etc.). If you do not have access to Microsoft Office products, you may submit a PDF file. Directions for creating PDF files can be found on the Grants.gov Web site. Use of file formats other than Microsoft Office or PDF may result in your file being unreadable by our staff.

CDC recommends that you submit your application to Grants.gov early enough to resolve any unanticipated difficulties prior to the deadline. You may also submit a back-up paper submission of your application. Any such paper submission must be received in accordance with the requirements for timely submission detailed in Section IV.3. of the grant announcement. The paper submission must be clearly marked: ''BACK-UP FOR ELECTRONIC SUBMISSION.'' The paper submission must conform with all requirements for non-electronic submissions. If both electronic and back-up paper submissions are received by the deadline, the electronic version will be considered the official submission.

Paper Submission: If you plan to submit your application by hard copy, submit the original and two hard copies of your application by mail or express delivery service. Refer to section IV.6. Other Submission Requirements for submission address.

You must submit a project narrative with your application forms. The narrative must be submitted in the following format:

- *Maximum number of pages:* 25—If your narrative exceeds the page limit, only the first 25 pages will be reviewed.
- *Font size:* 12 point unreduced.
- Double spaced.
- *Paper size:* 8.5 by 11 inches.
- *Page margin size:* One inch.
- Printed only on one side of page.
- Held together only by rubber bands or metal clips; not bound in any other way.

Your narrative should address activities to be conducted over the entire three year project period, and must include the following items in the order listed:

- Abstract (no more than one page).
- Organization history and description (no more than one page).
- Organization's agreement to use the definition of IPV provided in this RFA as the basis for DELTA Program activities and implementation.
- Experience (minimum of 18 months) in providing prevention-focused training and technical assistance to CCRs and local fiscal agents (no more than two pages).
- Experience (minimum of 12 months) in funding and monitoring local fiscal agents and their CCRs regarding their implementation of prevention principles, concepts and practices (no more than two pages).
- *Implementation Plan for DELTA Program:* Local level. Provide a logic model and narrative of no more than four pages describing the applicant's plans to build capacity in local CCRs in accordance with the Activities section of this program announcement. For assistance on how to design a logic model, access CDC's Web site: *http://www.cdc.gov/nccdphp/dnpa/physical/handbook/step2.htm*. In regard to outcomes for the logic model and narrative, due to the DELTA Program

project period being three years, applicants should only include short-term and intermediate outcomes (*i.e.*, capacity building) in their logic model and not long-term outcomes (*i.e.*, a reduction in IPV incidence and prevalence). The logic model should list only one objective and a quantitative performance measure of effectiveness for that objective that will be used to measure the intended short-term and intermediate outcomes over the program period. Measures of effectiveness must relate to the performance goals stated in the ''Purpose'' section of this announcement: Increase the capacity of injury prevention and control programs to address the prevention of injuries and violence. Measures must be objective and quantitative, and must measure the intended outcome. The narratives that accompany the logic models should elaborate and clarify the timelines, inputs, activities, outputs, outcomes, and performance measures of effectiveness listed in the logic model diagram.

• *Implementation Plan for DELTA Program:* State level. Provide a logic model and narrative of no more than four pages describing the applicant's plans to build capacity at the state level in accordance with the Activities section of this program announcement. In regard to outcomes for the logic model and narrative, due to the DELTA Program project period being three years, applicants should only include short-term and intermediate outcomes (*i.e.*, capacity-building) in their logic model and not long-term outcomes (*i.e.*, a reduction in IPV incidence and prevalence). The logic model should list only one objective and a quantitative performance measure of effectiveness for that objective that will be used to measure the intended short-term and intermediate outcomes over the program period. Measures of effectiveness must relate to the performance goals stated in the ''Purpose'' section of this announcement: Increase the capacity of injury prevention and control programs to address the prevention of injuries and violence. Measures must be objective and quantitative, and must measure the intended outcome. The narratives that accompany the logic models should elaborate and clarify the timelines, inputs, activities, outputs, outcomes, and performance measures of effectiveness listed in the logic model diagram.

• *Implementation Plan for DELTA Program:* Organizational level. Provide a logic model and narrative of no more than four pages describing the applicant's plans to build capacity within its own organization in accordance with the Activities section of this program announcement. In regard to outcomes for the logic model and narrative, due to the DELTA Program project period being three years, applicants should only include short-term and intermediate outcomes (*i.e.*, capacity building) in their logic models and not long-term outcomes (*i.e.*, reduction in IPV incidence and prevalence). The logic model should list only one objective and a quantitative performance measure of effectiveness for the objective that will be sued to measure the intended short-term and intermediate outcomes over the program period. Measures of effectiveness must relate to the performance goals stated in the ''Purpose'' section of this announcement: Increase the capacity of injury prevention and control programs to address prevention of injuries and violence. Measures must be objective and quantitative, and must measure the intended outcome. The narratives that accompany the logic models should elaborate and clarify the timelines, inputs, activities, outputs, outcomes and performance measures of effectiveness listed in the logic model diagram.

• *Implementation Plan for DELTA Program:* National level. Provide a logic model and narrative of no more than four pages describing the applicant's plans to build capacity within its own organization in accordance with the Activities section of this program announcement. In regard to outcomes for the logic model and narrative, due to the DELTA Program project period being three years, applicants should only include short-term and intermediate outcomes in their logic models (*i.e.*, capacity building) and not long-term outcomes (*i.e.*, reduction in IPV incidence and prevalence). The logic model should list only one objective and a quantitative performance measure of effectiveness for the objective that will be sued to measure the intended short-term and intermediate outcomes over the program period. Measures of effectiveness must relate to the performance goals stated in the ''Purpose'' section of this announcement: Increase the capacity of injury prevention and control programs to address prevention of injuries and violence. Measures must be objective and quantitative, and must measure the intended outcome. The narratives that accompany the logic models should elaborate and clarify the timelines, inputs, activities, outputs, outcomes and performance measures of effectiveness listed in the logic model diagram.

• Summary (no more than one page).

• Budget Justification (not counted within stated page limit).

Additional required information should be included in the application appendices. The appendices will not be counted toward the narrative page limit. The additional required information is:

• *Appendix A:* Two letters of support from local CCR members, each representing a different CCR, describing the prevention-focused training and technical assistance provided by the applicant over the past 18 months.

• *Appendix B:* Copy of the application used by the applicant to award funds to local fiscal agents and CCRs to implement prevention principles, concepts and practices.

• *Appendix C:* Copy of IRS determination letter.

You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the Federal government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711.

For more information, see the CDC Web site at: *http://www.cdc.gov/od/pgo/funding/pubcommt.htm*. If your application form does not have a DUNS number field, please write your DUNS number at the top of the first page of your application, and/or include your DUNS number in your application cover letter.

Additional requirements that may require you to submit additional documentation with your application are listed in section ''VI.2. Administrative and National Policy Requirements.''

IV.3. Submission Dates and Times

Application Deadline Date: April 26, 2005.

Explanation of Deadlines: Applications must be received in the CDC Procurement and Grants Office by 4 p.m. Eastern Time on the deadline date. If you submit your application by the United States Postal Service or commercial delivery service, you must ensure that the carrier will be able to guarantee delivery by the closing date and time. If CDC receives your submission after closing due to: (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, you will be given the opportunity to submit documentation of the carrier's guarantee. If the documentation verifies a carrier problem, CDC will consider the

submission as having been received by the deadline.

This announcement is the definitive guide on application content, submission address, and deadline. It supersedes information provided in the application instructions. If your submission does not meet the deadline above, it will not be eligible for review, and will be discarded. You will be notified that you did not meet the submission requirements.

Electronic Submission: If you submit your application electronically with Grants.gov, your application will be electronically time/date stamped which will serve as receipt of submission. In turn, you will receive an e-mail notice of receipt when CDC receives the application. All electronic applications must be submitted by 4 p.m. Eastern Time on the application due date.

Paper Submission: CDC will not notify you upon receipt of your paper submission. If you have a question about the receipt of your LOI or application, first contact your courier. If you still have a question, contact the PGO–TIM staff at: 770–488–2700. Before calling, please wait two to three days after the submission deadline. This will allow time for submissions to be processed and logged.

IV.4. Intergovernmental Review of Applications

Executive Order 12372 does not apply to this program.

IV.5. Funding Restrictions

Restrictions, which must be taken into account while writing your budget, are as follows:

- Funds may not be used for research.
- Reimbursement of pre-award costs is not allowed.
- Budgets for each budget period should include travel costs for three staff: DELTA Project Coordinator, the applicant's evaluation contractor, and the applicant's executive director, to attend three 3-day planning and training meetings in Atlanta, Georgia with CDC staff, other cooperative agreement applicants, and the CDC-selected evaluation contractor. The applicant should also budget for extensive state-wide travel for the evaluation contractor to visit local fiscal agents and their CCRs in order to gain knowledge of their prevention programs and activities and train and provide technical assistance regarding evaluation and the development of the Intimate Partner Violence Progress Report and Prevention Plan. The applicant should also budget for travel for the evaluation contractor to support the DELTA Steering Committee in the development of the state-level Intimate Partner Violence Progress Report and Prevention Plan.
- For the first budget period, applicants shall contract with private nonprofit organizations (*i.e.*, local fiscal agents) to maintain the continuity of the DELTA Program in CCRs that address IPV in local communities. Applicants shall request only the amount of funding these local fiscal agents will expend during the first budget period. These private nonprofit organizations shall be member agencies of these CCRs and understand that the DELTA Program is to be community-owned by the CCR and not agency-driven by the private nonprofit organization.
- During the first budget period, applicants shall designate between $50,000–$75,000 of the first year budget period's award to contract with an evaluator, approved by CDC, to assist with the development of the state and local versions of the Intimate Partner Violence Progress Report and Prevention Plan.
- Local fiscal agents are required to devote the equivalent of a seventy-five percent FTE to the implementation and evaluation of the DELTA Program at the local level.
- Applicants are required, at a minimum, to have the equivalent of one FTE assigned to DELTA Program programmatic activities.
- Funding may not be used for construction.
- Funding may be used to purchase computer equipment and software, and Internet connection equipment and software.
- Funding may not be used to provide direct services to victims or perpetrators of IPV.
- No more than 10 percent of local fiscal agent funding may be used to coordinate intervention services.
- Funding may not be used for intervention-oriented media or awareness campaigns that promote awareness of the problem of IPV or awareness of where to receive services.
- Funding may be used for prevention-oriented media or awareness campaigns that promote the protective factors at each level of the social ecology.
- DELTA Program funds may be used by local fiscal agents and their CCRs to adapt, develop, and produce prevention-focused educational materials, media campaigns, or curricula. It is required that the adaptation, development and production of such materials are based on the best available evidence input from representatives from the community for which the materials are developed. The representatives must be active participants in the adaptation, development, production, implementation and evaluation processes. It will be the applicant's responsibility to monitor this funding restriction.

Guidance for completing your budget can be found on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/funding/budgetguide.htm*.

IV.6. Other Submission Requirements

Application Submission Address:

Electronic Submission: CDC strongly encourages applicants to submit electronically at: *http://www.Grants.gov*. You will be able to download a copy of the application package from *http://www.Grants.gov*, complete it offline, and then upload and submit the application via the Grants.gov site. E-mail submissions will not be accepted. If you are having technical difficulties in *Grants.gov* they can be reached by E-mail at *www.support@grants.gov* or by phone at 1–800–518–4726 (1–800–518–GRANTS). The Customer Support Center is open from 7 a.m. to 9 p.m. Eastern Time, Monday through Friday.

Paper Submission: If you chose to submit a paper application, submit the original and two hard copies of your application by mail or express delivery service to:

Technical Information Management—RFA 05039, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341.

V. Application Review Information

V.1. Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goal stated in the ''Purpose'' section of this announcement: Increase the capacity of injury prevention and control programs to address the prevention of injuries and violence. Measures must be objective and quantitative, and must measure the intended outcome. Applicants are expected to develop four measures of effectiveness, one for each level of capacity-building as described in section IV.2. Content and Form of Submission. Measures of effectiveness will be an element of evaluation.

Your application will be evaluated against the following criteria:

a. *Experience* (25 points) in providing prevention-focused training and technical assistance to local CCRs and

local fiscal agents (no more than two pages). Does the applicant demonstrate at least 18 months experience in providing prevention-focused training and technical assistance to local CCRs and local fiscal agents? Does the applicant clearly demonstrate that their training and technical assistance was prevention-focused, and not intervention focused? Does the applicant clearly demonstrate that their training and technical assistance included prevention principles, concepts and practices such as preventing first-time perpetration and first-time victimization; decreasing risk factors, increasing protective factors, evidence-based planning, theory, and evaluation? Does the applicant include two letters of support from local CCR members, each representing a different CCR, describing the prevention-focused training and technical assistance provided to them by the applicant over the past 18 months?

b. *Experience* (25 points) in funding and monitoring local fiscal agents and their CCRs regarding their implementation of prevention principles, concepts and practices (no more than 2 pages).

Does the applicant demonstrate at least 12 months experience in funding and monitoring local fiscal agents and their CCRs regarding their implementation of prevention principles, concepts and practices? Does the applicant adequately describe their funding process (from announcement of available funds, to review, to award)? Does the applicant adequately describe their monitoring process (reports required, site visits, products delivered)? Does the applicant provide a copy of the application used by the applicant to award funds to local fiscal agents and CCRs to implement prevention principles, concepts and practices?

c. *Implementation Plan* for DELTA Program (15 points): Local level. Does the applicant include a logic model's core elements:

- Inputs.
- Activities.
- Outputs.
- Initial outcomes.
- Intermediate outcomes.
- Influential factors.
- One performance measure of effectiveness (replaces traditional logic model's goal)?

Are each of these core elements adequately addressed? Does the applicant address each of the activities to build capacity in local CCRs:

- Prevention-focused training, technical assistance and funding.
- Training and technical assistance regarding community organization, CCR development and maintenance and strategic planning.
- Assistance to and monitoring of local fiscal agents and their CCRs in their development and publication of an Intimate Partner Violence Progress Report and Prevention Plan.
- Assisting local fiscal agents in institutionalizing prevention principles, concepts and practices within their own agencies.
- Use of evaluation contractor in the development of the Intimate Partner Violence Progress Report and Prevention Plan.

Is the applicant's implementation plan adequate to meet the short-term and intermediate outcomes listed in the logic model? Is the applicant's one performance measure of effectiveness objective, quantifiable, measurable and realistic? Can the proposed activities and outputs realistically lead to the outcomes proposed? Are the proposed activities and timelines (as described in the narrative) feasible?

d. *Implementation plan* for DELTA Program (15 points): State level. Does the applicant include a logic model's core elements:

- Inputs,
- Activities,
- Outputs,
- Initial outcomes,
- Intermediate outcomes,
- Influential factors and
- One performance measure of effectiveness (replaces traditional logic model's goal)?

Are each of these core elements adequately addressed? Does the applicant address each of the activities to build capacity across Applicant's state:

- Organize and facilitate a DELTA Steering Committee to develop and publish a state-level Intimate Partner Violence Progress Report and Prevention Plan.
- Develop a steering committee that is representative of the racial, ethnic and gender diversity within the state.
- Develop a steering committee that includes individuals who can inform the development and implementation of prevention activities and programs directed at men and boys.
- Use of evaluation contractor in the development of the Intimate Partner Violence Progress Report and Prevention Plan. Is the applicant's implementation plan adequate to meet the short-term and intermediate outcomes listed in the logic model? Is the applicant's one performance measure of effectiveness objective, quantifiable, measurable and realistic? Can the proposed activities and outputs realistically lead to the outcomes proposed? Are the proposed activities and timelines feasible?

e. *Implementation plan* for DELTA Program (10 points): Organizational level. Does the applicant include a logic model's core elements:

- Inputs,
- Activities,
- Outputs,
- Initial outcomes,
- Intermediate outcomes,
- Influential factors and
- One performance measure of effectiveness (replaces traditional logic model's goal)?

Are each of these core elements adequately addressed? Does the applicant address each of the activities to build capacity within Applicant's organization:

- Participate in training and technical assistance activities and opportunities provided by CDC;
- Institutionalize prevention principles, concepts and practices within their own organization;
- Monitor progress of local CCRs and their local fiscal agents;
- Attend and participate in technical assistance and planning meetings coordinated by CDC;
- Compile and disseminate DELTA Program results within their state;
- Is the applicant's implementation plan adequate to meet the short-term and intermediate outcomes listed in the logic model? Is the applicant's one performance measure of effectiveness objective, quantifiable, measurable and realistic? Can the proposed activities and outputs realistically lead to the outcomes and performance measure proposed? Are the proposed activities and timelines (as described in the narrative) feasible?

f. *Implementation Plan* for DELTA Program (5 points): National level. Does the applicant include a logic model's core elements:

- Inputs,
- Activities,
- Outputs,
- Initial outcomes,
- Intermediate outcomes,
- Influential factors and
- One performance measure of effectiveness (replaces traditional logic model's goal)?

Are each of these core elements adequately addressed? Does the applicant address each of the activities to build capacity across Applicant's state:

- Collaborate with CDC, other DELTA cooperative agreement applicants, and the CDC-selected evaluation/training contractors.

• Disseminate DELTA prevention principles, concepts and practices and lessons learned by presenting at a minimum of one state-wide conference that addresses IPV in non-DELTA states in Program Periods two and three.

• Disseminate DELTA prevention principles, concepts and practices and lessons learned by presenting at a minimum of one national conference that addresses IPV in Program Periods two and three.

• Attend and participate in the National Center for Injury Prevention and Control Conference in Washington, DC in 2007.

Is the applicant's implementation plan adequate to meet the short-term and intermediate outcomes listed in the logic model? Is the applicant's one performance measure of effectiveness objective, quantifiable, measurable and realistic? Can the proposed activities and outputs realistically lead to the outcomes proposed? Are the proposed activities and timelines feasible?

g. *Applicant's Agreement* (5 points) to use the definition of IPV provided in this RFA as the basis for DELTA Program activities and implementation. Does the applicant explicitly state their agreement to use the definition of IPV (*i.e.*, continuum from episodic violence to battering) provided in this RFA as the basis for DELTA Program activities and implementation?

V.2. Review and Selection Process

Applications will be reviewed for completeness by the Procurement and Grants Office (PGO) staff, and for responsiveness by the National Center for Injury Prevention and Control. Incomplete applications and applications that are non-responsive to the eligibility criteria will not advance through the review process. Applicants will be notified that their application did not meet submission requirements.

An objective review panel will evaluate complete and responsive applications according to the criteria listed in the ''V.1. Criteria'' section above. Objective reviewers will be Federal employees who do not work within NCIPC and/or external experts with no conflict of interest regarding the outcome of the awarding process. Each complete and responsive application will have primary, secondary and tertiary reviewers. The objective review panel will meet to discuss and score each application based on the reviewers' comments.

In addition, the following factors may affect the funding decision:

• Maintaining geographic diversity (The authorizing statute, 42 U.S.C. 10418, requires that funding shall be awarded to organizations that are geographically dispersed throughout the country.)

• Preference will be given to applicants who have received funding in a previous project period.

CDC will provide justification for any decision to fund out of rank order.

V.3. Anticipated Announcement and Award Dates

Anticipated Announcement Date: May 15, 2005.

Anticipated Award Date(s): September 30, 2005 and January 30, 2006.

VI. Award Administration Information

VI.1. Award Notices

Successful applicants will receive a Notice of Grant Award (NGA) from the CDC Procurement and Grants Office. The NGA shall be the only binding, authorizing document between the applicant and CDC. The NGA will be signed by an authorized Grants Management Officer, and mailed to the applicant fiscal officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review by mail.

VI.2. Administrative and National Policy Requirements

45 CFR Part 74 and Part 92

For more information on the Code of Federal Regulations, see the National Archives and Records Administration at the following Internet address: *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html*.

An additional Certifications form from the PHS5161–1 application needs to be included in your Grants.gov electronic submission only. Refer to *http://www.cdc.gov/od/pgo/funding/PHS5161–1-Certificates.pdf.* Once the form is filled out attach it to your Grants.gov submission as Other Attachments Form.

The following additional requirements apply to this project:

• AR–10 Smoke-Free Workplace Requirements.

• AR–11 Healthy People 2010.

• AR–12 Lobbying Restrictions.

• AR–13 Prohibition on Use of CDC Funds for Certain Gun Control Activities.

• AR–15 Proof of Non-Profit Status.

• AR–16 Security Clearance Requirement.

• AR–25 Release and Sharing of Data.

Additional information on these requirements can be found on the CDC Web site at the following Internet address: *http://www.cdc.gov/od/pgo/funding/ARs.htm*.

VI.3. Reporting Requirements

You must provide CDC with an original, plus two hard copies of the following reports:

1. Interim progress report, due no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current Budget Period Activities Objectives (for first six months of budget period)

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activity Objectives (provides updated logic models and narratives).

d. Budget.

e. Measures of Effectiveness.

f. Additional Requested Information.

2. Annual progress report, due 90 days after the end of the budget period.

a. Current Budget Period Activities Objectives (for second six months of budget period).

b. New Budget Period Program Proposed Activity Objectives (provides updated logic models and narratives).

c. Measures of Effectiveness.

d. Additional Requested Information.

3. Financial status report, due no more than 90 days after the end of the budget period.

4. Final financial and performance reports, no more than 90 days after the end of the project period.

These reports must be mailed to the Grants Management or Contract Specialist listed in the ''Agency Contacts'' section of this announcement.

VII. Agency Contacts

We encourage inquiries concerning this announcement.

For general questions, contact: Technical Information Management Section, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341, Telephone: 770–488–2700.

For program technical assistance, contact: Pamela J. Cox, Project Officer, CDC, NCIPC, 4770 Buford Highway, NE., Mailstop K60, Atlanta, GA 30341, Telephone: 770–488–1206, Fax Number: 770–488–1360, Email: *pcox@cdc.gov*.

For financial, grants management, or budget assistance, contact: Angie Tuttle, Grants Management (Specialist, CDC Procurement and Grants Office), 2920 Brandywine Road, Atlanta, GA 30341, Telephone: 770/488–2719, E-mail: *Aen4@cdc.gov*.

VIII. Other Information

This and other CDC funding opportunity announcements can be

found on the CDC Web site, Internet address: *http://www.cdc.gov*. Click on ''Funding'' then ''Grants and Cooperative Agreements.''

Dated: February 18, 2005.

Alan A. Kotch,

Acting Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Cooperative Agreement Program to Increase the Knowledge and Skills of Disadvantaged Minority Students Under-Represented in the Areas of Biostatistics, Epidemiology, and Occupational Safety and Health

Announcement Type: New.

Funding Opportunity Number: RFA 05053.

Catalog of Federal Domestic Assistance Number: 93.283.

Key Dates:

Application Deadline: March 28, 2005.

I. Funding Opportunity Description

Authority: This program is authorized under Sections 317(k)(2) of the Public Health Service Act, [42 U.S.C. Section 247b(k)(2), as amended. In addition, the program is authorized under Presidential Executive Orders related to advancing opportunities for higher education and strengthening capacity of Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities, (TCUs), and Hispanic Serving Institutions (HSIs).

Purpose: The purpose of the program is to increase the knowledge, skills, and research training of disadvantaged minority students including racial and ethnic minorities who are under-represented in the areas of biostatistics and epidemiology, and occupational safety and health. Specifically, the program is intended to assist a minority institution of higher education (MIHE) to:

(1) Develop an undergraduate research training and internship program for disadvantaged minority students.

(2) Increase the knowledge and skills of disadvantaged minority undergraduate students in two categories of specialization: category I—epidemiology and biostatistics, and category II—occupational safety and health.

(3) Expand the educational and applied public health research training and skills development opportunities and experiences in the two fields of specialization (epidemiology and biostatistics, and occupational safety and health) for disadvantaged minority students who are interested in pursuing public health careers.

(4) Develop and implement a public health science curriculum at an MIHE.

(5) Foster linkages and collaboration among students and faculty in developing epidemiological and analytical knowledge base for the health status of disadvantaged minority students in America.

(6) Increase the number of disadvantaged minority students with advanced degrees in epidemiology, biostatistics,and occupational safety and health.

This program addresses the following ''Healthy People 2010'' focus area(s): Access to Quality Health Services, Educational and Community-Based Programs, and Public Health Infrastructure. This program also addresses the performance of executive agency actions under Executive Orders 13256, 13230, and 13270 in order to advance the development of the Nation's full human potential and to advance equal opportunity in higher education, to strengthen the capacity of HBCUs, HSIs, and TCUs, respectively, to provide the highest quality education, and to increase opportunities for these institutions to participate in and benefit from Federal programs. The program also addresses the Occupational Health and Safety Act of 1970, which assures safe and healthful working conditions for working men and women and provides research, information, education, and training in the field of occupational safety and health. In addition, the program addresses the Department's priority activity to eliminate disparities in health, including striving for racial and ethnic parity in the health professions.

Measurable outcomes of the program will be in alignment with one (or more) of the following performance goal(s) for the Office of Minority Health:

Goal 1: Prepare disadvantaged minority medical, veterinary, pharmacy, and graduate students for careers in public health.

Goal 2: Support HBCUs, HSIs, and TCUs by increasing the number of funding mechanisms and the number of minority-serving institutions receiving support.

This announcement is only for non-research activities supported by CDC/ATSDR. If research is proposed, the application will not be reviewed. For the definition of research, please see the CDC web site at the following Internet address: *http://www.cdc.gov/od/ads/opspoll1.htm*.

Activities: Awardee activities for this program are as follows: a. Internship Programs: The recipient should plan and manage an undergraduate summer internship program for disadvantaged minority students that emphasizes the two categories of specialization: Category I—training in biostatistics and epidemiology where plans will be developed to train students at CDC Centers, Institute, and Offices (CIOs) and other locations as appropriate, and Category II—occupational safety and health where plans will be developed to train students in the National Institute of Occupational Safety and Health (NIOSH) laboratories. Examples of activities that may be undertaken, include, but are not limited to the following:

1. Establish criteria for competitive selection of prospective students for both categories of specialization for the summer internship program that is consistent with the goals and objectives of the cooperative agreement. For example, a criteria for competitive selection might include the requirement for completion of one or more courses in biostatistics, epidemiology, or occupational safety and health; grade of B or above in overall course work; likelihood of the student to pursue a career in public health, research experience, other academic performance; and performance on personal interviews.

2. Identify and recruit undergraduate minority students who have successfully completed at least the sophomore year in college and who have expressed an interest in pursuing a career in the health sciences, occupational safety and health, industrial hygiene, environmental sciences, engineering, physics, social and behavioral sciences, or mathematics.

3. Provide mechanisms for supporting the participation of students in the summer internship program with the requirement that students should be available to participate fully in the program activities.

4. Provide adequate technical assistance and consultants, (*e.g.*, computer analysis, biostatistics, epidemiology, occupational safety and health), to assist the students in successfully completing the requirements of the internship program.

5. Establish and maintain a database with demographic information on previous years' interns for the purpose of evaluation.

6. Establish a mechanism to award three semester (or equivalent) credit hours to research interns upon successful completion of research projects that is consistent with recipient academic policies and procedures.

7. Maintain a liaison with the category II specialization, occupational safety and health.

b. Educational Support and Curriculum Development: The recipient should develop and implement an educational support curriculum that includes, at a minimum, a Public Health Sciences Curriculum that emphasizes epidemiology, biostatistics, occupational safety and health, and related academic courses, including practicum. The public health sciences curriculum should be consistent with the institutional policies and procedures of the recipient, and include at least one semester (or equivalent) of biostatistics and epidemiology. In implementing the public health sciences curriculum developed under this agreement, the recipient should:

1. Collaborate among, and across the recipient institution's educational departments to demonstrate the cross disciplinary advantages of public health practice, and the importance of integrative and multi-disciplinary approaches to improving the health status and quality of life of disadvantaged minority persons.

2. Demonstrate how the public health sciences curriculum and educational support will enhance opportunities for disadvantaged minority students to obtain advanced degrees in epidemiology, biostatistics, and occupational safety and health from graduate programs housed within schools of public health or medicine.

3. Develop, plan and provide other educational support for encouraging the pro-active recruitment of undergraduate students majoring in disciplines other than biology, chemistry, community health, or pre -medicine to increase their knowledge of public health practice.

4. Establish a mechanism to award three (3) semester (or equivalent) credit hours to students who enroll and complete each of the public health sciences curriculum courses.

c. Research Training and Skills Development: The recipient should develop plans and approaches to make applied public health research training projects (*e.g.*, community assessments, programs and materials evaluation) an integral part of the public health sciences curriculum. The recipient should describe its existing and/or anticipated resources, (*e.g.*, computer resources, and faculty members with applicable research experiences) which will ensure hands-on analytic research training and participation for the undergraduate students.

d. Public Health Sciences Advisory Group: The recipient should establish a Public Health Sciences Advisory Group to advise the recipient on the implementation of the cooperative agreement program. Examples of activities that the Public Health Advisory Group might perform include the following:

1. Serve as liaison between the recipient institution and the public health education, training and research program.

2. Review applications and/or interview prospective interns.

3. Review proposals or research project descriptions submitted by the CDC to be analyzed by the students during the summer internship, and

4. Evaluate the public health sciences program on operating aspects, such as education, training and research components, and make suggestions for overall program improvement.

e. Staffing and Management: The recipient should provide adequate staffing and management resources for the successful implementation of the cooperative agreement. For example, the following positions might be identified as key staff: Principal Investigator (PI), Executive Director (ED), Educational Program Coordinator, Occupational Safety and Health Coordinator, and Research Training Coordinator. The recipient should ensure that qualifications of key personnel are consistent with personnel policies and practices of the institution.

f. Evaluation Plan: The recipient is required to evaluate the management and performance of the students, including specific measures of a successful program and the frequency/time-frame for the evaluations (*i.e.*, process and outcome evaluations). The recipient shall develop a computerized tracking system used as an evaluation tool for following-up the future professional activities of the students who have participated in this cooperative education program.

In a cooperative agreement, CDC staff is substantially involved in the program activities, above and beyond routine grant monitoring.

CDC Activities for this program are as follows:

a. As needed, collaborate with the recipient, and provide consultation, assistance and support in planning, implementing and evaluating all aspects of the cooperative agreement.

b. As needed, collaborate with the recipient to establish criteria for evaluating both short- and long-term success of the public health sciences education, training, and research programs.

c. As needed, provide consultation and advice to the key program staff regarding administrative planning and program evaluation for program development in future years.

d. As needed, provide computer equipment (hardware and requisite software) to the computer, statistical, biostatistics, and the occupational safety and health consultants, interns and Public Health Science Institute faculty.

e. As needed, provide access to data sets, CDC mainframe computer, personal computers, word processors, research activities and other facilities that would be beneficial to program participants.

f. As needed, provide on-site office space and mentors to instruct the summer interns in the analysis of data sets.

g. As needed, provide meeting and office space at CDC for the summer participants, the coordinators, and the consultants for activities to be carried out during the summer internship program.

h. As needed, provide staff to give seminars to students who are selected for the internship program.

i. As needed or requested, provide technical support to assist the recipient in curriculum development and implementation of public health-related courses.

j. Collaborate in program planning and consultation with participants in the summer research program.

k. As needed or requested, provide applied public health research opportunities to allow students hands-on research experience and skills development training.

II. Award Information

Type of Award: Cooperative Agreement.

CDC involvement in this program is listed in the Activities Section above.

Fiscal Year Funds: 2005.

Approximate Total Funding: $200,000. (This amount is an estimate for the category I specialization biostatistics and epidemiology, and is subject to availability of funds. In addition, depending on availability of funds, approximately $150,000 will be available to fund the category II specialization occupational safety and health.)

Approximate Number of Awards: One.

Approximate Average Award: $200,000. (This amount is for the first 12-month budget period, and includes

both direct and indirect costs for the Category I specialization only.)

Floor of Award Range: None.

Ceiling of Award Range: $200,000 (This ceiling is for the first 12-month budget period for the Category I specialization only.)

Anticipated Award Date: May 30, 2005.

Budget Period Length: 12 months.

Project Period Length: Five years.

Throughout the project period, CDC's commitment to continuation of awards will be conditioned on the availability of funds, evidence of satisfactory progress by the recipient (as documented in required reports), and the determination that continued funding is in the best interest of the Federal Government.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by any institutions of higher education that are designated as HBCUs, TCUs, HSIs, or those institutions of higher education whose total minority student enrollment exceeds 51 percent. Only MIHEs that offer undergraduate courses in community/allied health, computer sciences, mathematics, and/or biostatistics and epidemiology in their curriculum are eligible to apply. Competition is limited to MIHEs under this program announcement because there is a critical shortage of both disadvantaged minority students and minority professionals to plan, monitor, and evaluate the public health policies and programs that target the heterogeneous minority population groups in the U.S.

III.2. Cost Sharing or Matching

Matching funds are not required for this program.

III.3. Other

If you request a funding amount greater than the ceiling of the award range, your application will be considered non-responsive, and will not be entered into the review process. You will be notified that your application did not meet the submission requirements.

Special Requirements: If your application is incomplete or non-responsive to the special requirements listed in this section, it will not be entered into the review process. You will be notified that your application did not meet submission requirements.

- Late applications will be considered non-responsive. See section ''IV.3. Submission Dates and Times'' for more information on deadlines.

IV. Application and Submission Information

IV.1. Address To Request Application Package

To apply for this funding opportunity use application form PHS 5161–1. Application forms and instructions are available on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

Electronic Submission: CDC strongly encourages you to submit your application electronically by utilizing the forms and instructions posted for this announcement on www.Grants.gov, the official Federal agencywide E-grant Web site. Only applicants who apply online are permitted to forego paper copy submission of all application forms.

Paper Submission: Application forms and instructions are available on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) staff at: 770–488–2700. Application forms can be mailed to you.

IV.2. Content and Form of Submission

Application: Electronic Submission: You may submit your application electronically at: *http://www.grants.gov.* Applications completed online through Grants.gov are considered formally submitted when the applicant organization's Authorizing Official electronically submits the application to *http://www.grants.gov.* Electronic applications will be considered as having met the deadline if the application has been submitted electronically by the applicant organization's Authorizing Official to Grants.gov on or before the deadline date and time.

It is strongly recommended that you submit your grant application using Microsoft Office products (*e.g.*, Microsoft Word, Microsoft Excel, etc.). If you do not have access to Microsoft Office products, you may submit a PDF file. Directions for creating PDF files can be found on the Grants.gov Web site. Use of file formats other than Microsoft Office or PDF may result in your file being unreadable by our staff.

CDC recommends that you submit your application to Grants.gov early enough to resolve any unanticipated difficulties prior to the deadline. You may also submit a back-up paper submission of your application. Any such paper submission must be received in accordance with the requirements for timely submission detailed in Section IV.3. of the grant announcement. The paper submission must be clearly marked: ''BACK-UP FOR ELECTRONIC SUBMISSION.'' The paper submission must conform with all requirements for non-electronic submissions. If both electronic and back-up paper submissions are received by the deadline, the electronic version will be considered the official submission.

Paper Submission: If you plan to submit your application by hard copy, submit the original and two hard copies of your application by mail or express delivery service. Refer to section IV.6. Other Submission Requirements for submission address.

You must submit a project narrative with your application forms. The narrative must be submitted in the following format:

- Maximum number of pages: 40

If your narrative exceeds the page limit, only the first pages, which are within the page limit, will be reviewed.

- Font size: 12 point unreduced
- Double spaced
- Paper size: 8.5 by 11 inches
- Page margin size: One inch
- Printed only on one side of page
- Held together only by rubber bands or metal clips; not bound in any other way.

Your narrative should address activities to be conducted over the entire project period, and must include the following items in the order listed:

1. Executive Summary

The applicant should provide a concise, one to three page executive summary that clearly describes:

A. Eligibility, including: (a) Status as an eligible MIHE whose total minority student enrollment exceeds 51 percent.

(b) Letter certifying percent of minority student enrollment.

(c) Description of undergraduate courses in community/allied health, computer sciences, mathematics, and/or biostatistics and epidemiology, and (d) Experience and capacity as an MIHE to provide knowledge, skills research training in the two categories of specialization, (*i.e.*, category I—epidemiology and biostatistics, and category II-occupational safety and health.)

B. The need for implementing a program to increase the knowledge, skills, and research training in category I—epidemiology and biostatistics, and category II-occupational safety and health among disadvantaged minority students.

C. The major proposed goals, objectives and activities for

implementing the program as well as total requested amount of Federal funding for each category of specialization.

D. Applicant's capability to implement the program.

2. Capacity (not more than 12 pages)

a. Describe ability to address the identified need.

b. Describe efforts and relevant experience that support the activities proposed to accomplish the objective for which the applicant is applying, including:

(1) current and previous experience related to the proposed program activities,

(2) activities related to operating internship programs for at least the last 10 years;

(3) activities related to curriculum development,

(4) current and previous experience related to fostering linkages and collaboration among students and faculty, fostering integrative and multi-disciplinary approaches to improving health status, and

(5) current and previous experience with increasing the participation of disadvantaged minority students in public health careers.

c. Submit a copy of the project's management hierarchy, and describe how that structure supports the proposed program activities.

3. Operational Plan (Not more than 20 pages)

a. Goals—List goals that specifically relate to program requirements that indicate where the program will be at the end of the projected five-year period.

b. Objectives-List objectives that are specific, measurable, and feasible to be accomplished during the projected 12-month period. The objectives should directly relate to the project goals and recipient activities.

c. Describe in narrative form and display on a timetable, specific activities that are related to each objective. Indicate when each activity will occur as well as when preparations for activities will occur. Also, indicate who will be responsible for each activity and identify staff who will work on each activity. The applicant's proposal should include multiple subparts detailing its approach to fulfill the following program requirements:

(1) Internship Program

The applicant must describe a methodology for planning and managing summer internship activities (for example: recruitment strategies, program operations, and program and course scheduling in each category of specialization, *i.e.*, category I—biostatistics and epidemiology, and category II—occupational safety and health, and establishing a data base of previous years' interns); the applicant must document a 10-year track record of implementing public health internship and fellowship programs for minority students; the applicant must describe its history of collaborating with CDC on public health training programs for minority students; the applicant must submit documentation of dedicated servers and a computer laboratory suitable for research training and data analysis.

(2) Educational Support and Curriculum Development-The applicant's application must describe a plan to develop and implement a public health sciences curriculum that emphasizes the category I specialization—epidemiology and biostatistics, and category II specialization-occupational safety and health, as well as related academic courses. The applicant must describe its prior experience in providing training programs for minority students in epidemiology, biostatistics and occupational safety and health. Consistent with the educational and administrative policies of the recipient, the application should also describe how the recipient will accomplish the following: (a) Encourage undergraduate students majoring in disciplines other than biology, chemistry, community health, and pre-medicine to increase their knowledge of public health practice; (b) demonstrate how the curriculum and educational support will enhance opportunities for minority students to obtain advanced degrees in epidemiology, biostatistics, and occupational safety and health; (c) encourage interdepartmental activities that provide integrative and multi-disciplinary approaches, knowledge and skills to improve health status; (d) describe how the recipient will incorporate a practicum to give students hands-on research experience in each category of specialization, *i.e.*, category I—biostatistics and epidemiology, and category II—occupational safety and health; (e) describe parameters for establishing a mechanism to award three semester (or equivalent) credit hours to students who enroll and complete each of the public health science curriculum courses and internship programs.

(3) Research Training and Skills Development

The applicant must describe their plans and approaches to make applied public health research projects an integral part of the public health sciences curriculum. Each applicant must describe its existing and/or anticipated resources (*e.g.*, computer resources and faculty members with applicable research experiences) which will ensure hands-on-analytic research training for the undergraduate students.

(4) Public Health Advisory Group

The applicant must include a description of plans to establish a Public Health Advisory Group to advise on the implementation of the cooperative agreement program.

(5) Staffing and Management

The applicant must describe the proposed staffing for the project and provide job descriptions for existing and proposed positions. See proposed definition of key personnel in the section on program requirements.

(a) Submit curriculum vitae (limited to 2 pages per person) for each professional staff member named in the application and document expertise and other sources of support for implementing public health internship/fellowship programs for minority students.

(b) Submit job descriptions illustrating the level of organizational responsibility for professional staff who will be assigned to the project.

(c) Submit an outline of the hierarchy of a management plan which shall assure fiscal and programmatic accountability in accordance with the terms of this cooperative agreement. The management plan should clearly identify the officials who will manage this program and their specific responsibilities.

(d) Submit evidence of the MIHE's location in the south and in proximity to the CDC.

(6) Evaluation Plan (Not more than 5 pages).

The applicant must describe a plan that evaluates the program's effectiveness in meeting its objectives. For each of the types of evaluation listed below, specify the evaluation question to be answered, data to be obtained, the type of analysis, to whom it will be reported, and how data will be used to improve the program. Indicate in the plan the projected staff and time lines to be used.

(a) Process evaluation—Evaluate the program's progress in meeting objectives and conducting activities during the budget period.

(b) Outcome evaluation. Assess the effectiveness of proposed activities, including training sessions and documents developed in attaining goal(s) at the completion of the one year budget period and the five year project period.

(c) Computerized Tracking System. Applicants are required to develop a computerized tracking system to evaluate the effectiveness of the program in achieving its goals and objectives.

(7) Budgets and Accompanying Justifications.

The applicant must provide a detailed budget and line-item justification of all operating expenses for each category of academic specialization: Category I—epidemiology and biostatistics, and Category II—occupational safety and health. The budgets should be consistent with the stated objectives and planned activities of the project.

You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the Federal government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711.

For more information, see the CDC Web site at: *http://www.cdc.gov/od/pgo/funding/pubcommt.htm.*

If your application form does not have a DUNS number field, please write your DUNS number at the top of the first page of your application, and/or include your DUNS number in your application cover letter.

Additional requirements that may require you to submit additional documentation with your application are listed in section ''VI.2. Administrative and National Policy Requirements.''

IV.3. Submission Dates and Times

Application Deadline Date: March 28, 2005.

Explanation of Deadlines: Applications must be received in the CDC Procurement and Grants Office by 4 p.m. Eastern Time on the deadline date. If you submit your application by the United States Postal Service or commercial delivery service, you must ensure that the carrier will be able to guarantee delivery by the closing date and time. If CDC receives your submission after closing due to: (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, you will be given the opportunity to submit documentation of the carriers guarantee. If the documentation verifies a carrier problem, CDC will consider the submission as having been received by the deadline.

This announcement is the definitive guide on application content, submission address, and deadline. It supersedes information provided in the application instructions. If your submission does not meet the deadline above, it will not be eligible for review, and will be discarded. You will be notified that you did not meet the submission requirements.

Electronic Submission: If you submit your application electronically with Grants.gov, your application will be electronically time/date stamped which will serve as receipt of submission. In turn, you will receive an e-mail notice of receipt when CDC receives the application. All electronic applications must be submitted by 4 p.m. Eastern Time on the application due date.

Paper Submission: CDC will *not* notify you upon receipt of your paper submission. If you have a question about the receipt of your LOI or application, first contact your courier. If you still have a question, contact the PGO–TIM staff at: 770–488–2700. Before calling, please wait two to three days after the submission deadline. This will allow time for submissions to be processed and logged.

IV.4. Intergovernmental Review of Applications

Your application is subject to Intergovernmental Review of Federal Programs, as governed by Executive Order (EO) 12372. This order sets up a system for state and local governmental review of proposed federal assistance applications. You should contact your state single point of contact (SPOC) as early as possible to alert the SPOC to prospective applications, and to receive instructions on your state's process. Click on the following link to get the current SPOC list: *http://www.whitehouse.gov/omb/grants/spoc.html.*

IV.5. Funding Restrictions

Restrictions, which must be taken into account while writing your budget, are as follows:

- Funds may not be used for research.
- Reimbursement of pre-award costs is not allowed.
- Funds may not be used for construction costs.

If you are requesting indirect costs in your budget, you must include a copy of your indirect cost rate agreement. If your indirect cost rate is a provisional rate, the agreement should be less than 12 months of age. Guidance for completing your budget can be found on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/funding/budgetguide.htm.*

IV.6. Other Submission Requirements

Application Submission Address: Electronic Submission: CDC strongly encourages applicants to submit electronically at: *http://www.Grants.gov.* You will be able to download a copy of the application package from *http://www.Grants.gov,* complete it offline, and then upload and submit the application via the Grants.gov site. E-mail submissions will not be accepted. If you are having technical difficulties in Grants.gov they can be reached by E-mail at *http://www.support@grants.gov* or by phone at 1–800–518–4726 (1–800–518–GRANTS). The Customer Support Center is open from 7 a.m. to 9 p.m. Eastern Time, Monday through Friday.

Paper Submission: If you chose to submit a paper application, submit the original and two hard copies of your application by mail or express delivery service to: Technical Information Management—RFA 05053, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341.

V. Application Review Information

V.1. Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the ''Purpose'' section of this announcement. Measures must be objective and quantitative, and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation.

Your application will be evaluated against the following criteria:

—Internship Programs (25 points): Did the applicant explain the extent to which it will develop and implement a competitive undergraduate summer internship program that emphasizes biostatistics, epidemiology, and occupational safety and health? Did the applicant document at least a ten-year track record in implementing public health internship and fellowship programs for minority students? Were recruitment strategies identified for undergraduate students who have successfully completed at least the sophomore year in college and expressed an interest in pursuing a career in the health sciences, occupational safety and health, industrial hygiene, environmental sciences, engineering, physics or

mathematics? Did the applicant provide mechanisms for supporting students during the summer internship program? Does the candidate document that adequate technical assistance (*e.g.*, computer analysis, biostatistics, epidemiology, occupational safety and health) will be provided? Has the applicant established a mechanism to award the students three (3) semester (or equivalent) credit hours for successful completion of research projects? Does the applicant document a history of collaborating with CDC on public health training programs for minority students? Does the applicant document the presence of dedicated servers and a computer laboratory suitable to support research training and data analysis?

—Educational Support and Curriculum Development (20 points): Did the applicant submit a plan which explains how an educational support curriculum will be developed that includes at a minimum a public health sciences curriculum emphasizing two categories of specialization, *i.e.*, category I—epidemiology and biostatistics, and category II—occupational safety and health, as well as related public health academic courses, including practicum? Did the applicant document prior experience with training programs for minority students in epidemiology, biostatistics, and occupational safety and health? Does the plan explain how the recipient will collaborate among and across educational departments to demonstrate the cross-disciplinary advantages of public health practice, and the importance of integrative and multi-disciplinary approaches to improving the health status and quality of life of disadvantaged minorities? Does the plan explain how the recipient will develop, plan and provide other educational support for encouraging the proactive recruitment of undergraduate students majoring in disciplines other than biology, chemistry, community health, or pre-medicine to increase their knowledge of public health practice? Has the applicant explained how it will award students three (3) semester (or equivalent) credit hours for completing public health course work?

—Staff and Management (20 points): Do staff members have adequate expertise and other sources for the successful implementation of the cooperative agreement training programs? Did the applicant document its location in the South and in proximity to CDC?

—Research Training and Skills Development (15 points): Did the applicant describe an approach to developing applied health research training projects (*e.g.*, community assessments, programs, and materials evaluation, etc.) as an integral part of the public health sciences curriculum, including existing and/or anticipated resource needs?

—Public Health Sciences Advisory Group (10 points): Did the applicant explain the process for establishing a Public Health Sciences Advisory Group to help guide the implementation of the public health curriculum, the internship program, and activities related to research training and skills development?

—Evaluation Plan (10 points): Is a process established for evaluating the management and performance of the students who participate in the summer internship programs? Does this process include a reasonable plan for obtaining data and reporting results? Is there a description included of how a computerized tracking system will be developed and used as an evaluation tool for tracking and using programmatic results to enhance professional development of disadvantaged minority students in public health?

—Budget and Justification (Reviewed, but not scored)

V.2. Review and Selection Process

Applications will be reviewed for completeness by the Procurement and Grants Office (PGO) staff, and for program responsiveness by the Office of Minority Health (OMH). Incomplete applications and applications that are non-responsive to the eligibility criteria will not advance through the review process. Applicants will be notified that their application did not meet submission requirements.

An objective review panel will evaluate complete and responsive applications according to the criteria listed in the ''V.1. Criteria'' section above. The application review will be performed by CDC employees within the agency's CIOs. In addition, the following factors may affect the funding decision:

(a) Funding preference will be given to MIHEs who have a recent history of collaborating with the CDC on public health student training programs.

(b) Preference will be given to institutions with at least a 10-year track record of implementing public health internship and fellowship programs for minority students.

(c) Preference will be given to MIHEs with training programs for undergraduate minority students in epidemiology, biostatistics and occupational safety and health.

(d) Preference will be given to MIHEs located in the south and within proximity to the CDC.

(e) Preference will be given to MIHEs with dedicated servers and a computer laboratory suitable to support research training and data analysis.

(f) Funding preference will be given to institutions that have appropriate staff expertise and other sources of support for implementing public health internship and/or fellowship programs.

CDC will provide justification for any decision to fund out of rank order.

V.3. Anticipated Announcement and Award Dates

Anticipated Award Date: May 30, 2005.

VI. Award Administration Information

VI.1. Award Notices

Successful applicants will receive a Notice of Award (NOA) from the CDC Procurement and Grants Office. The NOA shall be the only binding, authorizing document between the recipient and CDC. The NOA will be signed by an authorized Grants Management Officer, and mailed to the recipient fiscal officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review by mail.

VI.2. Administrative and National Policy Requirements

45 CFR Parts 74 and 92

For more information on the Code of Federal Regulations, see the National Archives and Records Administration at the following Internet address: *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html.* An additional Certifications form from the PHS5161–1 application needs to be included in your Grants.gov electronic submission only. Refer to *http://www.cdc.gov/od/pgo/funding/PHS5161–1–Certificates.pdf.* Once the form is filled out attach it to your Grants.gov submission as Other Attachments Form.

The following additional requirements apply to this project:

- AR–7 Executive Order 12372.
- AR–10 Smoke-Free Workplace Requirements.
- AR–11 Healthy People 2010.
- AR–12 Lobbying Restrictions
- AR–15 Proof of Non-Profit Status
- AR–16 Security Clearance Requirement
- AR–21 Small, Minority, and Women-Owned Business

Additional information on these requirements can be found on the CDC Web site at the following Internet

address: *http://www.cdc.gov/od/pgo/funding/ARs.htm.*

VI.3. Reporting Requirements

You must provide CDC with an original, plus two hard copies of the following reports:

1. Interim progress report, due no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current Budget Period Activities Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activity Objectives.

d. Budget.

e. Measures of Effectiveness.

f. Additional Requested Information.

2. Financial status report and annual progress report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

These reports must be mailed to the Grants Management Specialist listed in the ''Agency Contacts'' section of this announcement.

VII. Agency Contacts

We encourage inquiries concerning this announcement.

For general questions, contact: Technical Information Management Section, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341, Telephone: 770–488–2700.

For program technical assistance, contact: Yvonne Lewis, Project Officer, CDC Office of Minority Health, 1600 Clifton Road, MS E–67, Atlanta, GA 30333, Telephone: 404–498–2336, E-mail: *YLewis@cdc.gov.*

For financial, grants management, or budget assistance, contact: Mattie Jackson, Grants Management Specialist, CDC Procurement and Grants Office, 2920 Brandywine Road, MS K–69, Atlanta, GA 30341, Telephone: 770–488–2696, E-mail: *MJackson2@cdc.gov.*

VIII. Other Information

This and other CDC funding opportunity announcements can be found on the CDC Web site, Internet address: *http://www.cdc.gov*. Click on ''Funding'' then ''Grants and Cooperative Agreements.''

OMH Web site: *http://www.cdc.gov/omh/*.

Dated: February 17, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–3639 Filed 2–24–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Health Statistics (NCHS), Board of Scientific Counselors

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), National Center for Health Statistics announces the following committee meeting.

Name: Board of Scientific Counselors, NCHS.

Times and Dates: 2 p.m.–5:30 p.m., April 21, 2005. 8:30 a.m.—2 p.m., April 22, 2005.

Place: NCHS Headquarters, 3311 Toledo Road, Hyattsville, Maryland 20782.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This committee is charged with providing advice and making recommendations to the Secretary; the Director, CDC; and Director, NCHS, regarding the scientific and technical program goals and objectives, strategies, and priorities of NCHS.

Matter To Be Discussed: The agenda will include welcome remarks by the Director, NCHS; introductions of members and key NCHS staff; scientific presentations and discussions; and an open session for comments from the public. Requests to make an oral presentation should be submitted in writing to the contact person listed below by close of business, March 25, 2005. All requests to make oral comments should contain the name, address, telephone number, and organizational affiliation of the presenter. Written comments should not exceed five single-spaced typed pages in length and should be received by the contact person listed below by close of business, March 25, 2005.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Robert Weinzimer, Executive Secretary, NCHS, 3311 Toledo Road, Room 7108, Hyattsville, Maryland 20782, telephone (301) 458–4565, fax (301) 458–4021.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: February 18, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–3643 Filed 2–24–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10142 and CMS–R–262]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimates or any other aspects of these collections 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 emergency review because these collections of information are needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with an initiative of the Administration. We cannot reasonably comply with the normal clearance procedures because the normal procedures are likely to cause a statutory deadline to be missed.

CMS is requesting OMB review and approval of these collections by March 18, 2005, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below by March 17, 2005.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Bid Pricing Tool (BPT) for Medicare Advantage Organizations (MAOs) and Prescription Drug Plans (PDPs) and Supporting Regulations in 42 CFR 422.250, 422.252 422.254, 422.256, 422.258, 422.262, 422.264, 422.266, 422.270, 422.300, 422.304, 422.306, 422.308, 422.310, 422.312, 422.314, 422.316, 422.318, 422.320, 422.322, 422.324, 423.251, 423.258, 423.265, 423.272, 423.279, 423.286, 423.293, 423.301, 423.308, 423.315, 423.322, 423.329, 423.336, 423.343, 423.346, and 423.350; *Use:* Under the Medicare Modernization Act (MMA), Medicare Advantage Organizations (MAOs) and Prescription Drug Plans (PDPs) are required to submit an actuarial pricing bid for each plan for approval by CMS. MAOs and PDPs use the Bid Pricing Tool (BPT) software to develop their actuarial pricing bid. CMS uses the BPT to review and approve the plan pricing proposed by each organization. CMS requires that MAOs and PDPs complete the BPT as part of the annual bid process. During this process, organizations prepare their proposed actuarial bid pricing for the upcoming contract year and submit them to CMS for review and approval. The purpose of the BPT is to collect the actuarial pricing for each plan. The BPT calculates the plan's bid, enrollee premium(s), and any rebates or savings; *Form Number:* CMS–10142 (OMB#: 0938–NEW); *Frequency:* On occasion, annually, and as required by new legislation; *Affected Public:* Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 350; *Total Annual Responses:* 350; *Total Annual Hours:* 12,050.

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Plan Benefit Package (PBP) and Formulary Submission for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDPs); *Use:* Under the Medicare Modernization Act (MMA), Medicare Advantage (MA) and Prescription Drug Plan (PDPs) organizations are required to submit plan benefit packages for all Medicare beneficiaries residing in their service area. MA and PDP organizations will generate a formulary to illustrate their preferred list of drugs, including information on prior authorization, step therapy, tiering, and quantity limits. Additionally, the PBP software will be used to describe their organization's plan benefit packages, including information on premiums, cost sharing, authorization rules, and supplemental benefits. CMS uses the formulary and PBP data to review and approve the plan benefit packages proposed by each MA and PDP organization. The formulary is a new requirement under MMA; therefore, a revision to this currently approved information collection is necessary; *Form Number:* CMS–R–262 (OMB#: 0938–0763); *Frequency:* On occasion and as required by new legislation; *Affected Public:* Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 470; *Total Annual Responses:* 2,092; *Total Annual Hours:* 5,546.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below by March 17, 2005:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, 7500 Security Boulevard, Room C5–14–03, Baltimore, MD 21244–1850, Attn: Melissa Musotto, CMS–10142 and CMS–R–262, Fax Number: 410–786–3064; and,

OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Christopher Martin, Desk Officer, Fax Number: 202–395–6974.

Dated: February 17, 2005.

John P. Burke, III,

CMS Paperwork Reduction Act Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Regulations Development Group.

[FR Doc. 05–3550 Filed 2–24–05; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1296–N]

Medicare Program; Request for Nominations to the Advisory Panel on Ambulatory Payment Classification Groups

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice invites nominations of members to the Advisory Panel on Ambulatory Payment Classification (APC) Groups (the Panel). Seven vacancies will exist on the Panel as of March 31, 2005.

The purpose of the Panel is to review the APC groups and their associated weights and to advise the Secretary of the Department of Health and Human Services (the Secretary) and the Administrator of the Centers for Medicare & Medicaid Services (CMS) (the Administrator) concerning the clinical integrity of the APC groups and their associated weights. The advice provided by the Panel will be considered as CMS prepares its annual updates of the hospital Outpatient Prospective Payment System (OPPS) through rulemaking.

The panel was recently rechartered for a 2-year period through November 21, 2006.

Nominations: Nominations will be considered if received no later than March 15, 2005 at 5 p.m. e.s.t. Mail or deliver nominations to the following address: CMS; Attn: Shirl Ackerman-Ross, Designated Federal Officer (DFO), Advisory Panel on APC Groups; Center for Medicare Management (CMM), Hospital & Ambulatory Policy Group (HAPG), Division of Outpatient Care (DOC); 7500 Security Boulevard, Mail Stop C4–05–17; Baltimore, MD 21244–1850.

Web Site: For additional information on the APC Panel and updates to the Panel's activities, search our Web site at: *http://www.cms.hhs.gov/faca/apc/default.asp.*

Advisory Committees' Information Lines: You may also refer to the CMS Advisory Committee Information Hotlines at 1–877–449–5659 (toll-free) or 410–786–9379 (local) for additional information.

FOR FURTHER INFORMATION CONTACT: Persons wishing to nominate individuals to serve on the Panel or to obtain further information can also

contact Shirl Ackerman-Ross, the DFO, at *APCPanel@cms.hhs.gov* or call 410–786–4474. News media representatives should contact the CMS Press Office at 202–690–6145.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary is required by section 1833(t)(9)(A) of the Social Security Act (the Act), as amended and redesignated by sections 201(h) and 202(a)(2) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (BBRA) (Pub. L. 106–113), respectively, to establish and consult with an expert, outside advisory panel on Ambulatory Payment Classification (APC) groups.

The Panel meets up to three times annually to review the APC groups and to provide technical advice to the Secretary and the Administrator concerning the clinical integrity of the groups and their associated weights. CMS considers the technical advice provided by the Panel as we prepare the proposed rule that proposes changes to the OPPS for the next calendar year.

The Panel may consist of up to 15 representatives who are full-time employees (not consultants) of Medicare providers, which are subject to the OPPS, and a Chair.

The Administrator selects the Panel membership based upon either self-nominations or nominations submitted by providers or interested organizations.

The current Panel members are: (The asterisk [*] indicates a Panel member whose term expires on March 31, 2005.)

- E. L. Hambrick, M.D., J.D., a CMS Medical Officer.
- Marilyn K. Bedell, M.S., R.N., O.C.N.*
- Albert Brooks Einstein, Jr., M.D.
- Lee H. Hilborne, M.D.*
- Stephen T. House, M.D.*
- Kathleen P. Kinslow, C.R.N.A., Ed.D.*
- Mike Metro, R.N.*
- Sandra J. Metzler, M.B.A., R.H.I.A.
- Gerald V. Naccarelli, M.D.*
- Frank G. Opelka, M.D.
- Louis Potters, M.D.
- Lou Ann Schraffenberger, M.B.A., R.H.I.A.
- Judie S. Snipes, R.N., M.B.A., C.H.E.
- Lynn R. Tomascik, R.N., M.S.N., C.N.A.A.
- Timothy Gene Tyler, Pharm.D.
- William A. Van Decker, M.D., J.D.*

Panel members serve without compensation, according to an advance written agreement; however, travel, meals, lodging, and related expenses are reimbursed in accordance with standard Government travel regulations. CMS has a special interest for ensuring that women, minorities, and the physically challenged are adequately represented on the Panel. CMS further encourages nominations of qualified candidates from those groups.

The Secretary, or his designee, appoints new members to the Panel from among those candidates determined to have the required expertise. New appointments are made in a manner that ensures a balanced membership.

II. Criteria for Nominees

All nominees must have technical expertise that enables them to participate fully in the work of the Panel. Such expertise encompasses hospital payment systems, hospital medical-care delivery systems, outpatient payment requirements, Ambulatory Payment Classification (APC) Groups, Physicians' Current Procedural Terminology Codes (CPTs), the use and payment of drugs and medical devices in the outpatient setting, and other forms of relevant expertise.

It is not necessary for a nominee to possess expertise in all of the areas listed, but each must have a minimum of 5 years experience and currently be employed full-time in his or her area of expertise. Members of the Panel serve overlapping 2, 3, and 4-year terms, contingent upon the rechartering of the Panel.

Any interested person may nominate one or more qualified individuals. Self-nominations will also be accepted. Each nomination must include a letter of nomination, the curriculum vita of the nominee, and a statement from the nominee that the nominee is willing to serve on the Panel under the conditions described in this notice and further specified in the Charter.

III. Copies of the Charter

To obtain a copy of the Panel's Charter, submit a written request to the DFO at the address provided or by e-mail at *APCPanel@cms.hhs.gov*, or call her at 410–786–4474. Copies of the Charter are also available on the Internet at *http://www.cms.hhs.gov/faca*.

Authority: Section 1833(t)(9)(A) of the Act (42 U.S.C. 1395l(t)(9)(A). The Panel is governed by the provisions of Pub. L. 92–463, as amended (5 U.S.C. Appendix 2).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program.)

Dated: February 18, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 05–3752 Filed 2–24–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5011–WN2]

Medicare and Medicaid Programs; Solicitation of Proposals for the Private, For-Profit Demonstration Project for the Program of All-Inclusive Care for the Elderly (PACE); Cancellation of Withdrawal

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Cancellation of a withdrawal notice.

SUMMARY: This document cancels the withdrawal of the ''Notice for the Solicitation of Proposals for the Private, For-Profit Demonstration Project for the Program of All-Inclusive Care for the Elderly (PACE)'' published in the **Federal Register** on November 26, 2004. The November 26, 2004 notice was published in error, and we do not wish to withdraw the original notice of solicitation published on August 10, 2001.

The solicitation notice solicited proposals from private, for-profit organizations for a fully-capitated joint Medicare and Medicaid demonstration. The goal of the solicitation notice was to determine whether the risk-based long-term care model employed by the nonprofit PACE could be replicated successfully by for-profit organizations.

EFFECTIVE DATE: The notice announcing the withdrawal of solicitation is cancelled effective February 25, 2005.

FOR FURTHER INFORMATION CONTACT: Michael Henesch, (410) 786–6685.

SUPPLEMENTARY INFORMATION: Section 4804(a)(2) of the Balanced Budget Act of 1997 (BBA) requires us to conduct a study to compare the costs, quality, and access to services provided by for-profit entities to those of nonprofit Program of All-Inclusive Care for the Elderly (PACE) providers. Section 4801(h)(2)(A) of the BBA states that the terms and conditions for the for-profit PACE must be the same as those for PACE providers that are nonprofit, private organizations except that only 10 waivers may be granted.

On August 10, 2001, we published a notice in the **Federal Register** (66 FR

42229). The notice solicited proposals from for-profit entities to demonstrate that they could successfully provide comprehensive coordinated care for the frail elderly under a prepaid fully-capitated payment system.

On November 26, 2004, we published a notice in the **Federal Register** (69 FR 68931) withdrawing the August 10, 2001 solicitation. To date, we have received one application, and we do not want to foreclose the application process for other interested parties. Therefore, we are canceling the previously published notice of withdrawal.

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

Authority: Section 1894(h) and 1934(h) of the Social Security Act (42 U.S.C. 1395).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: February 17, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 05–3553 Filed 2–24–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9025–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—October Through December 2004

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice lists CMS manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published from October 2004 through December 2004, relating to the Medicare and Medicaid programs. This notice provides information on national coverage determinations (NCDs) affecting specific medical and health care services under Medicare. Additionally, this notice identifies certain devices with investigational device exemption (IDE) numbers approved by the Food and Drug Administration (FDA) that potentially may be covered under Medicare. Finally, this notice also includes listings of all approval numbers from the Office of Management and Budget for collections of information in CMS regulations.

Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the **Federal Register** at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, and to foster more open and transparent collaboration efforts, we are also including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this 3-month time frame.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons. (See Section III of this notice for how to obtain listed material.)

Questions concerning items in Addendum III may be addressed to Timothy Jennings, Office of Strategic Operations and Regulatory Affairs, Centers for Medicare & Medicaid Services, C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–2134.

Questions concerning Medicare NCDs in Addendum V may be addressed to Patricia Brocato-Simons, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–0261.

Questions concerning FDA-approved Category B IDE numbers listed in Addendum VI may be addressed to Eileen Davidson, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, S3–26–10, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6874.

Questions concerning approval numbers for collections of information in Addendum VII may be addressed to Dawn Willinghan, Office of Strategic Operations and Regulatory Affairs, Regulations Development and Issuances Group, Centers for Medicare & Medicaid Services, C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6141.

Questions concerning all other information may be addressed to Margaret Teeters, Office of Strategic Operations and Regulatory Affairs, Regulations Development Group, Centers for Medicare & Medicaid Services, C5–13–18, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–4678.

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs. These programs pay for health care and related services for 39 million Medicare beneficiaries and 35 million Medicaid recipients. Administration of the two programs involves (1) furnishing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public and (2) maintaining effective communications with regional offices, State governments, State Medicaid agencies, State survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act). We also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, and to foster more open and transparent collaboration, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the respective 3-month time frame.

II. How To Use the Addenda

This notice is organized so that a reader may review the subjects of manual issuances, memoranda, substantive and interpretive regulations, NCDs, and FDA-approved IDEs published during the subject quarter to determine whether any are of particular interest. We expect this notice to be used in concert with previously

published notices. Those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) published in 1988, and the notice published March 31, 1993 (58 FR 16837). Those desiring information on the Medicare NCD Manual (NCDM, formerly the Medicare Coverage Issues Manual (CIM)) may wish to review the August 21, 1989, publication (54 FR 34555). Those interested in the revised process used in making NCDs under the Medicare program may review the September 26, 2003, publication (68 FR 55634).

To aid the reader, we have organized and divided this current listing into six addenda:

- Addendum I lists the publication dates of the most recent quarterly listings of program issuances.
- Addendum II identifies previous **Federal Register** documents that contain a description of all previously published CMS Medicare and Medicaid manuals and memoranda.
- Addendum III lists a unique CMS transmittal number for each instruction in our manuals or Program Memoranda and its subject matter. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manuals.
- Addendum IV lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the **Federal Register** during the quarter covered by this notice. For each item, we list the—

—Date published;
—**Federal Register** citation;
—Parts of the Code of Federal Regulations (CFR) that have changed (if applicable);
—Agency file code number; and
—Title of the regulation.

- Addendum V includes completed NCDs, or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the NCDM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision.
- Addendum VI includes listings of the FDA-approved IDE categorizations, using the IDE numbers the FDA assigns. The listings are organized according to the categories to which the device numbers are assigned (that is, Category A or Category B), and identified by the IDE number.
- Addendum VII includes listings of all approval numbers from the Office of Management and Budget (OMB) for collections of information in CMS regulations in title 42; title 45, subchapter C; and title 20 of the CFR.

III. How To Obtain Listed Material

A. Manuals

Those wishing to subscribe to program manuals should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses: Superintendent of Documents, Government Printing Office, ATTN: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954, Telephone (202) 512–1800, Fax number (202) 512–2250 (for credit card orders); or National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell. Additionally, most manuals are available at the following Internet address: *http://cms.hhs.gov/manuals/default.asp.*

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or subscribe to the **Federal Register** by contacting the GPO at the address given above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is also available on 24x microfiche and as an online database through *GPO Access*. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is *http://www.gpoaccess.gov/fr/index.html*, by using local WAIS client software, or by telnet to *swais.gpoaccess.gov*, then log in as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then log in as guest (no password required).

C. Rulings

We publish rulings on an infrequent basis. Interested individuals can obtain copies from the nearest CMS Regional Office or review them at the nearest regional depository library. We have, on occasion, published rulings in the **Federal Register**. Rulings, beginning with those released in 1995, are available online, through the CMS Home Page. The Internet address is *http://cms.hhs.gov/rulings*.

D. CMS' Compact Disk-Read Only Memory (CD–ROM)

Our laws, regulations, and manuals are also available on CD–ROM and may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717–139–00000–3. The following material is on the CD–ROM disk:

- Titles XI, XVIII, and XIX of the Act.
- CMS-related regulations.
- CMS manuals and monthly revisions.
- CMS program memoranda.

The titles of the Compilation of the Social Security Laws are current as of January 1, 1999. (Updated titles of the Social Security Laws are available on the Internet at *http://www.ssa.gov/OP_Home/ssact/comp-toc.htm*.) The remaining portions of CD–ROM are updated on a monthly basis.

Because of complaints about the unreadability of the Appendices (Interpretive Guidelines) in the State Operations Manual (SOM), as of March 1995, we deleted these appendices from CD–ROM. We intend to re-visit this issue in the near future and, with the aid of newer technology, we may again be able to include the appendices on CD–ROM.

Any cost report forms incorporated in the manuals are included on the CD–ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

IV. How To Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL.

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most

Federal Government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. For each CMS publication listed in Addendum III, CMS publication and transmittal numbers are shown. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the Medicare NCD publication titled ''Treatment of Obesity,'' use CMS-Pub. 100–03, Transmittal No. 23.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: February 14, 2005.

Jacquelyn Y. White,

Director, Office of Strategic Operations and Regulatory Affairs.

Addendum I

This addendum lists the publication dates of the most recent quarterly listings of program issuances.

September 27, 2002 (67 FR 61130); December 27, 2002 (67 FR 79109); March 28, 2003 (68 FR 15196); June 27, 2003 (68 FR 38359); September 26, 2003 (68 FR 55618); December 24, 2003 (68 FR 74590); March 26, 2004 (69 FR 15837); June 25, 2004 (69 FR 35634); September 24, 2004 (69 FR 57312); and December 30, 2004 (69 FR 78428).

Addendum II—Description of Manuals, Memoranda, and CMS Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published on June 9, 1988, at 53 FR 21730 and supplemented on September 22, 1988, at 53 FR 36891 and December 16, 1988, at 53 FR 50577. Also, a complete description of the former CIM (now the NCDM) was published on August 21, 1989, at 54 FR 34555. A brief description of the various Medicaid manuals and memoranda that we maintain was published on October 16, 1992, at 57 FR 47468.

Addendum III—Medicare and Medicaid Manual Instructions

[October Through December 2004]

Transmittal No.	Manual/Subject/Publication Number
	Medicare General Information (CMS-Pub. 100–01)
11	Manual Revision Regarding Waiver of Annual Deductible and Coinsurance for Both Ambulatory Surgery Center Facility, and Ambulatory Surgery Center/Hospital Outpatient Department Physician Services Exceptions to Annual Deductible and Coinsurance.
12	New Policy and Refinements on Billing Non-covered Charges to Fiscal Intermediaries.
	Applications of Deductible and Coinsurance in Liability and Indemnification Situations.
13	Medicare Termination of Beneficiaries With End-Stage Renal Disease.
14	Scheduled Release for January Updates to Software Programs and Coding/Files.
	Medicare Benefit Policy (CMS-Pub. 100–02)
23	Revised Requirements for Chiropractic Billing of Active/Corrective Treatment And Maintenance Therapy Full Replacement of CR 3063
	Chiropractor's Services.
	Necessity of Treatment.
	Treatment Parameters.
24	Revision of § 300.5.1, Chapter 15 of the Medicare Benefit Policy Manual to Include 22x Type of Bill for Diabetes Self-Management Training.
	Special Claims Processing Instructions for Fiscal Intermediary.
25	Implementation of Coverage of Religious Nonmedical Health Care.
	Institution Items and Services Furnished in the Home, Medicare Modernization Act Section 706.
	Coverage of Religious Nonmedical Health Care Institution Items and Services Furnished in the Home.
	Coverage and Payment of Durable Medical Equipment aUnder the Religious Nonmedical Health Care Institution Home Benefit.
	Coverage and Payment of Home Visits Under the Religious Nonmedical Health Care Institution Home Benefit.
26	Inclusion of Forteo as a Covered Osteoporosis Drug and Clarification of Manual.
	Instructions Regarding Osteoporosis Drugs.
	Medical Supplies (Except for Drugs and Biologicals Other Than Covered Osteoporosis Drugs) and the Use of Durable Medical Equipment.
	Covered Osteoporosis Drugs.
27	New End-Stage Renal Disease Composite Payment Rates Effective January 1, 2005.
28	Hospice Pre-Election Evaluation and Counseling Services.
	Documentation.
	Payment.
	Medicare National Coverage Determinations (CMS-Pub. 100–03)
22	This Transmittal has been rescinded and replaced with Transmittal 25.
23	Treatment of Obesity.
24	Dementia and Neurodegenerative Diseases.
25	Percutaneous Transluminal Angioplasty.
26	Electrocardiographic Services.
	Medicare Claims Processing (CMS-Pub. 100–04)
305	Disabling the Common Working File 57x3 Consistency Error Code.
306	Full Replacement of CR 3415, 3rd Update to the 2004 Medicare Physician Fee Database.
307	This Transmittal has been rescinded and replaced with Transmittal 314.

ADDENDUM III—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[October Through December 2004]

Transmittal No.	Manual/Subject/Publication Number
308	Two New Medicare Summary Notice (MSN) Messages for Parenteral Pumps-DMERC Only.
	Durable Medical Equipment.
309	Fiscal Year 2005 Inpatient Prospective Payment System, Long Term Care.
	Hospital and Other Bill Processing Changes Related to the Inpatient.
	Prospective Payment System Final Rule.
310	Billing Requirements for Positron Emission Tomography Scans for Dementia and Neurodegenerative Diseases.
	Billing Instructions.
	Positron Emission Tomography Scan Qualifying Conditions and Healthcare.
	Common Procedure Coding System Code Chart.
	Coverage for Positron Emission Tomography Scans for Dementia and Neurodegenerative Disease.
311	Instructions for Completion of Form CMS–1450.
	Health Insurance Portability and Accountability Act Health Care and Coordination of Benefits.
	Coordination of Benefits.
	General Instructions for Completion of Form CMS—1450 for Billing.
312	Issued to a specific audience, not posted to Internet/Intranet due to confidentiality of instruction.
313	Remittance Advice Remark Code and Claim Adjustment Reason Code Update.
314	Percutaneous Transluminal Angioplasty.
315	Temporary Change in Carrier Jurisdictional Pricing Rules for Purchased Diagnostic Services.
316	Clarification of Messages in Chapter 1, Section 10.1.1.1 to Match Official Listing on the WPC-Electronic Data Interchange Web Site.
	Claims Processing Instructions for Payment Jurisdiction for Claims Received on or After April 1, 2004.
317	Clarification to Chapter 26 of the Internet Only Manual.
	Patient and Insured Information.
	Provider of Service or Supplier Information.
318	Clarification of CR 3176—Payment Amounts for End-Stage Renal Disease Drug.
	Administration Supplies: Healthcare Common Procedure Coding System A4657 and A4913.
319	Comprehensive Outpatient Rehabilitation Facility/Outpatient Physical Therapy.
	Edit for Billing Inappropriate Supplies.
320	Reminder Notice of the Implementation of the Ambulance Transition.
	Schedule.
321	Instructions for Downloading the Medicare Zip Code File.
322	Release Medlearn Article for Change Request CR 2813 End-Stage Renal Disease Reimbursement for Automated Multi-Channel Chemistry Test(s).
323	Update Regarding the Use of American Dental Association's (ADA) Current Dental Terminology Codes on Medicare Contractor's Web Sites and Other Electronic Media.
	Displaying Material With Content Development Team Codes.
	Use of Content Development Team Nomenclature and Descriptors.
	American Dental Association Copyright Notice.
	Point and Click License, and Shrink Wrap License.
	Samples of Content Development Team Nomenclature and Descriptors.
324	Quarterly Update to Correct Coding Initiative (CCI) edits, Version 11.0, Effective January 1, 2005.
325	New Waived Tests—January 1, 2005.
326	Invalid Diagnosis Code Editing—Second Phase.
327	This Transmittal has been rescinded and replaced with Transmittal 374.
328	2005 Annual Update for Skilled Nursing Facility Consolidated Billing for the Common Working File and Medicare Carriers.
329	Durable Medical Equipment Regional Carrier Only—Payment to Providers/Suppliers Qualified To Bill Medicare for Prosthetics and Certain Custom-Fabricated Orthotics.
	Provider Billing for Prosthetics and Orthotic Services.
330	Durable Medical Equipment Carrier—Beneficiary Submitted Claims, Process First Claim.
	General Billing for DME, Prosthetics, Orthotic Devices, and Supplies.
331	Durable Medical Equipment Carrier—Beneficiary Submitted Claims, Process First Claim.
332	New Policy and Refinements on Billing Noncovered Charges to Fiscal Intermediaries.
	Provider Billing of Noncovered Charges to Fiscal Intermediaries.
	General Information on Institutional Noncovered Charges Prior to Billing.
	Provider-Liable Fully Noncovered Outpatient Claims.
	Summary of All Types of Institutional No Payment Claims.
	General Operational Information on Institutional Noncovered Charges.
	Noncovered Charges on Institutional Demand Bills.
	Traditional Demand Bills.
	Summary of Methods for Institutional Demand Billing.
	Line-Item Modifiers Related to Reporting of Noncovered Charges When Covered and Noncovered Services Are on the Same Institutional Claim.
	Clarifying Institutional Instructions for Outpatient Therapies Billed As Noncovered, on Other Than Hold Harmless Prospective Payment System Claims, and for Critical Access Hospitals Billing the Same Health Common.
	Procedure Coding System Requiring Specific Time Increments.
	Instructions for Noncovered Charges on Institutional Ambulance Claims.
	Clarification on Notice Requirements Related to Billing Noncovered Charges for "Bundled" Institutional Benefits: Laboratory and Rural Health Clinic/Federally Qualified Health Clinic.
333	Issued to a specific audience, not posted to the Internet/Intranet due to the confidentiality of instruction.
334	Payment of Beneficiary Submitted Flu Claims and Flu Claims Submitted by Non-Enrolled Providers.
335	This Transmittal has been rescinded and replaced with Transmittal 400.

ADDENDUM III—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[October Through December 2004]

Transmittal No.	Manual/Subject/Publication Number
336	Indian Health Service or Tribal Hospitals including Critical Access Hospital.
	Payment Methodology for Inpatient Social Admissions and Outpatient Services Occurring During Concurrent Stays.
	Indian Health Service/Tribal Hospital Inpatient Social Admits.
337	Change in Hospital Type of Bill for Billing Diagnostic and Screening Mammographies.
	Mammography Services.
	Computer-Aided Detection Add-On Codes.
	Billing Requirements—Fiscal Intermediary Claims.
	Rural Health Clinic/Federally Qualified Health Center Claims With Dates of Service Prior to January 1, 2002.
	Rural Health Clinic/Federally Qualified Health Center Claims With Dates of Service on or After January 1, 2002.
	Fiscal Intermediary Requirements for Nondigital Screening Mammographies.
	Mammograms Performed With New Technologies.
338	Removal of the Skilled Nursing Facility No Pay File.
339	Issued to a specific audience, not posted to the Internet/Intranet due to the Sensitivity of Instruction.
340	Annual Update of Healthcare Common Procedure Coding System Codes Used for Home Health Consolidated Billing Enforcement.
341	Implementation of the Medicare Physician Fee Schedule (MPFS) National Abstract File for Purchased Diagnostic Tests and Interpretations.
	Payment Jurisdiction Among Local Carriers for Services Paid Under the Physician Fee Schedule and Anesthesia Services.
	Payment Jurisdiction for Purchased Services.
	Payment to Physician or Other Supplier for Purchased Diagnostic Tests—Claims Submitted to Carriers.
	Payment to Supplier of Diagnostic Tests for Purchased Interpretations.
	Abstract File for Purchased Diagnostic Tests/Interpretations.
342	Change to the Common Working File Skilled Nursing Facility Consolidated.
	Edits for Ambulance Transports to or From a Diagnostic or Therapeutic Site Ambulance Services.
	Skilled Nursing Facility Billing.
343	Clarification: Modifiers for Transportation of Portable X-rays.
	Transportation Component.
344	Update of Healthcare Common Procedure Coding System Codes and File Names, Descriptions and Instructions for Retrieving the 2005 Ambulatory Surgery.
	Center Healthcare Common Procedure Coding System Deletions and Master Listing.
345	This Transmittal is rescinded and replaced with Transmittal 353.
346	This Transmittal is rescinded and replaced with Transmittal 352.
347	Inpatient Rehabilitation Facility Classification Requirements.
	Medicare Inpatient Rehabilitation Facility Classification Requirements.
	Criteria That Must Be Met By Inpatient Rehabilitation Hospitals.
	Verification Process To Be Used To Determine if the Inpatient Rehabilitation.
	Facility Met the Classification Criteria.
	Verification of Compliance Using International Classification of Disease 9th Edition Clinical Modification and Impairment Group Codes.
348	January 2005 Quarterly Average Sales Price (ASP) Medicare Part B Drug Pricing File, Effective January 1, 2005.
349	This Transmittal is rescinded and replaced with Transmittal 359.
350	Editing for Part B Carriers and Durable Medical Equipment Regional Carriers for Duplicate Claims in Process at the Same Time.
351	Editing of Hospitals and Skilled Nursing Facilities Part B Inpatient Services.
352	Three Places After the Decimal Point for Application Service Provider Drug File.
353	Durable Medical Equipment Regional Carrier—Revision to CR 2631.
	Requirements for Durable Medical Equipment Regional Carrier Claims.
	Claims Processing Instructions for Payment Jurisdiction for Claims Received on or After April 1, 2004—Durable Medical Equipment Regional Carrier Only.
354	DMERC—Beneficiary Submitted Claims, Process First Claim.
355	This Transmittal has been rescinded and replaced with Transmittal 375.
356	This Transmittal has been rescinded and replaced with Transmittal 376.
357	Implementation of Coverage of Religious Nonmedical Health Care Institution.
	Items and Services Furnished in the Home, MMA section 706.
	Noncovered Charges on Outpatient Bills.
	Billing and Payment of Religious Nonmedical Health Care Institution Items and Services Furnished in the Home.
	Inclusion of Forteo As a Covered Osteoporosis Drug and Clarification of Manual Instructions Regarding Osteoporosis Drugs.
	Osteoporosis Injections as Home Health Agency Benefit.
358	This Transmittal replaces Transmittal 349.
359	Annual Update of Healthcare Common Procedure Coding System Codes for Skilled Nursing Facility Consolidated Billing.
360	Medicare Modernization Act Drug Pricing Update—Payment Limit for J0207.(Amifostine).
361	Update to the Prospective Payment System for Home Health Agencies for Calendar Year 2005.
	Annual Updates to the Home Health Pricer.
362	2005 Annual Update for Clinical Laboratory Fee Schedule and Laboratory Services Subject to Reasonable Charge Payment.
363	Common Working File Editing for the Initial Preventive Physical Examination.
364	Issued to a specific audience, not posted to Internet/Intranet due to the confidentiality of instruction.
365	Issued to a specific audience, not posted to Internet/Intranet due to the confidentiality of instruction.
366	This Transmittal has been rescinded and replaced with Transmittal 425.
367	Instructions for Completion of Form CMS–1450.
368	Fee Schedule Update for 2005 for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies.
369	New Case-Mix Adjusted End-Stage Renal Disease (ESRD) Composite.

ADDENDUM III—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[October Through December 2004]

Transmittal No.	Manual/Subject/Publication Number
	Payment Rates and New Composite Rate Exceptions Window for Pediatric.
	ESRD Facilities.
	Outpatient Provider Specific File.
	Calculation of Case Mix Adjusted Composite Rate.
	Required Information for In-Facility Claims Paid Under the Composite Rate.
370	Updated Billing Instructions for Rural Health Clinics and Federally Qualified.
	Health Centers.
	General Billing Requirements.
	Special Federally Qualified Health Centers Requirements.
	Reporting of Preventive Services in the Federally Qualified Health Centers.
	Benefit by Independent Federally Qualified Health Centers.
	Reporting of Specific Healthcare Common Procedure Coding System Codes for Hospital-based Federally Qualified Health Centers.
	General Billing Requirements for Preventive Services.
	Bills Submitted to Fiscal Intermediary.
	Special Instructions for Independent and Provider-Based Rural Health Clinics/Federally Qualified Health Centers.
	Claims Submitted to Intermediaries for Mass Immunizations of Influenza and
	Pneumococcal Pneumonia Vaccine
	Payment for Computer Add-on Diagnostic and Screening Mammograms for Fiscal Intermediary and Carriers.
	Rural Health Centers/Federally Qualified Health Centers Claims With Dates of Service Prior to January 1, 2002.
	Rural Health Centers/Federally Qualified Health Centers Claims With Dates of Service on or After January 1, 2002.
	Healthcare Common Procedure Coding Codes for Billing.
	Additional Coding Applicable to Claims Submitted to Fiscal Intermediary.
	Special Billing Instructions for Rural Health Centers and Federally Qualified.
	Health Centers.
	Electrical Stimulation.
	Electromagnetic Therapy.
371	Payment for Referred Laboratory Automated Multi-Channel Chemistry Tests.
	Claims Processing Requirements for Panel and Profile Tests.
	History Display.
372	New End-Stage Renal Disease Composite Payment Rates Effective Lanuary 1, 2005.
	Publication of Composite Rates.
	Determining Individual Facility Composite Rate.
	Required Information for In-Facility Claims Paid Under the Composite Rate.
	Epoetin Alfa.
	Epoetin Alfa Facility Billing Requirement Using UB–92/Form CMS–1450.
	Payment Amount for Epoetin Alfa.
	Epoetin Alfa Provided in the Hospital Outpatient Departments.
	Darbepoetin Alfa for End-Stage Renal Disease Patients.
373	Clarification to IOM Chapter 17, Section 80.4 Regarding Claims for Blood Clotting Factors.
	Billing for Blood Clotting Factors.
374	This Transmittal has been rescinded and replaced with 388.
375	This Transmittal has been rescinded and replaced with 389.
376	Hospital Outpatient Prospective Payment System: Misclassified Drugs and Biologicals, Ganciclovir Long Act Implant, Beg Live Intravesical Vac, and Gallium ga 67; Adjustments Due to Misclassification.
377	Full Replacement of CR 3308, Fiscal Intermediary Shared System Changes To Allow for Provider Liability Days on Skilled Nursing Facility and Swing Bed Facility Inpatient Bills.
	Billing Skilled Nursing Facility Prospective Payment System Services.
	Provider Liability Instructions.
378	Low Osmolar Contrast Material/Laboratory Tests/Payment for Inpatient Servces.
	Furnished by a Critical Access Hospital.
	Payment for Inpatient Services Furnished by a Critical Access Hospital.
	Standard Method—Cost Based Facility Services, With Billing of Carrier for Professional Services.
	Clinical Diagnostic Laboratory Tests Furnished by Critical Access Hospitals.
379	Changes to the Laboratory National Coverage Determination Edit Software for January 2005.
380	Revisions and Corrections to Chapter 29 of the IOM, Claims Processing Manual—Appeals.
	CMS Decisions Subject to the Administrative Appeals Process.
	Who May Appeal.
	Provider or Supplier Appeals When the Beneficiary Is Deceased.
	Where To Appeal and Initial Determinations.
	Social Security Office.
	Part A Fiscal Intermediary.
	Providers Right To Appeal Certain Initial Determinations.
	Part B Carrier (or Fiscal Intermediary Acting As a Carrier).
	Quality Improvement Organization.
	Time Limits for Filing Appeals.
	Amount in Controversy Requirements.
	Limitation on Liability.
	Part A Appeals Procedures.
	Finding Good Cause for Late Filing of Part A Redetermination.
	General.

ADDENDUM III—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[October Through December 2004]

Transmittal No.	Manual/Subject/Publication Number
	Establishment of Time Limits for Filing.
	Conditions Which Establish Good Cause.
	Procedures To Establish Good Cause.
	Examples of Situations Where Good Cause Exists.
	Where Good Cause Is Not Found.
	Redetermination of a Part A Payment Determination.
	Place and Manner of Filing Requests for Redeterminations and What Constitutes a Request for Redetermination.
	Evaluating the Evidence and Making the Redetermination.
	Preparing the Determination.
	Completing the Determination.
	Notice of Further Appeal Rights.
	Preventing Duplicate Payment in Reversal Cases.
	Effectuating Favorable Final Appellate Decisions That a Beneficiary Is ''Confined To Home''—Regional Home Health Intermediaries Only.
	Model Medicare Redetermination Notice.
	Request for Hearing Under Part A.
	Right to Representation Under Part A.
	Reconsiderations, Hearings, and Appeals Where a Quality Improvement.
	Organization Has Review Responsibility.
	Reconsiderations.
	Hearings.
	Appeals of Institutional Supplementary Medical Insurance (Part B) Claim Decisions.
	Appeals by Hospitals of Diagnosis Related Group Assignments Under Prospective Payment System—Review of Initial Diagnosis Related Group Assignments.
	Part B Appeals Procedures for Fiscal Intermediaries and Administrative Law Judge Instructions for Fiscal Intermediaries Redetermination and Hearing Officer (HO) Hearing Supplemental Medical Insurance.
	Redetermination.
	What Constitutes a Request for Redetermination & Handling Beneficiary Inquiries.
	Elements of a Redetermination.
	Requests for Hearing.
	Preparation for the Hearing.
	In-Person and Telephone Hearing Procedures.
	Request for Hearing Before an Administrative Law Judge.
	Scope and Effect of Office of Hearings & Appeals, Social Security.
	Administration Administrative Law Judge Decisions Under Part A.
	Determining the Amount in Controversy for Administrative Law Judge Hearing.
	Requests Filed With Social Security Administration.
	Requests Filed With the Fiscal Intermediary.
	Action on Incoming Requests for Administrative Law Judge Hearing.
	Requests for Claim File (Sent by Hearing Office).
	Examination of Claim File.
	Prehearing Case Redetermination.
	Routing the Administrative Law Judge Hearing Claim File.
	Effectuating Decisions.
	Effectuating Favorable Final Appellate Decisions That a Beneficiary Is ''Confined To Home''—Regional Home Health Intermediaries Only.Effectuation of Reversal of Decision Where There Was Subsequent Utilization of Benefits in the Same Benefit Period.
	Effect of Court Decisions.
	Standard Exhibits Referred to in Sections 40.5–50.7.
	Part B Appeals Procedures—Carriers.
	Initial Determinations.
	Steps in the Appeals Process: Overview.
	Fiscal Intermediary and Carrier Correspondence With Beneficiaries or Other Parties Regarding Appeals.
	Appointment of Representative—Introduction.
	Who May Be a Representative.
	How To Make and Revoke an Appointment.
	Rights and Responsibilities of a Representative.
	Timeliness of an Appeal Request and Completeness of Appointment.
	Incapacitation of Death of Beneficiary.
	Disclosure of Individually Identifiable Beneficiary Information to Amount in Controversy—General Requirements.
	Additional Considerations for Calculation of the Amount in Controversy.
	Aggregation of Claims to Meet the Amount in Controversy.
	General Procedure To Establish Good Cause.
	Good Cause Not Found for Beneficiary, or for Provider, Physician, or Other Supplier.
	General Guidelines.
	Letter Format.
	How To Establish Reading Level.
	Required Elements in Appeals Correspondence.
	Disclosure of Information to Third Parties.
	Fraud and Abuse Investigations.
	Medical Consultants Used.

ADDENDUM III—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[October Through December 2004]

Transmittal No.	Manual/Subject/Publication Number
	Multiple Beneficiaries.
	Redetermination—The First Level of Appeal.
	Filing a Request for Redetermination.
	Time Limit for Filing a Request for Redetermination.
	The Redetermination.
	The Redetermination Determination.
	Redetermination Determination.
	Informing the Beneficiary and Provider Communities About the Telephone.
	Redetermination Process.
	Redetermination Determination Letters.
	Hearing Officer Hearing—The Second Level of Appeal.
	Time Limit for Filing a Request for a Hearing Officer Hearing.
	Request for a Hearing Officer Hearing Filed Prior to a Redetermination.
	Timely Processing Requirements.
	Contractor Responsibilities—General.
	Requests for Transfer of In-Person Hearing.
	Acknowledgment of Request for a Hearing Officer Hearing.
	Case File Development.
	In-Person Hearing.
	Telephone Hearing.
	Qualifications and General Responsibilities.
	Preparation for the Hearing Officer Hearing.
	Scheduling the Date, Time and Place of Hearing.
	Pre-Hearing Review of the Evidence.
	Forwarding Copy of Case File Prior to Telephone Hearing.
	The Hearing Officer Hearing Decision Timeliness.
	Delaying Effectuation.
	Hearing Officer Reply to Reopening Request.
	Requests for Part B Administrative Law Judge Hearing.
	Forwarding Request to Social Security Administration/Office of Hearings & Appeals.
	Case File Preparation.
	Effectuation Time Limits.
	Requests for Case Files.
	Part A and Part B Quality Improvement and Data Analysis Activities.
	Workload Data Analysis Program.
	Quality Improvement Activities.
	Submitting Summary Reports to CMS.
	Managing Appeals Workloads.
	Standard Operating Procedures.
	Execution of Workload Prioritization.
	Workload Priorities.
	Reopening and Revision of Claim Determinations and Decisions.
	Development of Appeals.
	How Issues May Arise.
	Summary of Conditional Under Which a Determination or Decision May Be Reopened.
	Determining Date of Initial or Appeal Determination or Decision.
	Who May Reopen an Initial Appeal Determination or Decision.
	Actions to Permit Reopening Within the 1 Year or 4 Year Period.
	Good Cause for Reopening.
	Definitions.
	Unrestricted Reopening.
	Reopening an Initial Determination.
	Reopening a Redetermination or Redetermination Determination.
	Reopening a Hearing Officer Hearing Decision.
	Notice of Results of Reopening.
	Exception to Sending Notice of Revision to Parties—Cases Involving Limitation of Recovery for Beneficiary.
	Refusal to Reopen Is Not an ''Initial Determination''.
	Revised Determination or Decision.
382	Independent Laboratory Billing for the Technical Component (TC) of Physician Pathology Services to Hospital Patients.
	Payment for Pathology Services.
383	This revision rescinded Transmittal.
384	Inpatient Psychiatric Facility Prospective Payment System.
385	January 2005 Update of the Hospital Outpatient Prospective Payment System.
	Summary of Outpatient Prospective Payment System Outpatient Code Editor.
	Data Changes and Outpatient Prospective Payment System Pricer Logic.
	Changes; Changes to Payment for Diagnostic Mammography.
386	Hospice Pre-election Evaluation and Counseling Services.
387	This instruction is to inform the fiscal intermediaries that the January 2005.
	Outpatient Prospective Payment System Outpatient Code Editor Specifications have been updated with new additions, changes, and deletions.
388	Issued to a specific audience, not posted to Internet/Intranet due to confidentiality of instruction.

ADDENDUM III—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[October Through December 2004]

Transmittal No.	Manual/Subject/Publication Number
389	Issued to a specific audience, not posted to Internet/Intranet due to confidentiality of instruction.
390	Announcement of Medicare Rural Health Clinics and Federally Qualified Health Centers Payment Rate Increase—Skilled Nursing Facility Consolidated.Billing As It Applies to Rural Health Clinics and Federally Qualified Health.Center Services.
391	Issued to a specific audience, not posted to Internet/Intranet due to confidentiality of instruction.
392	The Supplemental Security Income Medicare Beneficiary Data for Fiscal Year 2003 for Inpatient Rehabilitation Facility Prospective Payment System.
	LIP Adjustment: The Supplemental Security Income Medicare Beneficiary Data for Inpatient Rehabilitation Facility Paid Under Prospective Payment System.
393	ZThis revision is rescinded and replaced with revision 401.
394	This revision is rescinded and replaced with revision 396.
395	Ambulance Fee Schedule—Medical Conditions List.
396	New Dispensing/Supply Fee Codes for Oral Anti-Cancer, Oral Anti-Emetic, Immunosuppressive, and Inhalation Drugs.
	Pharmacy Supply Fee.
397	Durable Medical Equipment Regional Carrier /Local Carriers/Statistical.
	Analysis Durable Medical Equipment Regional Carrier—Drug Pricing.
	Limits as of January 1, 2005.
	Payment Rules for Drugs and Biologicals.
	Medicare Modernization Act Drug Pricing—Average Sales Price.
	Single Drug Pricer.
	Calculation of the Payment Allowance Limit for Durable Medical Equipment.
	Regional Carriers Drugs.
	Calculation of the Average Wholesale Price.
	Detailed Procedures for Determining Average Wholesale Prices and the Drug.Payment Allowable Limits.
	Background.
	Review of Sources for Medicare Covered Drugs and Biologicals.
	Use of Generics.
	Find the Strength and Dosage.
	Restrictions.
	Inherent Reasonableness for Drugs and Biologicals.
	Injection Services.
	Injections Furnished to End-Stage Renal Disease Beneficiaries.
398	Issued to a specific audience, not posted to Internet/Intranet due to confidentiality of instruction.
399	Expansion of the Existing Interrupted Stay Policy Under Long Term Care.
	Hospital Prospective Payment System.
400	Incorrect Reporting of Miles Time Units Services Indicator When Drugs are Billed Using a National Drug Code.
	Miles/Times/Units/Services.
	Methodology of Coding Number of Services, Miles Times Units Services.
	Count and Miles Times Units Services Indicator Fields.
401	2005 Part B Deductible Update to the Back Page of Medicare Summary Notices.
	Back of the Medicare Summary Notices—Carriers and Intermediaries.
402	January Update to the Medicare Outpatient Code Editor Version 20.1 for Bills from Hospitals That Are Not Paid Under the Outpatient Prospective Payment System.
403	January 2005 Update of the Hospital Outpatient Prospective Payment System: Billing Devices That Do Not Have Transitional Pass-Through Status, and That Are Not Classified As New Technology Ambulatory Payment Classification Groups.
	Requirements That Hospitals Report Device Codes on Claims on Which They Report Specified Procedures.
	Edits for Claims On Which Specified Procedures Are To Be Reported With Device.
	Codes.
404	January 2005 Update of the Hospital Outpatient Prospective Payment System: Changes to Coding and Payment for Drug Administration.
	Billing and Payment for Drugs and Biologicals.
	Coding and Payment for Drug Administration.
405	Emergency Change to Carrier Instructions for the End-Stage Renal Disease.
	50/50 Rule Implementation.
406	Update to Health Care Claims Status Category Codes and Health Care Claim Status Codes for Use With the Health Care Claim Status Request and Response ASC X12N 276/277.
407	Hospital Billing for Repetitive Services.
	Inpatient Billing From Hospitals and Skilled Nursing Facilities.
	Frequency of Billing for Outpatient Services to Fiscal Intermediaries.
	Hospital and Community Mental Health Center Reporting Requirements for Services Performed on the Same Day.
408	Cardiovascular Disease Screening.
	Healthcare Common Procedure Coding System Coding for Cardiovascular Screening.
	Carrier Billing Requirements.
	Fiscal Intermediary Billing Requirements.
	Diagnosis Code Reporting.
	Medicare Summary Notices.
	Remittance Advice Remark Codes.
	Claims Adjustment Reason Codes.
409	Diabetes Screening Tests.
410	Medicare Health Insurance Portability & Accountability Act Electronic Claims.
	Compliance Report—Reporting Timeframe Extension.
411	Ambulance Inflation Factor.

ADDENDUM III—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[October Through December 2004]

Transmittal No.	Manual/Subject/Publication Number
412	Skilled Nursing Facility Consolidated Billing Services Furnished Under an ''Arrangement'' With an Outside Entity.
	''Under Arrangements'' Relationships.
	Skilled Nursing Facility and Supplier Responsibilities.
413	Medicare Part A Skilled Nursing Facility Prospective Payment System Pricer.
	Update Fiscal Year 2005 for 9 Metropolitan Statistical Areas With New Wage.Index Values Effective January 1, 2005.
	Skilled Nursing Facility Prospective Payment System Pricer Software.
414	Emergency Update to the 2005 Medicare Physician Fee Schedule Database.
415	Temporary Change in Carrier Jurisdictional Pricing Rules for Purchased Diagnostic Services.
416	Interest Payment on Clean Claims Not Paid Timely.
417	This revision rescinded and replaced revision 294.
418	Issued to a specific audience, not posted to Internet/Intranet due to the confidentiality of instruction.
419	This Transmittal has been rescinded and replaced with Transmittal 423.
420	Good Cause Waiver of Late Claim Filing Payment Reduction Penalty and Monitoring of Late Claims Submissions.
	Extend Time for Good Cause.
	Conditions Which Establish Good Cause.
	Procedure To Establish Good Cause.
	Good Cause Is Not Found.
	Preparing Common Working File (CWF) Claim Records for Services Subject to 10 Percent Payment Reduction.
	Monitoring Late Claims Submission Violations.
	Sample Notification Letter.
	Violations That Are Not Developed for Referral.
421	Correction to January 2005 Annual Update of Healthcare Common Procedure Coding.
	System Codes Used for Skilled Nursing Facility Consolidated Billing Enforcement.
422	Update to Fiscal Year 2005 Wage Index for Inpatient Prospective Payment and Outpatient Prospective Payment System Hospitals .
Medicare Secondary Payer (CMS-Pub. 100–05)	
20	Secondary Payer (Medicare Secondary Payer) Savings Report Redesign.
	Monthly Intermediary Report (Form CMS–1563) and Monthly Carrier Report.
	(Form CMS–1564) on Medicare Secondary Payer Savings.
	Savings Calculations.
	Source of Savings.
	Type of Savings.
	Pre-payment Savings—Cost Avoid (Unpaid Medicare Secondary Payer Claims).
	Pre-payment Savings—Full Recoveries.
	Pre-payment Savings—Partial Recoveries.
	Post-payment Savings—Full Recoveries.
	Post-payment Savings—Partial Recoveries.
	Total Post-payment Savings.
	Electronic Submission.
	Data Entry of the Forms CMS–1563 and CMS–1564.
	System Calculations for Forms CMS–1563 and CMS–1564.
21	Instructions on Processing Certain Types of Medicare Secondary Payer.Claims and to Balance the Outbound Remittance Advice.
	Instructions to Physicians and Suppliers on How To Submit Claims to a Medicare Carrier When There Are One or More Primary Payers.
22	Medicare Secondary Payer Debt Referral Instructions and Debt Collection Improvement Act of 1996 Activities.
	Courtesy Copy of All Medicare Secondary Payer Group Health Plan-Based.
	Recovery Demand Packages to the Employer's Insurer/Third Party Administrator.
	Insurer/Third Party Administrator Courtesy Copy Letter.
	Medicare Secondary Payer Debt Referral, ''Write-Off—Closed'' Instructions and Debt Collection Improvement Act of 1996 Activities.
	Background.
	Debt Selection, Verification of Debt, and Updating of Interest.
	''Intent to Refer'' Letter and Inquiries/Replies Related to Debt Improvement Act of 1996 Activities
	Debt Collection System, Debt Collection System Input, Debt Transmission, Documentation to Treasury.
	Actions Subsequent to Debt Collection System Input.
	Medicare Secondary Payer Debt Collection Improvement Act of 1996 Tracking Report for Referral/Collection.
	Monitoring Debts Excluded From the Debt Collection Improvement Act of 1996.
	Referral Process.
	Financial Reporting.
	Compromise Requests and Extended Repayment Agreement Requests, and Waiver of Interest Requests.
	Miscellaneous Questions and Answers.
Medicare Financial Management (CMS-Pub. 100–06)	
55	Reporting Appeals Redetermination Information on Forms CMS–2591 and 2590.
56	Revision to Balancing Requirement on Form 5, Line 10, of the Contractor.
	Reporting of Operational and Workload Data.

ADDENDUM III—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[October Through December 2004]

Transmittal No.	Manual/Subject/Publication Number
57	Revised Reporting Requirements for Contractor Reporting of Operational Workload Data Health Professional Shortage Area Quarterly Report.
58	Issued to specific audience, not posted to Internet/Intranet due to sensitivity of instruction.
59	Notice of New Interest Rate for Medicare Overpayments and Underpayments.
60	Revised Instructions on Contractor Procedures for Provider Audit and the Provider Statistical & Reimbursement Report.
	Submission of Cost Report Data to CMS.
	Desk Review Exceptions Resolution Process.
	Definition of Field Audits.
	Purpose of Field Audits.
	Establishing the Objective/Scope of the Field Audit.
	Audit Confirmation Letter.
	Entrance Conference.
	Tests of Internal Control.
	Designing Tests/Sampling.
	Pre-Exit Conference.
	Finalization of Audit Adjustments.
	Exit Conference.
	Medicare Cost Report and All Related Documents.
	Qualifications.
	Internal Quality Control.
	Final Settlement of the Cost Report.
	Audit Responsibility When Provider Changes Contractors.
	Audits of Home Offices.
	Standards for Issuance of an Audit Report for a Home Office.
	Provider Permanent File.
	Contractor Responsibility in Suspected Fraud or Abuse Cases.
61	New Location Code Interstate Commerce Commission, Status Code AR and Modified Intent Letter for Unfiled Cost Reports Only.
	Recovery of Overpayment Due to Overdue Cost Report.
	Provider Overpayment Recovery System User Manual.
	List of Status Codes.
	Content of Demand Letters—Fiscal Intermediary Serviced Providers.
Medicare State Operations Manual (CMS-Pub. 100–07)	
3	Medicare Systems Acceptance of New Provider Numbers for Federally Qualified Health Centers.
4	Guidance to Surveyors for Long Term Care Facilities.
5	Revisions to Appendix P (Survey Protocols for Long Term Care Facilities) and Appendix PP (Guidance to Surveyors for Long Term Care Facilities).
Medicare Program Integrity (CMS-Pub. 100–08)	
84	This revision is rescinded and replaced by revision 86.
85	This revision is rescinded and replaced by revision 87.
86	Payment for Emergency Medical Treatment and Labor Act—Mandated Screening and Stabilization Services.
87	Informing Beneficiaries About Which Local Medical Review Policy and/or Local Coverage Determination and/or National Coverage Determination Is Associated With Their Claim Denial.
88	Timeframes for Processing 855 Enrollment Applications.
	Provider Enrollment, Chain and Ownership System.
89	Updating Financial Reporting Requirements for Medical Review and Local Provider Education and Training.
	Medical Review and Local Provider, Education, and Training.
	Medical Review Overview.
	Reporting Medical Review Workload and Cost Information and Documentation in Contractor Administrative, Budget & Financial Management II.
	Contractor Administrative, Budget & Financial Management II Reporting for Medical Review Activities.
	Automated Review Workload and Cost (Activity Code 21001).
	Routine Review Workload and Cost (Activity Code 21002).
	Data Analysis Cost (Activity Code 21007).
	Third Party Liability or Demand Bills Workload and Cost (Activity Code 21010).
	Policy Reconsideration/Revision Activities (Activity Code 21206).
	Medical Review Program Management Costs (Activity Code 21207).
	New Policy Development Activities (Activity Code 21208).
	Complex Probe Review Workload and Cost (Activity Code 21220).
	Prepay Complex Review Workload and Cost (Activity Code 21221).
	Post-pay Complex Review Workload and Cost (Activity Code 21222).
	Medicare Integrity Program Comprehensive Error Rate Testing Support.
	Medicare Integrity Program Comprehensive Error Rate Testing Support.(Activity Code 21901).
	Reporting Internal Staff Training.
	Reporting Medical Review Savings in Contractor Reporting of Operational & Workload Data.
	Local Provider Education and Training Overview.

ADDENDUM III—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[October Through December 2004]

Transmittal No.	Manual/Subject/Publication Number
	Reporting Local Provider Education and Training Workload and Cost Information and Documentation in Contactor Administrative, Budget & Financial Management II.
	One-on-One Provider Education a Workload and Cost (Activity Code 24116).
	Education Delivered to Group of Providers Workload and Cost (Activity Code 24117).
	Education Delivered via Electronic or Paper Media Workload and Cost (Activity Code 24118).
90	Prepayment Review of Claims for Medical Review Purposes.
91	Revision of Program Integrity Manual, Section 3.11.1.4.
	Requesting Additional Documentation.
92	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of instruction.
	Medicare Contractor Beneficiary and Provider Communications (CMS-Pub. 100–09)
00	None.
	Medicare Managed Care (CMS-Pub. 100–16)
63	Home Health Services Appeals.
64	Surveys, Contracting Strategy, Grievances and Appeals.
	Medicare Business Partners Systems Security (CMS-Pub. 100–17)
05	Consortium Contractor Management Officer and CMS Project Officer.
	The (Principal) Systems Security Officer.
	Personnel Security/Suitability.
	IT Systems Security Program Management.
	System Security Plan.
	Risk Assessment.
	Information Technology Systems Contingency Plan.
	Annual Compliance Audit.
	Corrective Action Management Process and Plans of Action and Milestones.
	Computer Security Incident Response.
	Systems Security Profile.
	Fraud Control.
	Patch Management.
	Security Management Resources.
	Security Configuration Management.
	National Institute of Standards and Technology.
	Information Security Levels.
	Level 4: High Criticality and National Security Interest.
	Security Room.
	Intrusion Detection System.
	Internet Security.
	Demonstrations (CMS-Pub. 100–19)
07	Expansion of Coverage for Chiropractic Services Demonstration.
08	This revision is rescinded and replaced with Transmittal 9.
09	This revision is rescinded and replaced with Transmittal 10.
10	Issued to a specific audience, not posted to Internet/Intranet due to sensitivity of instruction.
11	Medicare Coordinated Care Demonstration—Override of Certain Medicare Secondary Payer Edit Codes.
12	Chemotherapy Demonstration Project.
13	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction.
	One Time Notification (CMS-Pub. 100–20)
118	Shared Systems Maintainer Hours for Resolution of Problem Detected As a Result of Implementation of Change Request 2525 and Change Request 2527.
119	Shared System Maintainer Hours for Resolution of Problem Detected During Health Insurance Portability and Accountability Act Transaction Release Testing.
120	Override of Common Working File Edit for Observation Services Exceeding 48 Hours.
121	Modification to Fiscal Intermediary Standard System Regarding Common Working File Initiated Adjustments.
122	Shared System and Common Working File Renovation of Override Code Process and Recognition of Four 2-byte Modifier Fields on the Part B Query Record—For Multi-Carrier System Phased Implementation Approach Only.
123	Instructions for Pricing Treprostinil (Q4077).
124	Common Working File Duplicate Claim Edit for Referred Clinical Diagnostic and Purchased Diagnostic Services.
125	This revision is rescinded and replaced with revision 127.
126	Transmittal replaced by Transmittal 27 in Pub. 100–02, Medicare Benefit Policy.
127	Instructions Applicable to the Audit of Hospitals That Are Part of an Affiliated Group in Relation to the ''Redistribution of Unused Resident Positions,'' Section 422 of the Medicare Modernization Act of 2003, P.L. 108–173, for Purposes of Graduate Medical Education Payments.
128	Promoting Medicare's Preventive Benefits and Services on an Annual Basis.

ADDENDUM III—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[October Through December 2004]

Transmittal No.	Manual/Subject/Publication Number
129	2005 Drug Administration Coding Revisions.
130	Development of a Coordination of Benefits Agreement Auxiliary File and Modification of the Health Insurance Portability and Accountability Act 837 Coordination of Benefits Flat File and National Council for Prescription Drug Program File.
131	Coverage of Routine Costs of Clinical Trials Involving Investigational Device Exemption Category A Devices.
132	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of instruction.
133	Shared System Maintainer Hours for Resolution of Problems Detected as a Result of Implementation of Change Request 2525 and Change Request 2527

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER

[October Through December 2004]

Publication date	FR vol. 69 page number	CFR parts affected	File code	Title of regulation
October 6, 2004	59929		CMS–5015–N	Medicare Program; Care Management for High-Cost Beneficiaries (CMHCB) Demonstration.
October 7, 2004	60242	403, 412, 413, 418, 460, 480, 482, 483, 485, 489.	CMS–1428–CN2	Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2005 Rates; Corrections.
October 7, 2004	60158		CMS–1249–CN	Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Corrections.
October 7, 2004	60157		CMS–1360–CN	Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Fiscal Year 2005; Correction.
October 22, 2004	62124	484	CMS–1265–F	Medicare Program; Home Health Prospective Payment System Rate Update for Calendar Year 2005.
October 22, 2004	62057		CMS–1302–N	Medicare Program; Town Hall Meeting on the Medicare Provider Feedback Group (MPFG) November 16, 2004.
October 22, 2004	62056		CMS–1484–N	Medicare Program; November 22, 2004, Meeting of the Practicing Physicians Advisory Council.
October 22, 2004	62055		CMS–4078–N	Medicare Program; Meeting of the Advisory Panel on Medicare Education—November 30, 2004.
November 15, 2004	66922	412 and 413	CMS–1213–F	Medicare Program; Prospective Payment System for Inpatient Psychiatric Facilities.
November 15, 2004	66918		CMS–1267–N	Medicare Program; Coverage and Payment of Ambulance Services; Recalibration of Conversion Factor; Inflation Update for CY 2005.
November 15, 2004	66236	403, 405, 410, 411, 414, 418, 424, 484, and 486.	CMS–1429–FC	Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005.
November 15, 2004	65682	419	CMS–1427–FC	Medicare Program; Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2005 Payment Rates.
November 26, 2004	69252	405 and 489	CMS–4004–FC	Medicare Program; Expedited Determination Procedures for Provider Service Terminations.
November 26, 2004	69178	416	CMS–1478–P	Medicare Program; Update of Ambulatory Surgical Center List of Covered Procedures.
November 26, 2004	68944		CMS–3149–N	Medicare Program; Meeting of Medicare Coverage Advisory Committee—January 25, 2005.
November 26, 2004	68935		CMS–1374–GNC	Medicare Program; Criteria and Standards For Evaluating Intermediary, Carrier, and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Regional Carrier Performance During Fiscal Year 2005.
November 26, 2004	68931		CMS–2202–FN	Medicare and Medicaid Programs; Approval of Application for Deeming Authority for Ambulatory Surgical Centers by the American Association for Accreditation of Ambulatory Surgery Facilities, Inc.
November 26, 2004	68931		CMS–5011–WN	Medicare and Medicaid Programs; Notice of Withdrawal of the Solicitation of Proposals for the Private, for-Profit Demonstration Project for the Program of All-Inclusive Care for the Elderly (PACE).

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER—Continued

[October Through December 2004]

Publication date	FR vol. 69 page number	CFR parts affected	File code	Title of regulation
November 26, 2004	68815	447	CMS–2175–F	Medicaid Program; Time Limitation on Record-keeping Requirements Under the Drug Rebate Program.
November 30, 2004	69686	484	CMS–1265–CN2	Medicare Program; Home Health Prospective Payment System Rate Update for Calendar Year 2005; Correction.
November 30, 2004	69536	403, 412, 413, 418, 460, 480, 482, 483, 485, and 489.	CMS–1428–N	Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2005 Rates; Extension for the Hospital Applications To Receive Increases in Full Time Equivalent Resident Caps for Graduate Medical Education Payment.
December 23, 2004	76947		CMS–5036–N	Medicare Program; Solicitation for Proposals for the Cancer Prevention and Treatment Demonstration for Ethnic and Racial Minorities.
December 30, 2004	78720	26 CFR Parts 54 and 602, 29 CFR Part 2590, 45 CFR Parts 144 and 146.	CMS–2151–F	HIPAA Program; Final Regulations for Health Coverage Portability for Group Health Plans and Group Health Insurance Issuers Under HIPPA Titles I and IV.
December 30, 2004	78800	26 CFR Part 54, 29 CFR Part 2590, 45 CFR Part 146.	CMS–2158–P	HIPAA Program; Notice of Proposed Rulemaking for Health Coverage Portability: Tolling Certain Time Periods and Interaction With the Family and Medical Leave Act Under HIPAA Titles I and IV.
December 30, 2004	78825	26 CFR Part 54, 29 CFR Part 2590, 45 CFR Part 146.	CMS–2150–NC	HIPAA Program; Request for Information on Benefit-Specific Waiting Periods Under HIPAA Titles I and IV.
December 30, 2004	78526	403, 412, 413, 418, 460, 480, 482, 483, 485, and 489.	CMS–1428–F2	Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal 2005 Rates; Correcting Amendment.
December 30, 2004	78466		CMS–1292–N	Medicare Program; Town Hall Meeting on the Fiscal Year 2006 Applications for New Medical Services and Technologies Add-on Payments Under the Hospital Inpatient Prospective Payment Systems Scheduled for February 23, 2005.
December 30, 2004	78464		CMS–1285–N	Medicare Program; Meeting of the Advisory Panel on Ambulatory Payment Classification (APC) Groups (Panel)—February 23, 24, and 25, 2005 and Re-chartering of APC Panel on November 8, 2004.
December 30, 2004	78445		CMS–1249–CN2	Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Corrections.
December 30, 2004	78444		CMS–4077–FN	Medicare Program; Approval of the National Committee for Quality Assurance Deeming Authority for Medicare Advantage Local Preferred Provider Organizations.
December 30, 2004	78442		CMS–9026–N	Medicare Program; Timeline for Publication of Medicare Final Regulations After Proposed or Interim Final Regulations.
December 30, 2004	78428		CMS–9042–N	Medicare and Medicaid Program; Quarterly Listing of Program Issuances—July 2004 Through September 2004.
December 30, 2004	78426		CMS–2490–N	CLIA Program; Continued Approval of the American Association of Blood Banks for Deeming Authority.
December 30, 2004	78336	422	CMS–4041–IFC	Medicare Program; Modifications to Managed Care Rules.
December 30, 2004	78315	419	CMS–1427–CN	Medicare Program; Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2005 Payment Rates; Wage Index Tables and Corrections.

Addendum V—National Coverage Determinations

[October Through December 2004]

A national coverage determination (NCD) is a determination by the Secretary with respect to whether or not a particular item or service is covered nationally under Title XVIII of the Social Security Act, but does not include a determination of what code, if any, is assigned to a particular item or service covered under this title, or determination with respect to the amount of payment made for a particular item or service so covered. We include below all of the NCDs that were issued during the quarter covered by this notice. The entries below include information concerning completed decisions as well as sections on program and decision memoranda, which also announce pending decisions or, in some cases, explain why it was not appropriate to issue an NCD. We identify completed decisions by the section of the NCDM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision. Information on completed decisions as well as pending decisions has also been posted on the CMS Web site at *http://cms.hhs.gov/coverage.*

NATIONAL COVERAGE DETERMINATIONS

[October Through December 2004]

Title	NCDM section	TN#	Issue date	Effective date
Treatment of Obesity	40.5	R23NCD	10/01/04	10/01/04
Changes to the Laboratory NCD Edit Software for January 2005	N/A	R38CP	11/26/04	01/03/05
Dementia and Neurodegenerative Diseases	220.6.13	R24NCD	10/01/04	09/15/04
Percutaneous Transluminal Angioplasty	20.7	R25NCD	10/15/04	10/12/04
Electrocardiographic Services	20.15	R26NCD	12/10/04	08/26/04

Addendum VI—FDA-Approved Category B IDEs

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c) devices fall into one of three classes. To assist CMS under this categorization process, the FDA assigns one of two categories to each FDA-approved IDE. Category A refers to experimental IDEs, and Category B refers to non-experimental IDEs. To obtain more information about the classes or categories, please refer to the **Federal Register** notice published on April 21, 1997 (62 FR 19328).

The following list includes all Category B IDEs approved by FDA during the 4th quarter, October Through December 2004.

G010041
G020001
G020105
G040026
G040081
G040086
G040090
G040115
G040117
G040133
G040135
G040136
G040157
G040163
G040164
G040165
G040169
G040170
G040171
G040173
G040174
G040175
G040177
G040178
G040179
G040180
G040181
G040182
G040183
G040185
G040187
G040188
G040189
G040193
G040197
G040199
G040201
G040202
G040207
G040210
G040211
G040212
G040213
G040215
G040216
G911803

Addendum VII—Approval Numbers for Collections of Information

Below we list all approval numbers for collections of information in the referenced sections of CMS regulations in Title 42; Title 45, Subchapter C; and Title 20 of the Code of Federal Regulations, which have been approved by the Office of Management and Budget:

OMB Control No.	Approved CFR Sections in Title 42, Title 45, and Title 20 (NOTE: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")
0938–0008	414.40, 424.32, 424.44
0938–0022	413.20, 413.24, 413.106
0938–0023	424.103
0938–0025	406.28, 407.27
0938–0027	486.100–486.110
0938–0033	405.807
0938–0035	407.40
0938–0037	413.20, 413.24
0938–0041	408.6, 408.22
0938–0042	410.40, 424.124
0938–0045	405.711
0938–0046	405.2133
0938–0050	413.20, 413.24, 431.151, 435.1009, 440.220, 440.250, 442.1, 442.10–442.16, 442.30, 442.40, 442.42,
0938–0062	442.100–442.119, 483.400–483.480, 488.332, 488.400, 498.3–498.5
0938–0065	485.701–485.729
0938–0074	491.1–491.11

OMB Control No.	Approved CFR Sections in Title 42, Title 45, and Title 20 (NOTE: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")
0938–0080	406.7, 406.13
0938–0086	420.200–420.206, 455.100–455.106
0938–0101	430.30
0938–0102	413.20, 413.24
0938–0107	413.20, 413.24
0938–0146	431.800–431.865
0938–0147	431.800–431.865 493.1405, 493.1411, 493.1417, 493.1423, 493.1443, 493.1449, 493.1455, 493.1461
0938–0151	493.1469, 493.1483, 493.1489
0938–0155	405.2470
0938–0170	493.1269–493.1285
0938–0193	430.10–430.20, 440.167
0938–0202	413.17, 413.20
0938–0214	411.25, 489.2, 489.20
0938–0236	413.20, 413.24
0938–0242	442.30, 488.26
0938–0245	407.10, 407.11
0938–0246	431.800–431.865
0938–0251	406.7
0938–0266	416.41, 416.47, 416.48, 416.83
0938–0267	410.65, 485.56, 485.58, 485.60, 485.64, 485.66
0938–0269	412.116, 412.632, 413.64, 413.350, 484.245
0938–0270	405.376
0938–0272	440.180, 441.300–441.305
0938–0273	485.701–485.729
0938–0279	424.5
0938–0287	447.31
0938–0296	413.170, 413.184
0938–0301	413.20, 413.24
0938–0302	418.22, 418.24, 418.28, 418.56, 418.58, 418.70, 418.74, 418.83, 418.96, 418.100
0938–0313	489.11, 489.20, 482.12, 482.13, 482.21, 482.22, 482.27, 482.30, 482.41, 482.43, 482.45, 482.53, 482.56
0938–0328	482.57, 482.60, 482.61, 482.62, 482.66, 485.618, 485.631
0938–0334	491.9, 491.10
0938–0338	486.104, 486.106, 486.110
0938–0354	441.60
0938–0355	442.30, 488.26
0938–0357	409.40–409.50, 410.36, 410.170, 411.4—411.15, 421.100, 424.22, 484.18, 489.21
0938–0358	412.20–412.30
0938–0359	412.40–412.52
0938–0360	488.60
0938–0365	484.10, 484.11, 484.12, 484.14, 484.16, 484.18, 484.20, 484.36, 484.48, 484.52
0938–0372	414.330
0938–0378	482.60–482.62
0938–0379	442.30, 488.26
0938–0382	442.30, 488.26
0938–0386	405.2100–405.2171
0938–0391	488.18, 488.26, 488.28
0938–0426	476.104, 476.105, 476.116, 476.134
0938–0429	447.53
0938–0443	473.18, 473.34, 473.36, 473.42
0938–0444	1004.40, 1004.50, 1004.60, 1004.70
0938–0445	412.44, 412.46, 431.630, 456.654, 466.71, 466.73, 466.74, 466.78
0938–0447	405.2133
0938–0448	405.2133, 45 CFR Parts 5, 5b; 20 CFR Parts 401, 422E
0938–0449	440.180, 441.300–441.310
0938–0454	424.20
0938–0456	412.105
0938–0463	413.20, 413.24, 413.106
0938–0467	431.17, 431.306, 435.910, 435.920, 435.940–435.960
0938–0469	417.126, 422.502, 422.516
0938–0470	417.143, 417.800–417.840, 422.6
0938–0477	412.92
0938–0484	424.123
0938–0501	406.15
0938–0502	433.138
0938–0512	486.304, 486.306, 486.307
0938–0526	475.102, 475.103, 475.104, 475.105, 475.106
0938–0534	410.338, 424.5
0938–0544	493.1–493.2001
0938–0564	411.32
0938–0565	411.20–411.206
0938–0566	411.404, 411.406, 411.408
0938–0573	412.230, 412.256
0938–0578	447.534

OMB Control No.	Approved CFR Sections in Title 42, Title 45, and Title 20 (NOTE: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")
0938–0581	493.1–493.2001
0938–0599	493.1–493.2001
0938–0600	405.371, 405.378, 413.20
0938–0610	417.436, 417.801, 422.128, 430.12, 431.20, 431.107, 434.28, 483.10, 484.10, 489.102, 493.801, 493.803, 493.1232, 493.1233, 493.1234, 493.1235, 493.1236, 493.1239, 493.1241, 493.1242, 493.1249, 493.1251, 493.1252, 493.1253, 493.1254, 493.1255, 493.1256, 493.1261, 493.1262, 493.1263, 493.1269, 493.1273, 493.1274, 493.1278
0938–0612	493.1283, 493.1289, 493.1291, 493.1299
0938–0618	433.68, 433.74, 447.272
0938–0653	493.1771, 493.1773, 493.1777
0938–0657	405.2110, 405.2112
0938–0658	405.2110, 405.2112
0938–0667	482.12, 488.18, 489.20, 489.24
0938–0679	410.38
0938–0685	410.32, 410.71, 413.17, 424.57, 424.73, 424.80, 440.30, 484.12
0938–0686	493.551–493.557
0938–0688	486.304, 486.306, 486.307, 486.310, 486.316, 486.318, 486.325
0938–0690	488.4–488.9, 488.201
0938–0691	412.106
0938–0692	466.78, 489.20, 489.27
0938–0701	422.152
0938–0702	45 CFR 146.111, 146.115, 146.117, 146.150, 146.152, 146.160, 146.180
0938–0703	45 CFR 148.120, 148.124, 148.126, 148.128
0938–0714	411.370–411.389
0938–0717	424.57
0938–0721	410.33
0938–0723	421.300–421.318
0938–0730	405.410, 405.430, 405.435, 405.440, 405.445, 405.455, 410.61, 415.110, 424.24
0938–0732	417.126, 417.470
0938–0734	45 CFR Part 5b
0938–0739	413.337, 413.343, 424.32, 483.20
0938–0742	422.300–422.312
0938–0749	424.57
0938–0753	422.000–422.700
0938–0754	441.151, 441.152
0938–0758	413.20, 413.24
0938–0760	Part 484 Subpart E, 484.55
0938–0761	484.11, 484.20, 422.1–422.10, 422.50–422.80, 422.100–422.132, 422.300–422.312, 422.400–
0938–0763	422.404, 422.560–422.622
0938–0770	410.2
0938–0778	422.64, 422.111
0938–0779	417.126, 417.470, 422.64, 422.210
0938–0781	411.404–411.406, 484.10
0938–0786	438.352, 438.360, 438.362, 438.364
0938–0787	406.28, 407.27, 460.12, 460.22, 460.26, 460.30, 460.32, 460.52, 460.60, 460.70, 460.71, 460.72, 460.74, 460.80, 460.82, 460.98, 460.100, 460.102, 460.104, 460.106, 460.110, 460.112, 460.116, 460.118, 460.120, 460.122, 460.124, 460.132, 460.152, 460.154, 460.156, 460.160, 460.164, 460.168, 460.172, 460.190, 460.196, 460.200, 460.202, 460.204,
0938–0790	460.208, 460.210
0938–0792	491.8, 491.11
0938–0798	413.24, 413.65, 419.42
0938–0802	419.43
0938–0818	410.141, 410.142, 410.143, 410.144, 410.145, 410.146, 414.63
0938–0829	422.568
0938–0832	Parts 489 and 491
0938–0833	483.350–483.376, 431.636, 457.50, 457.60, 457.70, 457.340, 457.350, 457.431, 457.440, 457.525, 457.560, 457.570, 457.740, 457.750, 457.810, 457.940, 457.945, 457.965, 457.985,
0938–0841	457.1005, 457.1015, 457.1180
0938–0842	412.23, 412.604, 412.606, 412.608, 412.610, 412.61a4, 412.618, 412.626, 413.64
0938–0846	411.352–411.361
0938–0857	Part 419
0938–0860	Part 419
0938–0866	45 CFR Part 162
0938–0872	413.337, 483.20
0938–0873	422.152
0938–0874	45 CFR Parts 160 and 162
0938–0878	Part 422 Subpart F & G
0938–0883	45 CFR Parts 160 and 164
0938–0884	405.940
0938–0887	45 CFR 148.316, 148.318, 148.320
0938–0897	412.22, 412.533
0938–0907	412.230, 412.304, 413.65
0938–0910	422.620, 422.624, 422.626
0938–0911	426.400, 426.500
0938–0916	483.16, 438.6, 438.8, 438.10, 438.12, 438.50, 438.56, 438.102, 438.114, 438.202, 438.206, 438.207, 438.240, 438.242, 438.402, 438.404, 438.406, 438.408, 438.410, 438.414

OMB Control No.	Approved CFR Sections in Title 42, Title 45, and Title 20 (NOTE: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")
0938–0920	438.416, 438.710, 438.722, 438.724, 438.810
0938–0921	414.804

[FR Doc. 05–3551 Filed 2–24–05; 8:45 am]
BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3119–FN]

RIN 0938–AM36

Medicare Program; Procedures for Maintaining Code Lists in the Negotiated National Coverage Determinations for Clinical Diagnostic Laboratory Services

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final notice.

SUMMARY: This notice finalizes the procedures proposed in the **Federal Register** on December 24, 2003 (68 FR 74607). It establishes the procedures for maintaining the lists of codes that were included in the national coverage determinations (NCDs) that were announced in an addendum to the final rule published in the **Federal Register** on November 23, 2001 (66 FR 58788). The final notice also sets forth the circumstances in which a laboratory is permitted to use the date a specimen was retrieved from storage for testing as the date of service instead of the date of collection.

DATES: *Effective Date:* The notice is effective on March 28, 2005.

FOR FURTHER INFORMATION CONTACT: Jackie Sheridan-Moore, (410) 786–4635.

SUPPLEMENTARY INFORMATION:

I. Background

A. Current Statutory Authority and Medicare Policies

Sections 1833 and 1861 of the Social Security Act (the Act) provide for payment of, among other things, clinical diagnostic laboratory services under Medicare Part B. A laboratory furnishing tests on human specimens must meet all applicable requirements of the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (Pub. L. 100–578) enacted on October 31, 1988, as implemented by the regulations set forth at 42 CFR part 493. Part 493 applies to all laboratories seeking payment under the Medicare and Medicaid programs.

Under section 1842(a) of the Act, we contract with carriers to perform bill processing and benefit payment functions for Medicare Part B (Supplementary Medical Insurance). Under section 1816(a) of the Act, we contract with fiscal intermediaries to perform claims processing and benefit payment functions for Medicare Part A (Hospital Insurance). Fiscal intermediaries also process claims payable from the Medicare Part B trust fund that are submitted by providers that participate in Medicare Part A, like hospitals and skilled nursing facilities. We use the term "contractor(s)" to mean carriers and fiscal intermediaries.

Medicare contractors review and adjudicate claims for services to ensure that Medicare payments are made only for services that are covered under Medicare Part A or Part B. If a contractor develops a local coverage determination (LCD) (formerly called local medical review policies (LMRP)), its LCD/LMRP applies only within the geographic area it serves as stated in the September 26, 2003 notice (68 FR 55636). Current guidance regarding the development of LCDs/LMRPs appears in section 13.1.3 of the Program Integrity Manual (HCFA Pub. 100–8).

B. Legislation

Section 4554(b)(1) of the Balanced Budget Act of 1997 (BBA) (Pub. L. 105–133) enacted on August 5, 1997, mandates the use of a negotiated rulemaking committee to develop national coverage and administrative policies for clinical diagnostic laboratory services payable under Medicare Part B by January 1, 1999. Section 4554(b)(2) of the BBA requires that these national coverage policies be designed to promote program integrity and national uniformity and simplify administrative requirements for clinical diagnostic laboratory services payable under Medicare Part B.

As directed by this statutory provision, we convened a negotiated rulemaking committee that developed recommendations for coverage and administrative policies in accordance with the provisions of the BBA. On March 10, 2000, we published a proposed rule in the **Federal Register** (65 FR 13082) proposing to adopt the committee's recommendations. The final rule was published on November 23, 2001 in the **Federal Register** (66 FR 58788).

C. National Coverage Determinations (NCDs)

The final rule on coverage and administrative policies for clinical diagnostic laboratory services includes an addendum containing NCDs for 23 clinical diagnostic laboratory tests. These NCDs are binding on all Medicare carriers, intermediaries, quality improvement organizations, health maintenance organizations, competitive medical plans, and health care prepayment plans.

In accordance with the recommendations of the negotiated rulemaking committee, we developed these clinical diagnostic laboratory NCDs in a prescribed format. Each NCD has the following sections: the official title of the NCD, other names or abbreviations, description, Healthcare Common Procedure Coding System (HCPCS) codes, indications, limitations, International Classification of Diseases, Ninth Edition, Clinical Modification (ICD–9–CM) codes covered by the Medicare program, reasons for denial, ICD–9–CM codes denied, ICD–9–CM codes that do not support medical necessity, sources of information, coding guidelines, documentation requirements, and other comments.

For each of the clinical diagnostic laboratory service NCDs (laboratory NCDs), every ICD–9–CM diagnosis code falls into one of the three code lists. The list of covered codes is intended to reflect the coding translation of the conditions enumerated in the narrative indications section of the NCDs.

On April 27, 1999, we published a notice (64 FR 22619) outlining our procedures for developing and revisiting NCDs. We further updated the NCD process in a notice published in the **Federal Register** on September 26, 2003 (68 FR 55634). In the November 23, 2001 final rule (66 FR 58793) for coverage and administrative policies for clinical diagnostic laboratory services, we stated that we will use the NCD process for making changes to the laboratory NCDs. At the conclusion of the NCD decision-making process, decision memoranda will be published on the CMS Web site that announce the policy we intend to issue and discuss the evidence we evaluated and our rationale for the final national coverage

determination. Coverage issues are announced at *http://cms.hhs.gov/coverage*.

D. Updates of Coding Systems

1. ICD–9–CM Codes

International Classification of Diseases, Ninth Edition, Clinical Modification (ICD–9–CM) codes were developed in 1977 as a means of classifying morbidity data for indexing medical records, medical case reviews, and ambulatory and other medical care programs, as well as for basic health statistics. Since 1989, § 424.32(a)(2) has required the reporting of ICD–9–CM coding on all bills for physicians' services.

In September 1985, the ICD–9–CM Coordination and Maintenance Committee (the Committee) was formed. This is a Federal interdepartmental committee, co-chaired by CMS and the National Center for Health Statistics (NCHS), and charged with maintaining and updating the ICD–9–CM system. The Committee is jointly responsible for approving coding changes, and developing errata, addenda, and other modifications to the ICD–9–CM to reflect newly developed procedures and technologies and newly identified diseases.

The Committee holds public meetings for discussion of educational issues and proposed coding changes. These meetings provide an opportunity for representatives of recognized organizations in the coding field, such as the American Health Information Management Association (AHIMA), the American Hospital Association (AHA), and various physician specialty groups to contribute ideas on coding matters. After considering the opinions expressed at the public meetings and in writing, the Committee formulates recommendations that must be approved by the agencies.

ICD–9–CM coding updates are issued annually but in accordance with the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) may be issued semi-annually beginning on October 1, 2004. Updated ICD–9–CM codes can be found at *http://cms.hhs.gov/paymentsystems/icd9*. Minutes from the ICD–9–CM Committee meetings are available on the Internet at *http://cms.hhs.gov/paymentsystems/icd9*. We announce the annual ICD–9–CM procedure coding changes in the **Federal Register** as part of the annual update of the hospital inpatient prospective payment system (PPS). Section 503(a) of the MMA requires updating of the ICD–9–CM codes in April of each year, but the addition of these codes will not require adjustment to the payment systems until the following fiscal year. Consequently, if we update codes for April, we will do so through our issuance system and follow it up with a notice in the subsequent PPS Final Rule in the **Federal Register**. These codes are not accompanied with payment adjustments. In addition, information on the diagnosis coding changes is available on the Internet at *http://www.cdc.gov/nchs/icd9.htm*.

2. CPT–4 Coding

The Current Procedural Terminology (CPT), Fourth Edition, is a listing of descriptive terms and identifying codes for reporting medical services and procedures performed by physicians. The purpose of the terminology is to provide consistent codes for medical, surgical, and diagnostic services.

The American Medical Association (AMA) convenes the CPT Editorial Panel (the Panel) quarterly to consider requests and suggestions for changes to CPT. The Panel uses the services of an Advisory Committee with expertise in a wide variety of specialties. More information regarding the CPT Editorial Panel is available on the following Internet Web site: *http://www.ama-assn.org/ama/pub/category/3884.html*.

E. Implementation of NCDs

One of the goals of section 4554 of the BBA is to promote uniformity in Medicare processing of claims for clinical diagnostic laboratory services. We developed an electronic edit table module that is installed in each of the Medicare claims processing contractors' systems. The edit module ensures that: (1) Each contractor matches diagnosis to procedures in the same manner; (2) competing laboratories in an area will have their claims processed identically regardless of whether they are processed by the carrier or fiscal intermediary; and (3) all local contractors will have implemented the laboratory NCDs at the same time. The edit module is updated quarterly as necessary to accommodate coding changes and NCD modifications.

II. Provisions of the Proposed Notice

A. Proposed Process for Code Maintenance

In the preamble of the final rule published on November 23, 2001 in the **Federal Register** (66 FR 58788), we announced that we intend to conduct maintenance of the 23 laboratory NCDs and create new laboratory NCDs through the NCD process described in the general notice in the **Federal Register** on April 27, 1999 (64 FR 22619). This process has since been updated by a notice published on September 26, 2003 (68 FR 55634). These notices describe an evidence-based method in which determinations are made based on the scientific literature. Formal requests for an NCD must be made in accordance with the provisions of the September 26, 2003 notice (68 FR 55636). The NCD process is further modified by the provisions of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). We expect to issue a guidance document incorporating the changes made to the NCD process by section 731 of the MMA in the near future. A summary of the NCD process is posted on the Internet at *http://www.cms.hhs.gov/coverage/8a4.asp*.

We believe that this NCD process is appropriate for creating new NCDs for clinical diagnostic laboratory services. Likewise, the NCD process is appropriate for requests for substantive changes to the existing laboratory NCDs. However, we believe this process is unduly burdensome and time-consuming for requests for other changes to the existing laboratory NCD code lists.

We proposed to establish three separate processes for requesting changes to the laboratory NCDs. In this final notice, we are finalizing the procedures we proposed in the December 24, 2003 **Federal Register** (68 FR 74607). Substantive changes would use the normal evidence-based NCD process. Coding changes that flow from the existing NCD narratives of covered indications would be requested by a letter detailing how the covered indication(s) in the narrative support the proposed coding and descriptor changes. Scientific evidence in support of these requests would not be required but would be welcomed to support the requestor's position. Typographical errors and new codes and descriptors would be implemented through program instructions without public comments.

1. Codes that Flow From the Covered Indications Narrative

We proposed to establish an abbreviated process for handling requests for certain NCD narrative based coding changes to the laboratory NCDs. In order for change requests to qualify for this process, the new coding must flow from the existing narrative indications in a laboratory NCD. Requests that, in effect, constitute requests to add new indications must continue to use the NCD evidence-based process outlined in the September 26, 2003 **Federal Register** (68 FR 55636).

The abbreviated process is similar to the NCD process in that it includes

posting on the Internet and an opportunity for the public to comment before coding change(s) are made. The principal difference between the processes is the volume of information required. Requesters using the abbreviated process will submit a letter detailing the provision of the NCD narrative that clearly indicates coverage for the requested code. Scientific literature in support of the coding change is not required. However, scientific literature supporting the request and clinical guidelines from relevant healthcare organizations is welcome.

2. Clerical Coding Change

The ICD–9–CM diagnosis codes and the CPT procedure codes are periodically updated with coding and descriptor changes. Codes and descriptors that are changed through this process may include those that have been incorporated in the laboratory NCDs. We believe the NCDs must be updated quickly to reflect current coding practices whenever the coding and descriptor changes occur. Similarly, clerical errors in laboratory NCD code lists, like typographical errors, should be corrected as quickly as possible. Consequently, we proposed to establish a streamlined process for making clerical changes to codes contained within the laboratory NCDs. (*See* the December 24, 2003 **Federal Register** notice (68 FR 74607)).

Under this proposal, the general public would request clerical or ministerial changes by sending a letter to: Director, Coverage and Analysis Group, Mail Stop C1–09–06, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. In addition, we would initiate this process to correct clerical and ministerial errors that we discover. We would incorporate all of these changes into the edit module software and announce them in the coding manual that we publish on the Internet at *http://www.cms.hhs.gov/ncd/labindexlist.asp*.

In summary, we proposed to establish three separate processes for maintaining the laboratory NCDs. We would make clerical and ministerial changes quickly without prior posting on the Internet or public comment. We would announce clerical changes in a CMS instruction before incorporation into the edit software. Coding changes that flow from the narrative of the existing NCD would be handled through an abbreviated process similar to the NCD process. Requests for coding changes that flow from the existing narrative NCD would not require the submission of scientific evidence. We would post a notice of this type of request on the Internet and accept public comments for 30 days before making a determination. Requests for a substantive change to an NCD would continue to be handled through the normal NCD process described in the September 26, 2003 **Federal Register** (68 FR 55634). Requests for substantive changes to NCDs would continue to require scientific evidence in support of the change in policy. We would post a tracking sheet announcing our acceptance of a request to substantively change an NCD on the Internet and public comments would be solicited for 30 days before making a determination. The draft decision memorandum for NCDs would be open to pubic comment before implementation.

B. Publication of the Code Lists for the Laboratory NCDs

We have generally published NCDs in the Medicare Coverage Issues Manual (CIM). This manual was replaced by the National Coverage Determination (NCD) Manual.

We proposed to incorporate only the narrative portion of the laboratory NCDs in the NCD Manual. The coding lists and standardized portions of the NCDs would be displayed in a laboratory NCD Coding Manual that is available electronically on the Internet at *http://www.cms.hhs.gov/ncd/labindexlist.asp*. Printed copies would be made available to readers who do not have access to the Internet for a fee of 10 cents per page.

C. Date of Service

In the final rule of coverage and administrative policies for clinical diagnostic laboratory services that we published on November 23, 2001 (66 FR 58792), we clarified the date of service for clinical diagnostic laboratory services. Specifically, we stated that: ''For laboratory tests that require a specimen from stored collections, the date of service should be defined as the date the specimen was obtained from the archives.''

The final rule did not further define how long a specimen must be stored before it is considered ''archived.'' We clarified in Program Memorandum AB–02–134, that in the absence of specific instructions issued nationally through rulemaking, contractors have discretion in making determinations regarding the length of time a specimen must be stored to be considered ''archived.'' We stated, however, that the rule contemplates a long storage period.

We proposed to further clarify the date of service provision for clinical diagnostic laboratory services. We suggested requiring that a specimen must be stored for more than 30 calendar days to be considered ''archived.'' The date of service for these archived specimens would be the date the specimen was obtained from storage. Specimens stored 30 days or less would have a date of service of the date the specimen was collected.

The final rule also clarified that the date of service for tests when the collection spanned more than 24 hours would be the date the collection began. These extended collection periods are common on fecal occult blood tests and urine collections for hormone analysis in pregnant women.

We have received several comments since issuing the final rule that stated that the common practice in the laboratory community is to use the date the collection ended as the date of service. We proposed to alter our policy to specify that the date of service would be the date the collection ended instead of the date the collection began.

III. Analysis of and Responses to Public Comments

We received no public comments on the December 24, 2003 proposed notice (68 FR 74607).

IV. Provisions of the Final Notice

We are establishing the provisions of the proposed notice as final.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), we are required to provide 30-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether OMB should approve an information collection, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

In summary, we are establishing a new process for handling requests for certain coding changes to the laboratory NCDs. In order for requests to qualify for this process, requests must be made in writing to us, clearly stating the rationale for the coding change. The request must articulate that the codes

flow from the existing narrative indications for the clinical diagnostic laboratory test. In other words, the requested change must be classified as a correction, an updating change, or a replacement to an existing code. Requests that, in effect, constitute requests to add new indications must use the NCD evidence-based process outlined in the April 27, 1999 and subsequent September 26, 2003 issues of the **Federal Register**.

The burden associated with the process referenced above is the time and effort necessary to submit a request in writing, clearly stating the rationale for the coding change. We believe that it will require one hour per request and that eight requests will be submitted on an annual basis.

However, based on the current number of submissions received on an annual basis (less then 10), this is not an information collection defined by the PRA (5 CFR 1320.3(c)(4)). If in the future we receive more than 10 responses on an annual basis, we will submit these information collection requirements to OMB for review and approval as required by the PRA.

VI. Regulatory Impact Statement

In this notice, we establish an abbreviated mechanism for making changes to the lists of ICD–9–CM and CPT codes that are included in the laboratory NCDs. We clarify when a specimen is considered archived for purposes of the date of service provision contained in the November 21, 2001 final rule. We do not expect this rule to impose any significant burden on laboratories. The established policy clarifications may lessen the burden on laboratories by establishing uniform procedures for reporting date of service on archived specimens. Should there be any unanticipated increase or decrease of burden, the effects will be minimal.

We have examined the impacts of this final notice as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 (as amended by Executive Order 13258, which merely reassigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We have reviewed this final notice and have determined it is not a major rule. Therefore, we are not required to perform an assessment of the costs and savings. The notice is purely procedural and, therefore, is not expected to impose any appreciable burden or generate compliance costs for laboratories.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals, and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6 million to $29 million in any 1 year. For purposes of the RFA, approximately 80 percent of clinical diagnostic laboratories are considered small businesses according to the Small Business Administration's size standards with total revenues of $29 million or less in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined that this final notice will not have a significant impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined that this final notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any notice that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This final notice will have no consequential effect on the governments mentioned or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a final notice that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this final notice and have determined that it will not have a substantial effect on State or local governments.

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

Dated: September 1, 2004.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Approved: November 9, 2004.

Tommy G. Thompson,

Secretary.

[FR Doc. 05–3727 Filed 2–24–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1219–N]

RIN 0938–AL76

Medicare Program; Changes in Geographical Boundaries of Durable Medical Equipment Regional Service Areas

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces changes to the geographical boundaries of the four Durable Medical Equipment (DME) service areas applicable to future awards of the Medicare Administrative Contracts (MACs). We identify which States and territories are assigned to each of the four DME service areas, and include the factors and criteria that we used to change the geographical boundaries.

DATES: *Effective Date:* This notice is effective on March 28, 2005.

Applicability Date: On March 28, 2005, the new geographical boundaries will apply to DME MACs and not current DME regional carrier contracts.

FOR FURTHER INFORMATION CONTACT: Pat Williams, (410) 786–6139.

SUPPLEMENTARY INFORMATION:

I. Background

Medicare has covered medically necessary items of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) under Part B since the inception of the program in 1966. In

the original authorizing legislation for the Medicare program, coverage was provided under sections 1832 and 1861(s) of the Social Security Act (the Act) (Pub. L. 89–97). Since that time, the coverage and payment rules for DMEPOS, which are now in sections 1832, 1834, and 1861 of the Act and their implementing regulations in 42 CFR 421.210 have changed significantly.

From 1986 to 1992, the number of complaints about fraud and abuse in the DMEPOS benefit began to increase markedly, and a variety of government investigations identified specific weaknesses in the program. We sought solutions to known claims processing problems, including the increasing level of fraud and abuse in billing. Subsequently, the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987) (Pub. L. 100–203) enacted on December 22, 1987, authorized the Secretary to designate, by regulation, regional carriers to process DMEPOS claims. (See sections 1834(a)(12) and 1834(h)(3) of the Act.)

To address the problem of fraud and abuse in the supplier community, we initiated an effort to reform the administration of the DMEPOS benefit category. On June 18, 1992, we published a final rule with comment period entitled ''Medicare Program; Carrier Jurisdiction for Claims for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) and Other Issues Involving Suppliers, and Criteria and Standards for Evaluating Regional DMEPOS Carriers'' (57 FR 27290) to implement this revised statutory authority. Additional changes were made by the final rule published on November 18, 1993 (58 FR 60789). The final rule established, among other requirements, four regional carriers (known as DME Regional Carriers or DMERCs) to standardize the coverage and payment of DMEPOS and designated the States and territories to be served by each DMERC.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) was enacted on December 8, 2003. Section 911 of the MMA amended title XVIII of the Social Security Act by adding a new section 1874A to permit us to contract for Medicare functions in a more open marketplace using the Federal Acquisition Regulation (FAR). Using competitive procedures, we will replace our current claims payment contractors—fiscal intermediaries (FIs), carriers, DMERCs, and regional home health intermediaries (RHHIs) with new contract entities that we will refer to as Medicare Administrative Contractors (MACs). The MMA requires that we recompete and transition all work to MACs by 2011.

MACs will assume the claims payment work that is now performed by FIs, carriers, RHHIs, and DMERCs. We plan to compete and award 23 MACs during the initial implementation phase (2005 through 2011). We will award 15 primary MACs servicing the majority of all types of providers, 4 specialty MACs serving the majority of home health and hospice (HH) providers, and 4 specialty MACs servicing DME suppliers.

The primary MACs will operate in 15 distinct, non-overlapping geographic jurisdictions, which will form the basis of the Medicare fee-for-service claims processing operation. The arrangements for the 8 specialty MACs (for DME and HH services) will reflect a realignment of the existing jurisdictions for the RHHIs and DMERCs to fit the boundaries of the 15 primary jurisdictions.

II. Provisions of the Notice

In this issue of the **Federal Register**, we are publishing a separate final rule entitled ''Medicare Program; Durable Medical Equipment Regional Carrier (DMERC) Service Areas and Related Matters'' (CMS–1219–F) regarding the process by which CMS may change the current geographical boundaries of the contractors that process claims related to durable medical equipment, prosthetics, orthotics, and supplies. Following that process, this notice announces changes to the geographical boundaries of the future DME service regions. It does not affect the jurisdictions of the existing DMERCs.

Currently, the States and territories serviced by each of the four DMERC regions are as follows:

Region A: Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

Region B: District of Columbia, Illinois, Indiana, Maryland, Michigan, Minnesota, Ohio, Virginia, West Virginia, and Wisconsin.

Region C: Alabama, Arkansas, Colorado, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, and the Virgin Islands.

Region D: Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Iowa, Kansas, Mariana Islands, Missouri, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

Effective with future awards of the DME MACs, the geographical boundaries of the DMERC service regions will be reconfigured as follows:

Region A: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

Region B: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin, and Kentucky.

Region C: Alabama, Arkansas, Colorado, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, Virgin Islands, Virginia, and West Virginia.

Region D: Alaska, Arizona, California, Guam, Hawaii, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming, Mariana Islands, and American Samoa.

Under the reconfiguration, the District of Columbia and the State of Maryland are moved from Region B to Region A; the States of Virginia and West Virginia are moved from Region B to Region C; and the State of Kentucky moves from Region C to Region B. As such, Region A gains the District of Columbia and one State; Region B loses three States and the District of Columbia; and Region C loses one State and gains two States. There are no changes in the geographical boundaries of Region D.

We believe reconfiguring the existing geographical jurisdictions of the DME service regions to fit with the boundaries of the 15 MAC primary jurisdictions and four RHH MAC jurisdictions is necessary to facilitate seamless claims processing activities, and interaction with our other partners. Our analysis of the changes in the DME geographical boundaries indicates these service area changes affect a relatively small percentage of providers and beneficiaries in the affected areas. We have considered how the jurisdictional changes may impact affected providers and beneficiaries and have taken steps to minimize the impact. Through this notice, we are giving advance notice to all affected parties of these changes before any anticipated transition of workload. Additionally, we will include in any future procurements using the revised geographical jurisdictions a requirement that successful bidders must take steps to minimize any adverse impact on providers and beneficiaries because of the transition to the new jurisdictions.

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements.

Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

IV. Regulatory Impact Statement

We have examined the impact of this notice as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This notice does not reach the economic threshold and thus is not considered a major rule.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6 million to $29 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined that this notice will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined that this notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This notice will have no consequential effect on the governments mentioned or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Since this notice does not impose any costs on State or local governments, the requirements of Executive Order 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Authority: Section 1834(a)(12) and 1842 of the Social Security Act

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program.)

Dated: December 23, 2004.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 05–3729 Filed 2–24–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–4088–N]

Medicare Program; Part D Reinsurance Payment Demonstration

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice informs interested Prescription Drug Plan (PDP) sponsors and Medicare Advantage (MA) organizations of an opportunity to participate in the Part D Reinsurance Payment Demonstration beginning in contract year 2006.

FOR FURTHER INFORMATION CONTACT: Mark Newsom, (410) 786–3198; *mnewsom@cms.hhs.gov.* Jennifer Harlow, (410) 786–4549; *jharlow@cms.hhs.gov.*

Application Requirements: Organizations intending to offer a stand alone prescription drug plan must submit an application in accordance with the instructions found in the Solicitation for Applications from Prescription Drug Plans posted on the CMS website on January 21, 2005.[1] Organizations intending to offer a prescription drug benefit in combination with a Medicare Advantage plan must submit a completed Medicare Advantage Prescription Drug application in accordance with the Solicitation for Applications from Medicare Advantage Sponsors posted on the CMS Web site on January 21, 2005.[2] Applications are due to CMS on or before March 23, 2005.

Eligible Organizations: All PDP sponsors may participate in option one as described below.[3] Medicare Advantage organizations offering Prescription Drug Plans (MA–PD plans) are eligible to participate in options one and two (as described below)[4] with the exception of the following: Program of All Inclusive Care for the Elderly (PACE), MA employer only plans, and employer direct contract plans.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legislative Authority

Section 402(a)(1)(A) of the Social Security Amendments of 1967 authorizes the Secretary to conduct demonstrations designed to test whether methods of payment or reimbursement will have the effect of increasing the efficiency and economy of programs without adversely affecting the quality of those programs' services.

Section 402(b) of the Social Security Amendments of 1967 authorizes the Secretary to waive requirements in title XVIII that relate to reimbursement and payment in order to carry out demonstrations authorized under section 402(a). Section 1860D–42(b) of the Act provides that the provisions of section 402 of the Social Security Amendments of 1967 apply with respect to Part D and Part C in the same manner as they apply to Parts A and B, except that any reference with respect to a trust fund in relation to an experiment or demonstration project relating to prescription drug coverage under this part will be deemed a reference to the Medicare Prescription Drug Account within the Federal Supplementary Medical Insurance Trust Fund.

B. Issue

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) Conference Report notes that provisions of the new Part D benefit

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[1] See *http://www.cms.hhs.gov/pdps/.* See section 2 of the application.

[2] Id.

[3] See II(A) Demonstration Design—Two Part D Reinsurance Options.

[4] *Id.*

that relate to the out-of-pocket (OOP) threshold established in section 1860D–2(b)(4)(B) of the Social Security Act (the Act) may create a disincentive for Part D plans to provide supplemental prescription drug benefits through the enhanced alternative coverage option. Reinsurance benefits provided for in the MMA are not available until this OOP threshold is reached. The provision of supplemental coverage thus might prevent Sponsors or MA organizations offering Part D benefits from benefiting from reinsurance. This concern was also strongly voiced among the commenters to the proposed rule.

The reinsurance demonstration proposal allows for a budget neutral alternative payment approach, over a 5-year period, that may provide an incentive for private sector plans to offer supplemental prescription drug coverage to Medicare beneficiaries.

C. MMA Part D Reinsurance

Reinsurance begins at the annual OOP threshold, defined by section 1860D–2(b)(4)(B) of the Act and § 423.104(d)(5)(ii) of 42 CFR as $3,600 for 2006 (which, under the defined standard benefit, would equal $5,100 in total drug expenditures). The enhanced alternative benefit with supplemental coverage, as defined by 1860D–2(a)(2) of the Act and § 423.104(f)(1)(ii) of the regulation, could have the effect of changing the catastrophic attachment point for reinsurance, or preventing it from attaching altogether.

D. MMA Conference Committee

The MMA Conference Committee noted that ''the conditions under which the government provides reinsurance subsidies may create significant disincentives for private sector plans to provide supplemental prescription drug coverage.'' [5] To address this concern, the conferees suggested use of Medicare demonstration authority to ''allow private sector plans maximum flexibility to design alternative prescription drug coverage.'' [6]

Our authority to conduct Medicare demonstrations is provided in section 402 of the Social Security Amendments of 1967 (42 U.S.C. 1395b–1). Under section 402(b), the Secretary is authorized to waive requirements in title XVIII that relate to reimbursement and payment. As noted above, this authority applies for Parts C and D in the same manner as Parts A and B under the provision of section 1860D–42(b) of the Act. The conferees specifically recommended that we demonstrate the effect of filling in the gap in coverage by reimbursing participating plans a capitated payment that is actuarially equivalent to the amount that plans would otherwise receive from the government in the form of specific reinsurance when an individual plan enrollee reaches the catastrophic attachment point ($3,600 in OOP costs for 2006).[7]

The conferees specified that we are not permitted to waive the minimum benefits provided by the plans.[8]

In summary, the MMA conference report urged CMS to conduct a demonstration for the purposes of creating an incentive for plans to offer supplemental benefits filling in the coverage gap. Consequently, in the proposed rule published on August 3, 2004 (69 FR 46633), we stated that we were considering establishing a demonstration to evaluate possible ways of achieving extended coverage. During the subsequent public comment period, we received support from key stakeholders for conducting a demonstration in this area, and in the final rule, we agreed to conduct this demonstration.

II. Provisions of the Notice

A. Demonstration Design

This reinsurance demonstration proposal represents an alternative payment approach; however, unless specifically noted, all other Part D rules will apply. This demonstration will be limited to a 5-year period. Participation in this Part D reinsurance demonstration will require the provision of supplemental benefits through an enhanced alternative benefit package, as well as payment based on either one of the two reinsurance options described below.[9]

Enhanced Alternative Coverage: Under this Part D reinsurance demonstration, eligible participants must provide supplemental benefits through enhanced alternative coverage. Under Part D rules, enhanced alternative coverage may include a supplemental benefit covering non-Part D drugs, reducing cost sharing, increasing the initial coverage limit, reducing the deductible, or any combination of these actions. For this demonstration, however, the supplemental benefit may only fill in part or all of the coverage gap. To clarify, other supplemental benefits that are part of enhanced alternative coverage (as defined in § 423.104(f)) are not included in this demonstration. Thus, a PDP Sponsor or MA organization offering an MA–PD plan under this demonstration would provide coverage between the initial coverage limit and the out of pocket threshold ($3,600 of True Out-of-Pocket (TrOOP) in 2006). The coverage gap may be filled in part or completely. The Sponsor or MA organization must provide catastrophic coverage.

Two Part D Reinsurance Options: Under our demonstration authority, two Part D reinsurance options will be made available. Again, note that unless otherwise stated, all other Part D payment rules apply.

- *Option One:* Eligible PDP Sponsors, including organizations offering MA–PD plans, could offer an enhanced alternative drug benefit package and receive a capitated drug reinsurance payment, inaddition to the normal direct subsidy, low income subsidy, and risk sharing payments. This reinsurance payment would be capitated (instead of specific reinsurance payments of 80 percent of drug costs after the beneficiary incurred $3,600 in TrOOP drug costs). The plan specific capitated reinsurance payment will be negotiated during the bidding process.
- *Option Two:* For organizations offering MA–PD plans that use MA premium rebates to cover the additional cost of enhanced alternative drug coverage, this option would permit enrollees to count supplemental benefit payments toward meeting the TrOOP spending requirement for Part D catastrophic coverage. For this option, all the supplemental benefit must be funded by MA Part A and Part B rebate dollars. To clarify, MA–PD plans may not include a supplemental premium for the supplemental benefit under this option. This is because it is not possible to distinguish A and B rebate dollars that would count toward TrOOP under this option from beneficiary premium dollars that would not count toward TrOOP.

For more details regarding the payment options one and two, please see the Part D Reinsurance Payment Demonstration Fact Sheet on the CMS Web sites *http://www.cms.hhs.gov/pdps/* and *http://www.cms.hhs.gov/researchers/demos/.*

Bid Submission Process: PDP sponsors or MA organizations wishing to participate will submit a bid following the bid submission protocol for the Part D benefit. The bidding

[5] U.S. House of Representatives, 108th Congress (November 21, 2003). *Medicare Prescription Drug, Improvement, and Modernization Act of 2003 Conference Report to accompany H.R. 1. Report* 108–391. Washington DC: Government Printing Office. Available online at *http://www.gpoaccess.gov/serialset/creports/index.html.*

[6] *Id.*

[7] Id.

[8] *Id.*

[9] *See Two Part D Reinsurance Options* in this section.

process will be the same as for Part D, with the exception of including information relating to the demonstration model selected. There will be no additional burden associated with the submission of a bid.

B. Demonstration Evaluation Design

An evaluation of the CMS reinsurance demonstration will examine the impacts on beneficiaries, PDP sponsors, and MA organizations. From the beneficiary perspective, the analysis will focus on the availability of, and enrollment in, enhanced alternative benefit packages offered by PDP sponsors and MA organizations, as well as patterns of utilization of enrollees. The evaluation will also explore the advantages and disadvantages of participation from the organizations' perspectives.

C. Budget Neutrality

This demonstration must be budget neutral. This means that the expected Medicare costs under the demonstration can be no more than expected costs to the Medicare program in the absence of the demonstration. In order to ensure budget neutrality, PDP sponsors and MA organizations participating in the demonstration will have their capitation payments offset. The amount will be dependent on the demonstration reinsurance payment option chosen by the plan.

The CMS Office of the Actuary prepared an analysis of the demonstration for CY 2006 and determined that this demonstration is budget neutral if the capitated payments are reduced by at least $3.13 per member per year for option one and at least $7.57 per member per year for option two. Budget neutrality could be at risk under this demonstration if employer groups are allowed to participate, because this demonstration could provide an incentive for employer groups to drop their provision of drug coverage and encourage individuals to seek coverage under Part D. Further, in order to ensure budget neutrality for this demonstration initiative, we will consider prior year(s) of data and bidding information in establishing capitation amounts. Note that CY 2006 offsets are based on first-year impacts. The amounts shown may increase annually in a similar manner as other Part D costs for the duration of the demonstration.

III. Collection of Information Requirements

Other than a simple affirmation, as discussed below, no additional data will be collected from plans for the purpose of this demonstration.

Pursuant to this demonstration, plans must affirm to CMS that any funding of premiums will not come from any respective employer or union with whom the plan conducts business.

Whereas, this notice does not impose information collection and record-keeping requirements, it does not need to be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (PRA). Further, it is not subject to the PRA as stipulated under 5 CFR 1320.3(h)(1).

Authority: Section 402 of the Social Security Amendments of 1967.

Dated: February 11, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 05–3621 Filed 2–18–05; 4:24 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–4089–N]

Medicare Program; Meeting of the Advisory Panel on Medicare Education—March 22, 2005

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, section 10(a) (Pub. L. 92–463), this notice announces a meeting of the Advisory Panel on Medicare Education (the Panel) on March 22, 2005. The Panel advises and makes recommendations to the Secretary of the Department of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services on opportunities to enhance the effectiveness of consumer education strategies concerning the Medicare program. This meeting is open to the public. This meeting replaces the February 24, 2005 meeting that was canceled.

DATES: The meeting is scheduled for March 22, 2005 from 9 a.m. to 4 p.m., e.s.t.

Deadline for Presentations and Comments: March 15, 2005 12 noon, e.s.t.

ADDRESSES: The meeting will be held at the Wyndham Hotel, 1400 M Street, NW., Washington DC 20005, (202) 429–1700.

FOR FURTHER INFORMATION CONTACT: Lynne Johnson, Health Insurance Specialist, Division of Partnership Development, Center for Beneficiary Choices, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail stop S2–23–05, Baltimore, MD 21244–1850, (410) 786–0090. Please refer to the CMS Advisory Committees' Information Line (1–877–449–5659 toll free)/(410–786–9379 local) or the Internet (*http://www.cms.hhs.gov/faca/apme/default.asp*) for additional information and updates on committee activities, or contact Ms. Johnson via e-mail at *ljohnson3@cms.hhs.gov*. Press inquiries are handled through the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION: Section 222 of the Public Health Service Act (42 U.S.C. 217a), as amended, grants to the Secretary of the Department of Health and Human Services (the Secretary) the authority to establish an advisory panel if the Secretary finds the panel necessary and in the public interest. The Secretary signed the charter establishing this Panel on January 21, 1999 (64 FR 7849) and approved the renewal of the charter on January 14, 2005. The Panel advises and makes recommendations to the Secretary and the Administrator of the Centers for Medicare & Medicaid Services (CMS) on opportunities to enhance the effectiveness of consumer education strategies concerning the Medicare program.

The goals of the Panel are as follows:

- To develop and implement a national Medicare education program that describes the options for selecting a health plan under Medicare.
- To enhance the Federal government's effectiveness in informing the Medicare consumer, including the appropriate use of public-private partnerships.
- To expand outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of a national Medicare education program.
- To assemble an information base of best practices for helping consumers evaluate health plan options and build a community infrastructure for information, counseling, and assistance.

The current members of the Panel are: Dr. Drew E. Altman, President and Chief Executive Officer, Henry J. Kaiser Family Foundation; James L. Bildner, Chairman and Chief Executive Officer, New Horizons Partners, LLC; Dr. Jane Delgado, Chief Executive Officer, National Alliance For Hispanic Health; Clayton Fong, President and Chief Executive Officer, National Asian

Pacific Center on Aging; Thomas Hall, Chairman and Chief Executive Officer, Cardio-Kinetics, Inc.; The Honorable Bobby Jindal, United States Congress; David Knutson, Director, Health System Studies, Park Nicollet Institute for Research and Education; Donald J. Lott, Executive Director, Indian Family Health Clinic; Dr. Frank I. Luntz, President and Chief Executive Officer, Luntz Research Companies; Katherine Metzger, Director, Medicare and Medicaid Programs, Fallon Community Health Plan; David Null, Financial Advisor, Merrill Lynch; Dr. Marlon Priest, Professor of Emergency Medicine, University of Alabama at Birmingham; Susan O. Raetzman, Associate Director, Public Policy Institute, AARP,and Catherine Valenti, Chairperson and Chief Executive Officer, Caring Voice Coalition.

The agenda for the March 22, 2005 meeting will include the following:

- Recap of the previous (November 30, 2004) meeting.
- Centers for Medicare & Medicaid Services update.
- Medicare Modernization Act: outreach and education strategies.
- Public comment.
- Listening session with CMS leadership.
- Next steps.

Individuals or organizations that wish to make a 5-minute oral presentation on an agenda topic should submit a written copy of the oral presentation to Lynne Johnson, Health Insurance Specialist, Division of Partnership Development, Center for Beneficiary Choices, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail stop S2–23–05, Baltimore, MD 21244–1850 or by email at *ljohnson3@cms.hhs.gov* no later than 12 noon, e.s.t., March 15, 2005 The number of oral presentations may be limited by the time available. Individuals not wishing to make a presentation may submit written comments to Ms. Johnson by 12 noon, e.s.t.), March 15, 2005. The meeting is open to the public, but attendance is limited to the space available.

Special Accommodation: Individuals requiring sign language interpretation or other special accommodations should contact Ms. Johnson at least 15 days before the meeting.

Authority: Sec. 222 of the Public Health Service Act (42 U.S.C. 217a) and sec. 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, sec. 10(a) and 41 CFR 102–3).

(Catalog of Federal Domestic Assistance Program No. 93.733, Medicare—Hospital Insurance Program; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 16, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 05–3552 Filed 2–24–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy

Name of Committee: National Human Genome Research Institute Special Emphasis Panel, Sequencing Technology RFA's.

Date: March 31–April 1, 2005.

Time: March 31, 2005, 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852

Time: April 1, 2005 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Ken D. Nakamura, PhD, Scientific Review Administrator (301) 402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 16, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–3575 Filed 2–24–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2005 Funding Opportunity

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of intent to award a Single Source Grant to the Florida Department of Children and Families.

SUMMARY: This notice is to inform the public that the Substance Abuse and Mental Health Services Administration (SAMHSA) intends to award approximately $11,000,000 (total costs) for a one-year project period to the Florida Department of Children and Families. This is not a formal request for applications. Assistance will be provided only to the Florida Department of Children and Families based on the receipt of a satisfactory application that is approved by an independent review group.

Funding Opportunity Title: OA–05–002.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.003.

Authority: Section 501(d)(5) of the Public Health Service Act, as amended.

Justification: Only the Florida Department of Children and Families is eligible to apply. The Substance Abuse and Mental Health Services Administration (SAMHSA) is seeking to award a single source grant to the Florida Department of Children and Families to assist individuals and families needing mental health and substance abuse services, interventions and treatment related to the impact of Hurricanes Charley, Frances, Jeanne and Ivan, which made landfall in the State of Florida within a period of six weeks during the months of August and September of 2004. Services that may be supported under this grant award may include the following: (1) Assessment of mental health and substance abuse needs; (2) referral services based on assessed mental health and substance abuse service needs; (3) direct mental health intervention services; (4) direct substance abuse services; (5) quality assurance and monitoring; and (6) process and outcome evaluation.

The Florida Department of Children and Families (DCF) is the agency responsible for mental health and substance abuse services in the State of Florida. Because the impact of the hurricanes significantly affected 24 of Florida's 67 counties, a coordinated state-wide response is necessary. DCF is

the only agency that can coordinate a state-wide response, including planning and implementing services for all impacted communities across the State.

FOR FURTHER INFORMATION CONTACT: Linda Ligenza, LCSW, Substance Abuse and Mental Health Services Administration, 1 Choke Cherry Road, Room 6–1132, Rockville, MD 20857; telephone: (240) 276–1854; E-mail: *linda.ligenza@samhsa.hhs.gov*.

Dated: February 16, 2005.

Daryl Kade,

Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.

[FR Doc. 05–3645 Filed 2–24–05; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[COTP Los Angeles-Long Beach, CA 05–003]

Area Maritime Security Committee (AMSC)—Central California (Los Angeles—Long Beach)

AGENCY: Coast Guard, DHS.

ACTION: Solicitation for membership.

SUMMARY: This notice requests individuals interested in serving on the Area Maritime Security Committee—Central California (Los Angeles-Long Beach) (CCAMSC) to submit their resumes to the Captain of the Port (COTP)/Federal Maritime Security Coordinator (FMSC) Los Angeles-Long Beach.

DATES: Requests for membership should reach the U.S. Coast Guard Captain of the Port Los Angeles-Long Beach on or before March 31, 2005.

ADDRESSES: Resumes for membership should be submitted to the COTP at the following address: Commanding Officer, USCG MSO/Group Los Angeles-Long Beach, C/O Planning Department 1001 S. Seaside Ave., Bldg. 20, San Pedro, CA 90731 or faxed to (310) 732–2018.

FOR FURTHER INFORMATION CONTACT: For questions about submitting a resume or about the AMS Committee in general, contact Mr. Robert Spaulding, AMSC Executive Administrator at (310) 356–1324.

SUPPLEMENTARY INFORMATION:

Authority

Section 102 of the Maritime Transportation Safety Act (MTSA) of 2002 (Pub. L. 107–295) added section 70112 to Title 46 of the U.S. Code, and authorizes the Secretary of the Department in which the Coast Guard is operating to establish AMSC's for any port area of the United States. (See 33 U.S.C. 1226; 46 U.S.C. Chapter 701; 33 CFR 1.05–1, 6.01; Department of Homeland Security Delegation No. 0170.1). The MTSA includes a provision exempting these AMSC's from the Federal Advisory Committee Act (FACA), Public Law 92–436, 86 Stat. 470 (5 U.S.C. App. 2). These AMSC's shall assist the Captain of the Port in the development, review, and update of the AMS Plan for their area of responsibility. Such matters may include, but are not limited to: Identifying critical port infrastructure and operations; identifying risks (threats, vulnerabilities and consequences); determining mitigation strategies and implementation methods; developing and describing the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time and what additional mitigation strategies can be applied; and providing advice to and assisting the FMSC in, reviewing and updating the Central California Area Maritime Security Plan.

AMS Committee Membership

Members of the AMS Committee should have at least 4 years of experience related to maritime or port security operations. The CCAMSC has twenty (20) members. We are seeking to fill five (5) with this solicitation. At least seven of the members of the AMSC must have at least five years of experience related to maritime or port security operations. This solicitation is for members currently serving a 1-year term. We are seeking to fill the following vacancies with this solicitation:

(1) Port Hueneme Port Security Committee representative.

(2) Local Office of Emergency Services representative (Logistics Section).

(3) Local agency representative (Operations Section—Law Enforcement Subcommittee).

(4) Marine Exchange of Southern California.

(5) Political representative.

Applicants may be required to pass an appropriate security background check prior to appointment to the committee.

Members' terms of office will be for 5 years; however, a member is eligible to serve an additional term of office. Members will not receive any salary or other compensation for their service on an AMS Committee. In support of the policy of the USCG on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Meetings

The AMSC meets quarterly. Subcommittees and work groups convene between meetings of the parent committee. AMSC meetings normally start at 9 a.m. and alternates between the Port of Los Angeles and Port of Long Beach Buildings.

Request for Applications

Those seeking membership are encouraged to submit a resume highlighting their experience in the maritime and security industries to the COTP/FMSC. This measure ensures applicants have the prerequisite maritime security experience necessary to serve as a member on the AMSC.

Dated: February 15, 2005.

Peter V. Neffenger,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach.

[FR Doc. 05–3604 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4975–N–02]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* April 26, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–0614,

extension 5426 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This notice soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Land Survey Report for Insured Multifamily Projects.

OMB Control Number, if applicable: 2502–0010.

Description of the need for the information and proposed use: Form HUD–2457 provides the standards of performance for conducting surveys and preparing the maps of survey. It also identifies data that must be addressed to meet program requirements and provides a vehicle for the surveyor to certify compliance with applicable survey and reporting requirements. Furthermore, a land survey and related information are necessary to secure a marketable title and title insurance for the property that provides security for project mortgage insurance furnished under the FHA Multifamily programs. The Form HUD–2457 describes the property to assure compliance with various regulatory provisions, *e.g.,* flood hazard requirements, and to help determine the suitability and value of the property for the intended purpose. The Form HUD–2457 also provides necessary engineering data for project design for proposed construction projects.

Agency form numbers, if applicable: HUD–2457.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of respondents is 1,300, the frequency of responses is 2, for a total of 2,600 total annual responses. The estimated time to prepare collection is approximately 0.5 hours, for a total annual burden hours of 1,300.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 16, 2005.

Frank I. Davis,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 05–3620 Filed 2–24–05; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4980–N–08]

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 John Hicks, 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: AIR FORCE: Ms. Kathryn M. Halvorson, Director, Air Force Real Property Agency, 1700 North Moore St., Suite 2300, Arlington, VA 22209–2802; (703) 696–5502; (These are not toll-free numbers).

Dated: February 17, 2005.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program, Federal Register Report for 2/25/05

Suitable/Available Properties

Buildings (by State)

Alaska

Bldg. 7525
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200230009
Status: Unutilized
Comment: 26,226 sq. ft., need rehab, possible asbestos/lead paint, most recent use—dormitory, off-site use only

Hawaii

Bldg. 849
Bellows AFS
Bellows AFS HI –
Landholding Agency: Air Force
Property Number: 18200330008
Status: Unutilized
Comment: 462 sq. ft., concrete storage facility

Missouri

Bldgs. 90A/B, 91A/B, 92A/B
Jefferson Barracks Housing
St. Louis MO 63125–
Landholding Agency: Air Force
Property Number: 18200220002
Status: Excess
Comment: 6450 sq. ft., needs repair, includes 2 acres

New York

Lockport Comm. Facility
Shawnee Road
Lockport Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200040004
Status: Excess
Comment: 2 concrete block bldgs., (415 & 2929 sq. ft.) on 7.68 acres

Bldg. 240
Rome Lab
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 18200340023
Status: Unutilized
Comment: 39108 sq. ft., presence of asbestos, most recent use—Electronic Research Lab

Bldg. 247
Rome Lab
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 18200340024
Status: Unutilized
Comment: 13199 sq. ft., presence of asbestos, most recent use—Electronic Research Lab

Bldg. 248
Rome Lab
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 18200340025
Status: Unutilized
Comment: 4000 sq. ft., presence of asbestos, most recent use—Electronic Research Lab

Bldg. 302
Rome Lab
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 18200340026
Status: Unutilized
Comment: 10288 sq. ft., presence of asbestos, most recent use—communications facility

South Carolina

24 Bldgs.
Hunley Park/Charleston AFB
Idaho Ave., Unit Type 3S
N. Charleston Co: SC 29404–4827
Landholding Agency: Air Force
Property Number: 18200430011
Status: Excess
Comment: 1624 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only

6 Bldgs.
Hunley Park/Charleston AFB
N. Charleston Co: SC 29404–
Location: 3510, 3514, 3517, 3528, 3533, 3538
Landholding Agency: Air Force
Property Number: 18200430012
Status: Excess
Comment: 1684 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldg. 3601
Hunley Park/Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430013
Status: Excess
Comment: 1902 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only

5 Bldgs.
Hunley Park/Charleston AFB
N. Charleston Co: SC 29404–
Location: 3524, 3603, 3605, 3607, 3608
Landholding Agency: Air Force
Property Number: 18200430014
Status: Excess
Comment: 1788 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only

4 Bldgs.
Hunley Park/Charleston AFB
N. Charleston Co: SC 29404–
Location: 3009A/B, 3013A/B, 3202A/B, 3214A/B
Landholding Agency: Air Force
Property Number: 18200430015
Status: Excess
Comment: 2346 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only

3 Bldgs.
Hunley Park/Charleston AFB
N. Charleston Co: SC 29404–
Location: 3302A/B, 3418A/B, 3424A/B
Landholding Agency: Air Force
Property Number: 18200430016
Status: Excess
Comment: 2470 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldg. 3207A/B
Hunley Park/Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430017
Status: Excess
Comment: 2688 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only

11 Bldgs.
Hunley Park/Charleston AFB
Unit Type 3E
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430018
Status: Excess
Comment: 2688 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only

24 Bldgs.
Hunley Park/Charleston AFB
Unit Type 3J
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430019
Status: Excess
Comment: 2787 sq ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldg. 3209A/B
Hunley Park/Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430020
Status: Excess
Comment: 2944 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldgs. 3107A/B, 3205A/B
Hunley Park/Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430021
Status: Excess
Comment: 2944 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only

5 Bldgs.

Hunley Park/Charleston AFB
Unit Type 4J
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430022
Status: Excess
Comment: 3423 sq. ft., needs extensive repair, presence of asbestos/lead paint, most recent use—residential, off-site use only

7 Bldgs.
Charleston AFB
Floor Plan 1
N. Charleston Co: SC 29404–4827
Landholding Agency: Air Force
Property Number: 18200430023
Status: Excess
Comment: 2135 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

11 Bldgs.
Charleston AFB
Floor Plan 4AR
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430024
Status: Excess
Comment: 2652 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

4 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location: 2314A/B, 2327A/B, 2339A/B, 2397A/B
Landholding Agency: Air Force
Property Number: 18200430025
Status: Excess
Comment: 2722 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

5 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location: 2311A/B, 2322A/B, 2329A/B, 2385A/B, 2399A/B
Landholding Agency: Air Force
Property Number: 18200430026
Status: Excess
Comment: 2642 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

4 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location: 2315A/B, 2323A/B, 2330A/B, 2387A/B
Landholding Agency: Air Force
Property Number: 18200430027
Status: Excess
Comment: 2756 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

3 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location:
2321A/B, 2326A/B, 2336A/B
Landholding Agency: Air Force
Property Number: 18200430028
Status: Excess
Comment: 2766 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldg. 2331 A/B
Charleston AFB
N. Charleston Co: SC 29494–
Landholding Agency: Air Force
Property Number: 18200430029
Status: Excess
Comment: 2803 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldg. 2341A/B
Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430030
Status: Excess
Comment: 2715 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

6 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location: 2346, 2354, 2363, 2382, 2389, 2396
Landholding Agency: Air Force
Property Number: 18200430031
Status: Excess
Comment: 1394 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

15 Bldgs.
Charleston AFB
Floor Plan 6A
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430032
Status: Excess
Comment: 1378 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

12 Bldgs.
Charleston AFB
Floor Plan 6B
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430033
Status: Excess
Comment: 1387 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

13 Bldgs.
Charleston AFB
Floor Plan 1–1
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430034
Status: Excess
Comment: 2305 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldg. 2377
Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430035
Status: Excess
Comment: 1662 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

10 Bldgs.
Charleston AFB
Floor Plan D6
N. Charleston Co: SC 29204–
Landholding Agency: Air Force
Property Number: 18200430036
Status: Excess
Comment: 1241 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

10 Bldgs.
Charleston AFB
Floor Plan D1
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430037
Status: Excess
Comment: 1250 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

7 Bldgs.
Charleston AFB
Floor Plan DIV
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430038
Status: Excess
Comment: 1250 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

7 Bldgs.
Charleston AFB
Floor Plan DV
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430039
Status: Excess
Comment: 1241 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

7 Bldgs.
Charleston AFB
Floor Plan E6
N. Charleston Co: SC 29204–
Landholding Agency: Air Force
Property Number: 18200430040
Status: Excess
Comment: 1249 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

11 Bldgs.
Charleston AFB
Floor Plan F6
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430041
Status: Excess
Comment: 1249 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

11 Bldgs.
Charleston AFB
Floor Plan G6
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430042
Status: Excess
Comment: 1390 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

9 Bldgs.
Charleston AFB
Floor Plan GV
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430043
Status: Excess
Comment: 1390 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

8 Bldgs.

Charleston AFB
Floor Plan H6
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430044
Status: Excess
Comment: 1396 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldgs. 1841A/B, 1849A/B
Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430045
Status: Excess
Comment: 2249 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

9 Bldgs.
Charleston AFB
Floor Plan I6
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430046
Status: Excess
Comment: 1400 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

7 Bldgs.
Charleston AFB
Floor Plan IV
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430047
Status: Excess
Comment: 1400 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

4 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location: 1846A/B, 1853A/B, 1862A/B, 2203A/B
Landholding Agency: Air Force
Property Number: 18200430048
Status: Excess
Comment: 2363 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

40 Bldgs.
Charleston AFB
Floor Plan 2A
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430049
Status: Excess
Comment: 2387 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldg. 1765A/B
Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430050
Status: Excess
Comment: 2558 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

42 Bldgs.
Charleston AFB
Floor Plan 2R
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430051
Status: Excess
Comment: 2558 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldg. 1828A/B
Charleston AFB
N. Charleston Co: SC 29404–
Landholding Agency: Air Force
Property Number: 18200430052
Status: Excess
Comment: 2330 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

3 Bldgs.
Charleston AFB
N. Charleston Co: SC 29404–
Location: 2309A/B, 2320A/B, 2335A/B
Landholding Agency: Air Force
Property Number: 18200430053
Status: Excess
Comment: 2766 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

South Dakota

West Communications Annex
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18199340051
Status: Unutilized
Comment: 2 bldgs. on 2.37 acres, remote area, lacks infrastructure, road hazardous during winter storms, most recent use—industrial storage

Land (by State)

Nebraska

Hastings Radar Bomb Scoring
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199810027
Status: Unutilized
Comment: 11 acres

South Dakota

S. Nike Ed. Annex Land
Ellsworth AFB
Pennington SD 57706–
Landholding Agency: Air Force
Property Number: 18200220010
Status: Unutilized
Comment: 7 acres w/five foundations from demolished bldgs. remain on site; with a road and a parking lot

Suitable/Unavailable Properties

Buildings (by State)

Colorado

Bldg. 100
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230001
Status: Excess
Comment: 7760 sq. ft., most recent use—admin/electronic equip. maintenance

Bldg. 101
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230002
Status: Excess
Comment: 336 sq. ft., most recent use—storage

Bldg. 102
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230003
Status: Excess
Comment: 1056 sq. ft., most recent use—storage

Bldg. 103
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230004
Status: Excess
Comment: 784 sq. ft., most recent use—storage

Bldg. 104
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230005
Status: Excess
Comment: 312 sq. ft., most recent use—storage

Bldg. 106
La Junta Strategic Range
La Junta Co: Otero CO 81050–9501
Landholding Agency: Air Force
Property Number: 18200230006
Status: Excess
Comment: 100 sq. ft., most recent use—storage

New York

Bldg. 1225
Verona Text Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220014
Status: Unutilized
Comment: 3865 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—research lab

Bldg. 1226
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220015
Status: Unutilized
Comment: 7500 sq. ft., most recent use—storage

Bldg. 1227
Verona Text Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220016
Status: Unutilized
Comment: 1152 sq. ft., presence of asbestos/lead paint, most recent use—power station

Bldg. 1231
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220017
Status: Unutilized
Comment: 3865 sq. ft., presence of asbestos/lead paint/volatile organic compounds, access requirements, most recent use—research lab

Bldg. 1233
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220018
Status: Unutilized
Comment: 1152 sq. ft., needs repair, presence of asbestos/lead paint/volatile organic

compounds, access requirements, most recent use—power station

Bldgs. 1235, 1239
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220019
Status: Unutilized
Comment: 144/825 sq. ft., need repairs, presence of lead paint, most recent use—electric switch station

Bldg. 1241
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220020
Status: Unutilized
Comment: 159 sq. ft., presence of lead paint, most recent use—sewage pump station

Bldg. 1243
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220021
Status: Unutilized
Comment: 25 sq. ft., most recent use—waste treatment

Bldg. 1245
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220022
Status: Unutilized
Comment: 3835 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—research lab

Bldg. 1247
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220023
Status: Unutilized
Comment: 576 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—power station

Bldg. 1250 + land
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220024
Status: Unutilized
Comment: 11,766 sq. ft. offices/lab with 495 acres, presence of asbestos/lead paint/wetlands

Bldg. 1253
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220025
Status: Unutilized
Comment: 3835 sq. ft., needs repair, presence of asbestos/lead paint/volatile organic compounds, access requirements, most recent use—research lab

Bldg. 1255
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220026
Status: Unutilized
Comment: 576 sq. ft., needs repair, presence of lead paint/volatile organic compounds, access requirement, most recent use—power station

Bldg. 1261
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220027
Status: Unutilized
Comment: 3835 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—research lab

Bldg. 1263
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220028
Status: Unutilized
Comment: 576 sq. ft. needs repair, presence of lead paint, most recent use—power station

Bldgs. 1266, 1269
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220029
Status: Unutilized
Comment: 3730/3865 sq. ft., need repairs, presence of asbestos/lead paint, most recent use—research lab

Bldg. 1271
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220030
Status: Unutilized
Comment: 1152 sq. ft., needs repair, presence of lead paint, most recent use—power station

Bldg. 1273
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220031
Status: Unutilized
Comment: 87 sq. ft., presence of asbestos, most recent use—sewage pump station

Bldg. 1277
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220032
Status: Unutilized
Comment: 3865 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—research lab

Bldg. 1279
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220033
Status: Unutilized
Comment: 1152 sq. ft., needs repair, presence of lead paint, most recent use—power station

Bldg. 1285
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220034
Status: Unutilized
Comment: 4690 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—research lab

Bldg. 1287
Verona Test Annex
Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18200220035
Status: Unutilized
Comment: 1152 sq. ft., needs repair, presence of lead paint, most recent use—power station

Washington

22 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420001
Status: Unutilized
Comment: 1625 sq. ft., possible asbestos/lead paint, most recent use—residential

Bldg. 404/Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420002
Status: Unutilized
Comment: 1996 sq. ft., possible asbestos/lead paint, most recent use—residential

11 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420003
Status: Unutilized
Comment: 2134 sq. ft., possible asbestos/lead paint, most recent use—residential

Bldg. 297/Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420004
Status: Unutilized
Comment: 1425 sq. ft., possible asbestos/lead paint, most recent use—residential

9 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420005
Status: Unutilized
Comment: 1620 sq. ft., possible asbestos/lead paint, most recent use—residential

22 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420006
Status: Unutilized
Comment: 2850 sq. ft., possible asbestos/lead paint, most recent use—residential

51 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420007
Status: Unutilized
Comment: 2574 sq. ft., possible asbestos/lead paint, most recent use—residential

Bldg. 402/Geiger Heights
Fairchild AFB
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420008
Status: Unutilized
Comment: 2451 sq. ft., possible asbestos/lead paint, most recent use—residential

5 Bldgs./Geiger Heights
Fairchild AFB
222, 224, 271, 295, 260

Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420009
Status: Unutilized
Comment: 3043 sq. ft., possible asbestos/lead paint, most recent use—residential

5 Bldgs./Geiger Heights
Fairchild AFB
102, 183, 118, 136, 113
Spokane WA 99224–
Landholding Agency: Air Force
Property Number: 18200420010
Status: Unutilized
Comment: 2599 sq. ft., possible asbestos/lead paint, most recent use—residential

Land (by State)

South Dakota

Tract 133
Ellsworth AFB
Box Elder Co: Pennington SD 57706–
Landholding Agency: Air Force
Property Number: 18200310004
Status: Unutilized
Comment: 53.23 acres

Tract 67
Ellsworth AFB
Box Elder Co: Pennington SD 57706–
Landholding Agency: Air Force
Property Number: 18200310005
Status: Unutilized
Comment: 121 acres, bentonite layer in soil, causes movement

Unsuitable Properties

Buildings (by State)

Alaska

Bldg. 15532
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200220001
Status: Unutilized
Reasons: Within airport runway clear zone; Secured Area

Bldg. 8354
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200240001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 11827
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200240002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 7537
Elmendorf Air Force Base
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200320001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9340
Elmendorf Air Force Base
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200320002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9342
Elmendorf Air Force Base
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200320003
Status: Unutilized
Reason: Extensive deterioration

Bldg. 12737
Elmendorf Air Force Base
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200320004
Status: Unutilized
Reason: Extensive deterioration

Bldg. 13251
Elmendorf Air Force Base
Elemendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200320005
Status: Unutilized
Reason: Extensive deterioration

Bldg. 29453
Elmendorf Air Force Base
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200320006
Status: Unutilized
Reason: Extensive deterioration

Bldg. 6527
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200330001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 12739
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200330002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4314
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200340001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 6527
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200340002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 7541
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200340003
Status: Unutilized
Reason: Extensive deterioration

Bldg. 8111
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200340004
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9489
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200340005
Status: Unutilized
Reason: Extensive deterioration

Bldg. 10547
Elmendorf AFB
Elmendorf AFB AK 99506–
Landholding Agency: Air Force
Property Number: 18200340006
Status: Unutilized
Reason: Extensive deterioration

California

Bldg. 30101
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210019
Status: Unutilized
Reason: Secured Area

Bldgs. 30131, 30709
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210020
Status: Unutilized
Reason: Secured Area

Bldgs. 30137, 30701
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210021
Status: Unutilized
Reason: Secured Area

Bldg. 30235
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Property Number: 18200210022
Status: Unutilized
Reason: Secured Area

Bldgs. 30238, 30446
Vandenberg AFB
Vandenberg Co: Santa Barbara CA
Landholding Agency: Air Force
Property Number: 18200210023
Status: Unutilized
Reason: Secured Area

Bldgs. 30239, 30444
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210024
Status: Unutilized
Reason: Secured Area

Bldgs. 30306, 30335, 30782
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210025
Status: Unutilized
Reason: Secured Area

Bldgs. 30339, 30340, 30341
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210026
Status: Unutilized
Reason: Secured Area

Bldg. 30447
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210027
Status: Unutilized
Reason: Secured Area

Bldg. 30524
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210028
Status: Unutilized
Reason: Secured Area

Bldg. 30647
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210029
Status: Unutilized
Reason: Secured Area

Bldgs. 30710, 30717
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210030
Status: Unutilized
Reason: Secured Area

Bldgs. 30718, 30607
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210031
Status: Unutilized
Reason: Secured Area

Bldgs. 30722, 30735
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210032
Status: Unutilized
Reason: Secured Area

Bldgs. 30775, 30777
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210033
Status: Unutilized
Reason: Secured Area

Bldgs. 30830, 30837
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210034
Status: Unutilized
Reason: Secured Area

Bldgs. 30839, 30844, 30854
Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200210035
Status: Unutilized
Reason: Secured Area

Bldg. 06522
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200330004
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

23 Bldgs.
Edwards AFB
Edwards AFB Co: Kern CA 93524–
Location: 7022–7037, 7039–7040, 7042, 7044, 7046–7048
Landholding Agency: Air Force
Property Number: 18200410002
Status: Unutilized
Reason: Secured Area

Bldg. 98
Vandenberg AFB
Oak Mountain Annex
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430001
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 488
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430002
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 535
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430003
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldgs. 734, 738–739
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430004
Status: Unutilized
Reason: Secured Area

Bldg. 946
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430005
Status: Unutilized
Reason: Secured Area

Bldgs. 1200, 1201
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430006
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 1205
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200430007
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

36 Bldgs.
Edwards AFB
Area F Housing
Kern Co: CA 93524–
Landholding Agency: Air Force
Property Number: 18200430008
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldgs. 7105, 7106
Edwards AFB
Area C
Kern Co: CA 93524–
Landholding Agency: Air Force
Property Number: 18200430009
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

28 Bldgs.
Edwards AFB
Area C
Kern Co: CA 93524–
Landholding Agency: Air Force
Property Number: 18200440001
Status: Excess
Reasons: Secured Area; Extensive deterioration

Bldg. 719
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510001
Status: Unutilized
Reason: Secured Area

Bldg. 725
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510002
Status: Unutilized
Reason: Secured Area

Bldg. 729
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510003
Status: Unutilized
Reason: Secured Area

Bldg. 734
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510004
Status: Unutilized
Reason: Secured Area

Bldg. 737
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510005
Status: Unutilized
Reason: Secured Area

Bldg. 742
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510006
Status: Unutilized
Reason: Secured Area

Bldg. 746
Vandenberg AFB
Lompoc Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200510007
Status: Unutilized
Reason: Secured Area

87 Buildings
Edwards AFB
Area ''F''
Kern Co: CA 93524–
Landholding Agency: Air Force
Property Number: 18200510008
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

7 Buildings
Edwards AFB
Area ''C''
Kern Co: CA 93524–
Landholding Agency: Air Force
Property Number: 18200510009
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Colorado

Bldg. 105
Peterson AFB
Colorado Springs Co: El Paso CO 80914–
Landholding Agency: Air Force
Property Number: 18200310003
Status: Underutilized
Reasons: Within airport runway clear zone; Secured Area

Bldg. 106
Peterson AFB
Colorado Springs Co: El Paso CO 80914–8090
Landholding Agency: Air Force
Property Number: 18200340010
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Within airport runway clear zone; Secured Area

Bldg. 107
Peterson AFB
Colorado Springs Co: El Paso CO 80914–8090
Landholding Agency: Air Force
Property Number: 18200340011
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Within airport runway clear zone; Secured Area

Bldg. 108
Peterson AFB
Colorado Springs Co: El Paso CO 80914–8090
Landholding Agency: Air Force
Property Number: 18200340012
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Within airport runway clear zone; Secured Area

Bldg. 1166
Peterson AFB
Colorado Springs Co: El Paso CO 80914–1630
Landholding Agency: Air Force
Property Number: 18200410003
Status: Underutilized
Reason: Secured Area

Florida

Bldg. 1345
Cape Canaveral AFS
Cape Canaveral Co: Brevard FL 32907–
Landholding Agency: Air Force
Property Number: 18200210016
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 55122
Cape Canaveral AFS
Cape Canaveral Co: Brevard FL 32907–
Landholding Agency: Air Force
Property Number: 18200210018
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 1705
Cape Canaveral AFS
Cape Canaveral Co: Brevard FL 32907–
Landholding Agency: Air Force
Property Number: 18200330005
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area; Extensive deterioration

Bldg. 70500 V.I.B.
Cape Canaveral
Brevard Co: FL 32907–
Landholding Agency: Air Force
Property Number: 18200510010
Status: Underutilized
Reason: Secured Area

Georgia

Bldg. 340
Savannah IAP
Garden City Co: Chatham GA 31418–
Landholding Agency: Air Force
Property Number: 18200430010
Status: Excess
Reason: Secured Area

Bldg. B1412
International Airport
Garden City Co: Chatham GA 31408–
Landholding Agency: Air Force
Property Number: 18200440002
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Hawaii

Bldg. 503
Bellows AFS
Bellows AFS HI
Landholding Agency: Air Force
Property Number: 18200330007
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 907
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330009
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 954
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330010
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 980
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330011
Status: Unutilized
Reason: Secured Area

Bldg. 992
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330012
Status: Unutilized
Reason: Secured Area

Bldg. 1035
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330013
Status: Unutilized
Reason: Secured Area

Bldgs. 1709, 1721
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330014
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 2041
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330015
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 2044
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330016
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 2104
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330017
Status: Unutilized
Reason: Secured Area

Bldg. 3018
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330018
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 3202
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330019
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area; Extensive deterioration

Bldgs. 3338, 3356
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330020
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 3432
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330021
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 3375
Hickam AFB
Hickam AFB HI
Landholding Agency: Air Force
Property Number: 18200330031
Status: Unutilized
Reason: Secured Area

Bldgs. 743, 1002, 6100
Johnston Atoll Airfield
Honolulu HI
Landholding Agency: Air Force
Property Number: 18200340013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Within airport runway clear zone; Extensive deterioration

Bldgs. 1091, 1092
Hickam AFB
Hickam Co: HI

Landholding Agency: Air Force
Property Number: 18200440003
Status: Unutilized
Reasons: Within airport runway clear zone; Secured Area; Extensive deterioration

Bldg. 1864
Hickam AFB
Hickam Co: HI
Landholding Agency: Air Force
Property Number: 18200440004
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 2074
Hickam AFB
Hickam Co: HI
Landholding Agency: Air Force
Property Number: 18200440005
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 2174
Hickam AFB
Hickam Co: HI
Landholding Agency: Air Force
Property Number: 18200440006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 3426, 3431
Hickam AFB
Hickam Co: HI
Landholding Agency: Air Force
Property Number: 18200440007
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldgs. 12, 14
Kokee AFB
Kokee Co: HI
Landholding Agency: Air Force
Property Number: 18200440008
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldgs. 1091, 1092
Hickam AFB
Hickam Co: HI
Landholding Agency: Air Force
Property Number: 18200510011
Status: Unutilized
Reasons: Within airport runway clear zone; Secured Area; Extensive deterioration

Bldg. 1864
Hickam AFB
Hickam Co: HI
Landholding Agency: Air Force
Property Number: 18200510012
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 2074
Hickam AFB
Hickam Co: HI
Landholding Agency: Air Force
Property Number: 18200510013
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 2174
Hickam AFB
Hickam Co: HI
Landholding Agency: Air Force
Property Number: 18200510014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 3426
Hickam AFB
Hickam Co: HI
Landholding Agency: Air Force
Property Number: 18200510015
Status: Unutilized
Reasons: Floodway; Secured Area; Extensive deterioration

Bldg. 3431
Hickam AFB
Hickam Co: HI
Landholding Agency: Air Force
Property Number: 18200510016
Status: Unutilized
Reasons: Floodway; Secured Area; Extensive deterioration

Bldgs. 12, 14
Kokee AFB
Kokee Co: HI
Landholding Agency: Air Force
Property Number: 18200510017
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Idaho

Bldg. 1328
Mountain Home AFB
Mountain Home Co: Elmore ID 83648–
Landholding Agency: Air Force
Property Number: 18200240003
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Montana

Bldg. 547
Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 18200240004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 1084
Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 18200240006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 2025
Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 18200240007
Status: Unutilized
Reason: Secured Area

Bldg. 1700
Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 18200330022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area; Extensive deterioration

New Mexico

Bldg. 14170
Cannon AFB
Cannon AFB Co: Curry NM
Landholding Agency: Air Force
Property Number: 18200230010
Status: Unutilized
Reason: Secured Area

Bldg. 14240
Cannon AFB
Cannon AFB NM
Landholding Agency: Air Force
Property Number: 18200230011
Status: Unutilized
Reason: Secured Area

Bldg. 14270
Cannon AFB
Cannon AFB Co: Curry NM
Landholding Agency: Air Force
Property Number: 18200230012
Status: Unutilized
Reason: Secured Area

Bldg. 14330
Cannon AFB
Cannon AFB Co: Curry NM
Landholding Agency: Air Force
Property Number: 18200230013
Status: Unutilized
Reason: Secured Area

Bldg. 14350
Cannon AFB
Cannon AFB Co: Curry NM
Landholding Agency: Air Force
Property Number: 18200230014
Status: Unutilized
Reason: Secured Area

Bldg. 14370
Cannon AFB
Cannon AFB Co: Curry NM
Landholding Agency: Air Force
Property Number: 18200230015
Status: Unutilized
Reason: Secured Area

Bldg. 14390
Cannon AFB
Cannon AFB Co: Curry NM
Landholding Agency: Air Force
Property Number: 18200230016
Status: Unutilized
Reason: Secured Area

Bldg. 524
Holloman AFB
Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200330024
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 1076
Holloman AFB
Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200330025
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 1190
Holloman AFB
Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200330026
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 1264
Holloman AFB
Otero NM 88330–
Landholding Agency: Air Force

Property Number: 18200330027
Status: Unutilized
Reason: Secured Area

Bldg. 5001
Holloman AFB
Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200330028
Status: Unutilized
Reason: Secured Area

Bldg. 5012
Holloman AFB
Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200330029
Status: Unutilized
Reason: Secured Area

Bldg. 615
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340014
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 736
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340015
Status: Unutilized
Reason: Secured Area

Bldg. 1013
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340016
Status: Unutilized
Reason: Secured Area

Bldg. 20419
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340017
Status: Unutilized
Reason: Secured Area

Bldgs. 29014, 29016, 29017
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340018
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 30102
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340019
Status: Unutilized
Reason: Secured Area

Bldgs. 37532, 37534
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340020
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 57005
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340021
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldgs. 57006, 57013
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5663
Landholding Agency: Air Force
Property Number: 18200340022
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldgs. 10, 11
Holloman AFB
Holloman Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200410005
Status: Unutilized
Reason: Secured Area

New York

6 UG Missle Silos
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220003
Status: Unutilized
Reason: Extensive deterioration

Bldg. 100
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220004
Status: Unutilized
Reason: Extensive deterioration

Bldg. 101
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220005
Status: Unutilized
Reason: Extensive deterioration

Bldg. 104
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220006
Status: Unutilized
Reason: Extensive deterioration

Bldg. 107
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220007
Status: Unutilized
Reason: Extensive deterioration

Bldg. 109
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220008
Status: Unutilized
Reason: Extensive deterioration

Bldg. 116
Youngstown Test Annex
Porter Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200220009
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 735, 740
Hancock Field
Syracuse Co: Onondaga NY 13211–
Landholding Agency: Air Force
Property Number: 18200440009
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 762, 778
Hancock Field
Syracuse Co: Onondaga NY 13211–
Landholding Agency: Air Force
Property Number: 18200440010
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

North Carolina

Bldgs. 20, 25
Charlotte/Douglas IAP
Charlotte Co: Mecklenburg NC 28208–
Landholding Agency: Air Force
Property Number: 18200440011
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Pennsylvania

Bldgs. 201, 203, 204
Pittsburgh IAP
Coraopolis Co: Allegheny PA 15108–
Landholding Agency: Air Force
Property Number: 18200440012
Status: Excess
Reason: Secured Area

Bldgs. 208, 210, 211
Pittsburgh IAP
Coraopolis Co: Allegheny PA 15108–
Landholding Agency: Air Force
Property Number: 18200440013
Status: Excess
Reason: Secured Area

Rhode Island

Facilities 9, 10
Quonset State Airport
N. Kingstown Co: RI 02852–
Landholding Agency: Air Force
Property Number: 18200440014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Facility 13
Quonset State Airport
N. Kingstown Co: RI 02852–
Landholding Agency: Air Force
Property Number: 18200440015
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Within airport runway clear zone; Secured Area

Facility 25
Quonset State Airport
N. Kingstown Co: RI 02852–
Landholding Agency: Air Force
Property Number: 18200440016
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

South Carolina

Bldg. 264
McEntire Air Natl Station
Eastover Co: Richland SC 29044–
Landholding Agency: Air Force
Property Number: 18200440017
Status: Excess
Reason: Secured Area

8 Buildings
Shaw AFB
Sumter Co: SC 29152–5123

Landholding Agency: Air Force
Property Number: 18200510018
Status: Underutilized
Reason: Secured Area

39 Buildings
Shaw AFB
Sumter Co: SC 29152–5123
Landholding Agency: Air Force
Property Number: 18200510019
Status: Underutilized
Reason: Secured Area

139 Buildings
Shaw AFB
Sumter Co: SC 29152–5123
Landholding Agency: Air Force
Property Number: 18200510020
Status: Underutilized
Reason: Secured Area

South Dakota

Bldg. 6000
Ellsworth AFB
Meade Co: SD 57706–
Landholding Agency: Air Force
Property Number: 18200510021
Status: Underutilized
Reason: Secured Area

Tennessee

Bldgs. 104, 105
Alcoa ANG Station
Louisville Co: Blount TN 37777–
Landholding Agency: Air Force
Property Number: 18200440018
Status: Unutilized
Reason: Secured Area

Bldg. 106
Alcoa ANG Station
Louisville Co: Blount TN 37777–
Landholding Agency: Air Force
Property Number: 18200440019
Status: Unutilized
Reason: Secured Area

Bldgs. 109, 110
Alcoa ANG Station
Louisville Co: Blount TN 37777–
Landholding Agency: Air Force
Property Number: 18200440020
Status: Unutilized
Reason: Secured Area

Bldg. 111
Alcoa ANG Station
Louisville Co: Blount TN 37777–
Landholding Agency: Air Force
Property Number: 18200440021
Status: Unutilized
Reason: Secured Area

Texas

Bldg. 1307
Hensley Field ANG Station
Dallas TX 75211–9820
Landholding Agency: Air Force
Property Number: 18200330030
Status: Excess
Reason: Extensive deterioration

Virginia

Bayview Tower
Langley AFB
Langley AFB VA 23665–
Landholding Agency: Air Force
Property Number: 18200240012
Status: Unutilized
Reason: Floodway

Bldg. 943/Storage Units
Langley AFB
Langley AFB VA 23665–
Landholding Agency: Air Force
Property Number: 18200410006
Status: Unutilized
Reason: Secured Area

Wyoming

Bldg. 360
F. E. Warren AFB
Cheyenne Co: Laramie WY 82005–5000
Landholding Agency: Air Force
Property Number: 18200240013
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 354
F. E. Warren AFB
Laramie Co: WY 82005–
Landholding Agency: Air Force
Property Number: 18200510022
Status: Underutilized
Reason: Secured Area

[FR Doc. 05–3478 Filed 2–24–05; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Amended Environmental Assessment and Receipt of an Application for Renewal and Amendment of an Incidental Take Permit for Beach Driving and Related Activities, in Volusia County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The County of Volusia (Applicant) seeks to renew and amend incidental take permit (ITP) TE811813. The Fish and Wildlife Service (Service) issued this ITP on November 22, 1996, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The ITP authorizes take of loggerhead (*Caretta caretta*), green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), Kemp's ridley (*Lepidochelys kempii*), and hawksbill (*Eretmochelys imbricata*) sea turtles incidental to the Applicant's regulation of vehicular traffic on 35.6 linear miles of beaches under its jurisdiction in Volusia County, Florida. Among the proposed amendments to the ITP, the Applicant requests incidental take authority for the piping plover (*Charadrius melodus*).

The mitigation and minimization measures outlined in the Applicant's amended Habitat Conservation Plan (HCP) to address the effects of vehicle beach access and related activities on federally listed species are described further in the **SUPPLEMENTARY INFORMATION** section below. The Service announces the availability of the HCP and our Environmental Assessment (EA) for the incidental take renewal and amendment application. Copies of the HCP and EA may be obtained by making a request to the Regional Office (*see* **ADDRESSES**). Requests must be in writing to be processed. This notice is provided pursuant to section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

DATES: Written comments on the permit application, supporting documentation, EA and HCP should be sent to the Service's Regional Office (*see* **ADDRESSES**) and should be received on or before April 26, 2005.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain copies by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216–0912. Written data or comments concerning the application, supporting documentation, EA, or HCP should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Comments must be submitted in writing to be adequately considered in the Service's decision-making process. Please reference permit number TE811813 in such comments, or in requests for the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional Permit Coordinator, (*see* **ADDRESSES** above), telephone: 404/679–7313; or Mr. Michael Jennings, Fish and Wildlife Biologist, Jacksonville Field Office, (*see* **ADDRESSES** above), telephone: 904/232–2580, extension 113.

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE811813 in such comments. You may mail comments to the Service's Regional Office (*see* **ADDRESSES**). You may also comment via the Internet to *david_dell@fws.gov*. Please submit comments over the Internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message,

contact us directly at either of the telephone numbers listed below (*see* **FOR FURTHER INFORMATION CONTACT**). Finally, you may hand deliver comments to either of the Service offices listed below (*see* **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Piping plovers are small, migratory shorebirds that breed in central and eastern Canada and the Great Plains and eastern United States. They are typically found on low energy coastal beaches, river sandbars, and sparsely vegetated lake shorelines where they feed on a variety of invertebrates under the soil surface. The breeding season begins with the arrival of mature birds as early as mid-March and fledging of young can last through July. At the conclusion of the breeding season, piping plovers migrate to wintering areas that include south Atlantic, Gulf coast, and Caribbean beaches. Numbers of piping plovers are estimated periodically based on surveys conducted within three geographically broad breeding areas: Atlantic Coast, Northern Great Plains, and Great Lakes populations. Recent surveys indicate that the numbers of plovers in the Northern Great Plains breeding population are in decline. Within the Great Lakes population, numbers are low and have not substantially changed since the bird was placed on the endangered species list. Overall, numbers of plovers in the Atlantic Coast breeding population are increasing, but decreases have been noted in several localities within this population.

Sea turtles spend the majority of their lives in the sea, and most can be found in warm tropical and subtropical waters. The leatherback is an exception, traveling as far north as Labrador, Canada, and Alaska and as far south as the Cape of Good Hope in Africa and southern New Zealand. Adult green sea turtles are herbivores, while all other sea turtles are carnivores. During the nesting season, which in the continental United States occurs between March and October, adult female sea turtles come ashore to lay their eggs. Females excavate pits using their front and rear flippers where they lay 50 to 160 eggs about the size of a ping-pong ball. The pits are then covered by sand and the females return to the sea. Eggs incubate for about 50 to 70 days. Upon hatching, young sea turtles make their way up through the sand and immediately travel to the ocean. The most recent report to the United States Congress lists the status of sea turtles as follows: Kemp's ridley and green sea turtles populations are increasing, hawksbill and leatherback sea turtle populations are declining, and the status of the loggerhead sea turtle population is uncertain.

The original ITP authorized take of loggerhead, green, leatherback, Kemp's ridley, and hawksbill sea turtles in Volusia County, Florida, for a period of five (5) years. The Applicant proposes to renew the ITP, with modifications, for a period of twenty-five (25) years. In this renewal, the Applicant also requests incidental take of piping plovers. The proposed taking of these federally listed species is incidental to otherwise legal vehicular access, and access related activities, on the beaches of Volusia County, pursuant to Volusia Home Rule Charter (Section 205, Laws of Florida Special Acts, Chapter 70–966, as amended). The beaches under the jurisdiction of the Applicant encompass 35.6 linear miles.

The Service issued the original ITP on November 22, 1996, pursuant to section 10(a)(1)(B) of the Act. The original ITP has been administratively amended or modified ten times since the original issuance date. The Applicant notified the Service on October 19, 2001, of its desire to renew the existing ITP, but the Service was unable to take final action on the Applicant's renewal request prior to the expiration date of the original ITP, which was on December 31, 2001. Therefore, pursuant to 50 CFR 13.22(c), the Applicant has continued activities previously permitted under the original ITP, as amended and modified, while the Service considers and reviews the renewal request. This public notice is a required part of the Service's review of the renewal request.

The Applicant seeks renewal of its ITP to authorize take of loggerhead, green, leatherback, Kemp's ridley, and hawksbill sea turtles. Although not covered by the original ITP, the Applicant has requested authorization to take piping plovers. In its previous HCP, the Applicant determined, and the Service concurred, that piping plovers likely would not be taken incidentally to the authorized activities. Therefore, authorization to take piping plovers was not requested at that time. Since submission of the original HCP and issuance of the ITP, however, critical habitat for the piping plover has been designated in the vicinity of Ponce de Leon Inlet, Volusia County. Portions of piping plover designated critical habitat fall within beach areas the County has proposed be accessible to vehicular traffic. Southeastern beach mice (*Peromyscus polionotus niveiventris*) have also been found in one additional area of coastal Volusia County since submission of the original HCP and issuance of the ITP. The Applicant has determined, however, that ongoing and planned future actions related to vehicular beach access and access related activities as specified in the revised HCP are not expected to take southeastern beach mice. Consequently, authorization for take of this species has not been requested.

In its original ITP application and HCP, the Applicant identified five general beach driving activities that could lead to take of sea turtles. These actions included: (1) Public safety operations, such as those provided by lifeguards, emergency vehicles, and law enforcement vehicles; (2) public vehicular access, including the potential for shuttle service in certain areas; (3) routine beach maintenance and sanitation; (4) access ramp maintenance; and (5) access for concessionaires, including motorized rental vehicles such as all-terrain vehicles and golf carts.

In addition to the beach driving activities addressed in the original HCP, the Applicant has identified other beach access activities under the control of Volusia County that were not addressed in the original HCP that may result in take of sea turtles and piping plovers. These activities include: (1) Actions necessary to implement the terms and conditions of the ITP; (2) planned coastal construction projects properly permitted by local, State, and/or Federal regulatory agencies, such as seawall repair, beach nourishment, dune restoration, and removal of windblown sand, where no reasonable upland alternative exists; (3) additional scientific monitoring and studies; (4) emergency shoreline protection projects properly permitted by local, State, and/or Federal regulatory agencies; (5) non-routine beach maintenance and sanitation, such as removal of hazardous materials, removal of storm-generated

debris and/or obstacles that pose a public health or safety risk, and other atypical circumstances requiring beach access (*e.g.*, boat groundings, downed aircraft, etc.); and (6) routine beach cleaning.

Other substantive changes to the original HCP that are currently proposed by the Applicant include: (1) A reduction in the amount and type of biological data to be collected for monitoring; (2) a 200-foot expansion of public beach driving in the existing HCP Region 3 Transitional Beach Driving Area; (3) the removal of the light management program as a formal component of HCP mitigation; (4) the addition of funding and operation of a sea turtle rehabilitation facility as a formal component of HCP mitigation; (5) the implementation of an expanded county-wide sea turtle public awareness and education program; (6) the construction and operation of a sea bird rehabilitation facility at the Marine Science Center in the vicinity of Ponce de Leon Inlet; (7) the implementation of annual piping plover surveys within designated critical habitat; and (8) the restoration of 400 linear feet of dune habitat.

Except for the changes identified above, the Applicant proposes to continue implementation of all minimization and mitigation measures outlined in the original HCP. Generally, these measures include: (1) Year-round closure of 18.92 miles of beach to public vehicular access; (2) establishment of a year-round 30-foot conservation zone (*i.e.*, no public vehicle entry) and daytime only driving on 11.65 miles of beach; (3) establishment of a year-round 15-foot conservation zone and daytime only driving on 5.04 miles of beach; (4) annual training of County beach management staff; (5) implementation of a public education program; and (6) implementation of a vehicle rut removal program.

The Service has made a preliminary determination that renewal of the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP.

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the issuance criteria requirements of section 10(a)(1)(B) of the Act. By conducting an intra-Service section 7 consultation the Service will also evaluate whether issuance of the section 10(a)(1)(B) ITP would comply with section 7 of the Act. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP for the five species of sea turtle and the piping plover.

Dated: January 31, 2005.

Cynthia K. Dohner,

Acting Regional Director, Southeast Region.

[FR Doc. 05–3647 Filed 2–24–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Meeting of the Trinity Adaptive Management Working Group

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting cancellation.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces the cancellation of a meeting of the Trinity Adaptive Management Working Group (TAMWG). The TAMWG affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River restoration efforts to the Trinity Management Council. The meeting was scheduled to be held March 1, 2005 at the Veteran's Memorial Hall, 101 Memorial Lane, Weaverville, CA 96001. This meeting will be rescheduled at a later date.

FOR FURTHER INFORMATION CONTACT: Mike Long of the U.S. Fish and Wildlife Service, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, California 95521, (707) 822–7201. Mike Long is the committee's Designated Federal Official.

SUPPLEMENTARY INFORMATION: For background information and questions regarding the Trinity River Restoration Program, please contact Douglas Schleusner, Executive Director, Trinity River Restoration Program, P.O. Box 1300, 1313 South Main Street, Weaverville, California 96093, (530) 623–1800.

Dated: February 22, 2005.

Ken McDermond,

Acting Manager, California/Nevada Operations Office, Sacramento, CA.

[FR Doc. 05–3757 Filed 2–24–05; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1320–FL; HAG–05–0010; WAOR–60818]

Notice of Invitation: Coal Exploration License Application WAOR 60818

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of invitation.

SUMMARY: Members of the public are invited to participate with Transalta Centralia Mining LLC in its program for the exploration of coal deposits owned by the United States of America in Lewis County, Washington.

ADDRESSES: Comments may be sent to the Bureau of Land Management, Oregon State Office, P.O. Box 2965, Portland, OR 97208.

Documents may be viewed at the Bureau of Land Management, Oregon State Office at 333 SW. 1st Avenue, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Denny Seymour, Mining Engineer, at (503) 808–6041 or Tina Seibert, Land Law Examiner, at (503) 808–6166, Bureau of Land Management, Oregon State Office.

SUPPLEMENTARY INFORMATION: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended, by section 4 of the Federal Coal Leasing Amendments Act of 1976, 30 U.S.C. 201(b) (2000), all interested parties are invited to participate with Transalta Centralia Mining LLC in its program for the exploration of coal deposits owned by the United States of America and is described as follows:

Willamette Meridian,

T. 14 N., R. 10 W.,
Sec. 8, E½SW¼.

The area described contains 80.00 acres in Lewis County.

Any party electing to participate in this exploration program shall notify, in writing, both the Oregon/Washington State Director, Bureau of Land Management at the address above and the Transalta Centralia Mining LLC, at 913 Big Hanaford Road, Centralia, Washington 98531. Such written notice must refer to serial number WAOR–60818 and be received no later than March 28, 2005 or 10 calendar days after the last publication of this notice in the Centralia Chronicle newspaper, whichever is later. This notice will be published once a week for two (2) consecutive weeks in the newspaper.

The proposed exploration program is fully described and will be conducted

pursuant to an exploration plan to be approved by the Bureau of Land Management. The exploration plan, as submitted by Transalta Centralia Mining LLC, is available for public inspection at the Bureau of Land Management office at the street address above during regular business hours (8:30 a.m. to 4 p.m.), Monday through Friday.

This notice is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: October 26, 2004.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 05–3629 Filed 2–24–05; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–060–3809]

Notice of Availability: Pipeline/South Pipeline Pit Expansion Project Final Supplemental Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

Cooperating Agency: Nevada Department of Wildlife.

ACTION: Notice of availability of the Pipeline/South Pipeline Pit Expansion Project final supplemental environmental impact statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and the Council on Environmental Quality Regulations found at 40 CFR parts 1500–1508, notice is hereby given of the availability of the Final Supplemental Environmental Impact Statement (FSEIS) for comment, prepared by the Battle Mountain Field Office of the Bureau of Land Management (BLM). The FSEIS analyzes the environmental effects of the Proposed Action, Complete Backfill Alternative, No Backfill Alternative, and the No Action Alternative.

DATES: Written comments must be post-marked or otherwise delivered by 4:30 p.m. (Pacific Time Zone) by no later than 30 days after the date that the Environmental Protection Agency publishes this Notice in the **Federal Register**. A limited number of copies of the FSEIS may be obtained at the Battle Mountain BLM Field Office.

ADDRESSES: Written comments should be addressed to the Bureau of Land Management, Attn: Pam Jarnecke, Battle Mountain Field Office, 50 Bastian Road, Battle Mountain, Nevada 89820.

Comments, including names and addresses or respondents, will be available for public review at the above address during regular business hours, Monday–Friday, excluding holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. However, we will not consider anonymous comments. Such requests to withhold your name or street address from public review will be honored to the extent allowed by law. All submissions from organizations or business, and from individuals identifying themselves as representatives of officials of organizations or businesses, will be available for public inspection in their entirety. The FSEIS is available at the Battle Mountain Field Office at the above address.

FOR FURTHER INFORMATION CONTACT: Pam Jarnecke, Battle Mountain BLM at (775) 635–4144.

SUPPLEMENTARY INFORMATION: Cortez Gold Mines (CGM) proposes to expand its current gold mining operations 30 miles southeast of Battle Mountain, Nevada. The proposed Pit Expansion Project would not result in an increase in surface disturbance beyond the 7,676 acres previously approved. Actions associated with the Project would consist of the following: expand the South Pipeline open pit to the east, southeast, and southwest; increase the depth of the Pipeline/South Pipeline open pit; use resulting waste rock as backfill into portions of the Pipeline/South Pipeline open pit; increase the height of the approved South Area Heap Leach pad from a height of 250 feet to 300 feet above ground surface; increase the approved Area 28 tailings and heap leach facility height from 250 feet to 300 feet above ground surface; construct an additional waste rock dump on the backfilled portion of the open pit; construct the 125-acre Gap waste rock dump; increase the approved mining rate from an average 150,000 tons per day (tpd) with a maximum of 250,000 tpd to an average of 350,000 tpd with a maximum of 500,000 tpd; translocate waste rock within the Pipeline/South Pipeline open pit, including portions of the expanded open pit; conduct certain activities at the approved Cortez facility without modification to the facility; install ground water extraction wells (ground water extraction from the existing and planned wells would not exceed the approved annualized average rate of 34,500 gallons per minute); close the existing Gold Acres heap leach facility and move the ore to the South Area heap leach facility for further processing; and continue management of mine dewatering as outlined in the Pipeline Infiltration Plan and South Pipeline EIS. The proposed additional development of the South Pipeline ore deposit would provide up to seven additional years of mining and processing. The combined life of the Pipeline Project, the South Pipeline Project and the Proposed Action would be up to 25 years.

Gerald M. Smith,

Field Manager.

[FR Doc. 05–3628 Filed 2–24–05; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–1990–EX]

Notice of Intent To Prepare an Environmental Impact Statement (EIS) and To Initiate the Public Scoping Process

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to section 102(2) (c) of the National Environmental PolicyAct (NEPA) of 1969, and the Federal Land Policy and Management Act (FLPMA) of 1976, notice is hereby given that the Winnemucca Field Office of the Bureau of Land Management (BLM) is initiating the preparation of an EIS to analyze a proposed silver and gold mine expansion, closure, and reclamation plan as proposed by Coeur Rochester, Inc. (CRI), in Plan of Operations Amendment 7 for the Coeur Rochester Mine, located in Pershing County, Nevada.

DATES: The public scoping period will commence with the publication of this notice and will end 30 days after publication. Public meetings will be announced through the local news media, and a BLM Web site at least 15 days prior to the event. Comments should be received on or before the end of the scoping period at the address listed below.

ADDRESSES: Written comments should be sent to the Winnemucca Field Office, Bureau of Land Management, 5100 East Winnemucca Blvd., Winnemucca, Nevada 89445, via fax at (775) 623–1503 or online at: *http://www.nv.blm.gov/winnemucca*. Comments, including names and addresses of respondents will be available for public review at the

BLM WFO, during regular hours 7:30 a.m.–4:30 p.m., Monday–Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent of the law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Lynn Harrison or Sharlet Berentsen, telephone (775) 623–1500.

SUPPLEMENTARY INFORMATION: Coeur Rochester, Inc., operates the Rochester Mine located on private and public lands in the south-central portion of the Humboldt Range in northwestern Nevada. CRI also operates a satellite deposit known as the Nevada Packard Mine located immediately southwest of the Rochester Mine. The original mine plan plus numerous modifications were analyzed in various environmental assessments. The proposal would include 103 acres of new disturbance and 1,817.4 acres of reclamation. Currently, the mine is approved to disturb approximately 1,704 acres. In November 2003, Coeur Rochester, Inc., submitted a Plan of Operation modification referred to as Amendment 7. As proposed in Amendment 7, the plan would disturb an additional 103 acres and would include expansion and deepening of the existing Rochester Open Pit, a heap leach pad facility 30-feet height increase, alteration of existing haul roads and a new heap leach pad facility. Amendment 7 also included proposed closure and reclamation activities, including potential for a pit lake, heap leach pad closure, waste rock facility closure, re-evaluation of an existing waste rock management plan, and final closure descriptions for all other facilities.

Dated: January 11, 2005.

Vicki L. Wood,

Acting Field Manager.

[FR Doc. 05–3630 Filed 2–24–05; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–EU; N–77410]

Notice of Realty Action: Segregation Terminated, Direct Sale of Public Lands, Washoe County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: A five acre parcel of public land near the town of Gerlach, in Washoe County, Nevada, has been examined and found suitable for sale utilizing direct sale procedures.

DATES: Comments must be submitted by April 11, 2005.

FOR FURTHER INFORMATION CONTACT: M. Lynn Trost , Realty Specialist, at the Bureau of Land Management, Winnemucca Field Station, 5100 E. Winnemucca Blvd., Winnemucca, Nevada 89445, or call (775) 623–1500.

SUPPLEMENTARY INFORMATION: The following described public land has been found suitable for sale under Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1713). The parcel proposed for sale is described as follows:

T. 32 N., R. 23 E.,
Section 16: SW¼ NW¼ SW¼ NW¼ NW¼, W½ SW¼ SW¼ NW¼ NW¼, and NW¼ NW¼ NW¼ SW¼ NW¼.
Section 17: SE¼ NE¼ SE¼ NE¼ NE¼, E½ SE¼ SE¼ NE¼ NE¼, and NE¼ NE¼ NE¼ SE¼ NE¼.

The area described contains 5 acres. The parcel will be sold at no less than the appraised fair market value of $12,500.00.

These lands are being offered for direct sale, pursuant to 43 CFR 2711.3–3 (a)(1(2)), to the Gerlach General Improvement District of Gerlach, Nevada, the lands being an integral part of a project of public importance and speculative bidding would jeopardize a timely completion and economic viability of the project. The direct sale provides public land for the construction of a water facility to accommodate the town of Gerlach's potable water supply. The parcel currently houses the Water District's two water tanks and associated water transport pipelines, therefore the land is the best choice for the water facility.

The subject lands were segregated for exchange purposes on August 31, 2004, under serial number N–78918. The exchange segregation on the subject lands will be terminated and replaced with the segregation for sale described in this notice. The segregation for exchange purposes is being terminated in order to allow for sale.

The above-described lands are hereby classified for disposal in accordance with section 7 of the Taylor Grazing Act, 43 U.S.C. 315f, Act of June 28, 1934, as amended, and Executive Order 6910. The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States of America and its assigns, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And will be subject to the following:

1. Those rights for an electric transmission line which have been granted to Sierra Pacific Power Company by Right-of-way N76832, under the Act of October 21, 1976 (43 U.S.C. 1761) being 20 feet wide by approximately 420 feet long, located in T. 32 N., R. 23 E., Section 16: W½SW¼NW¼NW¼ and Section 17: E½SE¼NE¼NE¼.

2. Those rights for a water pipeline which have been granted to Union Pacific Railroad by Right-of-way CC–017565, under the Act of February 15, 1901 (31 Stat. 790; 43 U.S.C. 959), being 50 feet wide by approximately 460 feet long, located in T. 32 N., R. 23 E., Section 16: SW¼NW¼NW¼, and Section 17: SE¼NE¼NE¼.

3. Those rights for public ingress and egress purposes which have been granted to Sierra Pacific Power Company by Right-of-way N–79126 under the Act of October 21, 1976 (43 U.S.C. 1761), for Godey's Gap Road, being 24 feet wide by 420 feet long located in T. 32 N., R. 23 E., Section 16: NW¼SW¼NW¼NW¼, and Section 17: E½SE¼NE¼NE¼.

4. Those rights for Federal geothermal lease N–77268 granted to Western Geothermal Partners, LLC, under the Geothermal Steam Act of 1970 (30 U.S.C. Section 1001 *et seq.*, as amended), and associated regulations 43 CFR part 3200, T. 32 N., R. 23 E., Section 16: SW¼NW¼NW¼.

5. Valid existing rights.

The purchaser/patentee, by accepting patent, agrees to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind arising from the past, present or future acts or omissions of the patentee, its employees, agents, contractors, or lessees, or any third-

party arising out of or in connection with the patentee's use and/or occupancy of the patented real property resulting in: (1) Violations of Federal, State, and local laws and regulations that are now or in the future become, applicable to the real property; (2) Judgments, claims or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into or under land, property, and other interests of the United States; (5) Other activities by which solids or hazardous substances or wastes, as defined by Federal and State environmental laws are generated, released, stored, used, or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the patented real property and may be enforced by the United States in a court of competent jurisdiction.

Federal law requires purchasers to be U.S. citizens 18 years of age or older; a corporation subject to the laws of any State or of the United States; a State, State instrumentality, or political subdivision authorized to hold property; or an entity including, but not limited to, associations or partnerships capable of holding property or interests therein under the laws of the State of Nevada. Certification of qualification, including citizenship or corporation or partnership, must accompany the sale deposit.

In order to determine the fair market value of the subject public lands through appraisal, certain assumptions have been made of the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this notice, the Bureau of Land Management (BLM) gives notice that these assumptions may not be endorsed or approved by units of local government. Furthermore, no warranty of any kind shall be given or implied by the United States as to the potential uses of the lands offered for sale, and conveyance of the subject lands will not be on a contingency basis. It is the buyer's responsibility to be aware of all applicable local government policies and regulations that would affect the subject lands. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. The purchaser will have 30 days from the date of receiving the sale offer to accept the offer and to submit a deposit of 30 percent of the purchase price. The purchaser must remit the remainder of the purchase price within 180 days from the date the sale offer is received.

The purchase price does not include the costs for publishing this Notice in the **Federal Register**. The purchaser will be required to reimburse the BLM for all publishing costs of the Notice and for the newspaper notification at final payment of the sale parcel. Payments must be by certified check, postal money order, bank draft, or cashier's check payable to the U.S. Department of the Interior—BLM. Failure to meet conditions established for this sale will void the sale and any monies received will be forfeited.

This parcel of land located near Gerlach, Nevada, is being offered for sale through direct sale procedures. The land is not required for Federal purposes. The disposal (sale) of the parcel would serve an important public objective being an integral part of a project of public importance and speculative bidding would jeopardize a timely completion and economic viability of the project. The proposed action is consistent with the objectives, goals, and decisions of the ''Paradise-Denio Management Framework Plan'', and the ''Approved Land Amendment and Decision, January 1999.'' An appraisal report has been prepared by a state certified appraiser for the purposes of establishing fair market value. The appraisal report is available for review at the address shown above.

Publication of this Notice in the **Federal Register** segregates the subject lands from all appropriations under the public land laws, including the general mining laws, except sale under the Federal Land Policy and Management Act of 1976. The segregation will terminate upon issuance of the patent or November 22, 2005, whichever occurs first.

For a period until April 11, 2005, interested parties may submit comments to the Winnemucca Field Manager, Terry A. Reed, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445. Comments must be sent by the United States Postal Service or private delivery services. Comments sent by Facsimile, E-mail, or other electronic means shall not be accepted. Comments must be signed with a return address. The BLM will not consider anonymous comments. Any comments received during this process, as well as the commenter's name and address, will be available to the public in the administrative record and/or pursuant to a Freedom of Information Act request. You may indicate for the record that you do not wish to have your name and/or address made available to the public. Any determination by the Bureau of Land Management to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. A commenter's request to have their name and/or address withheld from public release will be honored to the extent permissible by law following proper administrative procedures in reaching the decision or any other factor directly related to the suitability of the land for a non-competitive sale.

The Environmental Assessment (EA) and Decision Record (DR) (EA–NV–020–04–34) for this proposed sale are available for review at the Winnemucca Field Office, and on the Winnemucca Field Office Internet address at: *http://www.nv.blm.gov/winnemucca*. Comments submitted through the Web site shall not be accepted.

Any adverse comments will be reviewed by the State Director, who may sustain, vacate, or modify this realty action and issue a final determination. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from the sale, if, in the opinion of the Authorized Officer, consummation of the sale would not be fully consistent with the FLPMA or other applicable laws or is determined to not be in the public interest. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior. The land will not be offered for sale until April 26, 2005.

Linda G. Goulter,

Assistant Field Manager Support Services, Winnemucca Field Office.

[FR Doc. 05–3622 Filed 2–24–05; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–930–1220–PA; HAG–04–0236]

Notice of Proposed Supplementary Rules on Public Land in Oregon and Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed supplementary rules.

SUMMARY: The Bureau of Land Management (BLM) Oregon State Office is proposing supplementary rules for public lands within the States of Oregon

and Washington. The rules are needed in order to protect the area's natural resources and provide for public health and safety. The rules are based on existing regulations and address camping and occupancy, vehicles and off-road vehicles, fire, conduct, firearms, sanitation and refuse and permits. The supplementary rules promote consistency between BLM and other natural resource agencies including the U.S. Forest Service, National Park Service, Oregon Parks and Recreation, and the Washington Department of Natural Resources.

DATES: Comments on the proposed supplementary rules must be received or postmarked by March 28, 2005 to be assured consideration. In developing final supplementary rules, BLM may not consider comments postmarked or received in person or by electronic mail after this date.

ADDRESSES: Comments may be mailed or hand-delivered to the Office of Law Enforcement, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97204.

You may also comment via Internet e-mail: *http://www.or_proposed_rule@blm.gov* (Include Attn: James Huff in your subject line).

FOR FURTHER INFORMATION CONTACT: James Huff, Oregon State Office, P.O. Box 2965, Portland, Oregon 97204, telephone (503) 808–6410. Persons who use a telecommunications device for the deaf (TDD) may contact this individual by calling the Federal Information Relay Service (FIRS) at (800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Procedural Matters

I. Public Comment Procedures

Electronic Access and Filing Address

You may view an electronic version of these proposed supplementary rules at BLM's Internet home page: *http://www.blm.gov*. You may also comment via the Internet to *http://www.or_proposed_rule@blm.gov*. Please also include your name and return address in your Internet message, and include ''attn: James Huff.'' If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452–5030.

Written Comments

Written comments on the proposed supplementary rules should be specific, confined to issues pertinent to the proposed supplementary rules, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the comment is addressing. BLM may not necessarily consider or include in the Administrative Record for the final rule comments that BLM receives after the close of the comment period (*see* **DATES**), unless they are postmarked or electronically dated before the deadline, or comments delivered to an address other than those listed above (*See* **ADDRESSES**).

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at 333 SW 1st Avenue, Portland, Oregon, during regular business hours (7:45 a.m. to 3:45 p.m.), Monday through Friday, except Federal holidays. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address, and other contact information (such as: Internet address FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

II. Background

BLM is proposing these supplementary rules in order to promote consistency between BLM (on issues of camping and occupancy, vehicles and off-road vehicles, fire, conduct, firearms, sanitation and refuse) and other land management agencies including the U.S. Forest Service, National Park Service, Oregon State Parks and Recreation, and the Washington Department of Natural Resources. These supplementary rules will apply to the public lands within the states of Oregon and Washington. These rules are necessary to protect the area's natural resources and to provide for the public's health and safety, provide needed guidance in the areas of camping, occupancy, and recreation, and allow for the assessment of penalties that are more commensurate with the level of the prohibited acts.

The supplementary rules are proposed under the authority of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1740, which applies to the public lands generally. This Act sets penalties at the Class A misdemeanor level. These proposed supplementary rules are also proposed under the authority of the Taylor Grazing Act, 43 U.S.C. 315a, which sets penalties at the Infraction level (Class C misdemeanor), and the Sikes Act, 16 U.S.C. 670h(c)(5), which sets penalties at the Petty Offense level (Class B misdemeanor). The Taylor Grazing Act applies to areas within grazing districts and leased grazing lands, which encompasses most BLM public lands east of the Cascade Mountains in Oregon and Washington and lands in southwest Oregon. The Taylor Grazing Act directs the Secretary to make such rules and regulations as are necessary to accomplish the purposes of the Act. These purposes include regulating the occupancy and use of public lands and preserving the land and its resources from destruction or unnecessary injury. The Sikes Act applies to areas where BLM, in cooperation with State agencies and following comprehensive plans developed under 16 U.S.C. 670h, plans, develops, maintains, and coordinates programs for the conservation and rehabilitation of wildlife, fish, and game. This type of coordination occurs predominantly west of the Cascade Mountains under the Northwest Forest Plan, and includes the majority of those public lands. FLPMA, the Taylor Grazing Act, and the Sikes Act are all cited as authorities for promulgating 43 CFR 8365.1–6, the regulatory authority for supplementary rules.

The State of Oregon recently revised its requirement for ORV registration, placing the burden of requiring registration on each land owner. Supplementary rule b.5 (below) makes ORV registration a requirement on public lands, as endorsed by the Oregon Parks and Recreation Department.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These proposed supplementary rules are not a significant regulatory action and are not subject to review by Office of Management and Budget under Executive Order 12866. These proposed supplementary rules will not have an effect of $100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These proposed supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These

proposed supplementary rules do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. They merely impose rules of conduct and impose other limitations on certain recreational activities on certain public lands to protect natural resources and human health and safety.

Clarity of the Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed supplementary rules easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed supplementary rules clearly stated? (2) Do the proposed supplementary rules contain technical language or jargon that interferes with their clarity? (3) Does the format of the proposed supplementary rules (grouping and order of sections, use of headings, paragraphing, *etc.*) aid or reduce their clarity? (4) Would the supplementary rules be easier to understand if they were divided into more (but shorter) sections? (5) Is the description of the proposed supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful to your understanding of the proposed supplementary rules? How could this description be more helpful in making the proposed supplementary rules easier to understand?

Please send any comments you have on the clarity of the supplementary rules to the address specified in the **ADDRESSES** section.

National Environmental Policy Act

BLM has prepared an environmental assessment (EA) and has found that the proposed supplementary rules would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the Environmental Protection Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). A detailed statement under NEPA is not required. BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section. BLM invites the public to review these documents and suggests that anyone wishing to submit comments in response to the EA and FONSI do so in accordance with the Written Comments section above.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These proposed supplementary rules should have no effect on business entities of whatever size. They merely would impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment, and human health and safety. Therefore, BLM has determined under the RFA that these proposed supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

These proposed supplementary rules are not a ''major rule'' as defined at 5 U.S.C. 804(2). They would not result in an effect on the economy of $100 million or more, in an increase in costs or prices, or in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. They would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment, and human health and safety.

Unfunded Mandates Reform Act

These proposed supplementary rules do not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year; nor do these proposed supplementary rules have a significant or unique effect on State, local, or tribal governments or the private sector. They would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment, and human health and safety. They also specifically call for compliance with State laws and regulations. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*)

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The proposed supplementary rules do not represent a government action capable of interfering with Constitutionally protected property rights. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require preparation of a takings assessment under this Executive Order.

Executive Order 13132, Federalism

The proposed supplementary rules 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. The proposed supplementary rules in several instances call for compliance with State law. Therefore, in accordance with Executive Order 13132, BLM has determined that these proposed supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor determined that these proposed supplementary rules would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have found that these proposed supplementary rules do not include policies that have tribal implications.

Paperwork Reduction Act

These proposed supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Author

The principal author of these proposed supplementary rules is James Huff, State Staff Ranger, Oregon State Office, P.O. Box 2965, Portland, Oregon 97204.

For the reasons stated in the preamble and under the authorities for supplementary rules found under 43

CFR 8365.1–6, 43 U.S.C. 1740, 16 U.S.C. 670h(c)(5), and 43 U.S.C. 315a, the Oregon/Washington State Director, Bureau of Land Management proposes to issue supplementary rules for public lands managed by the BLM in Oregon and Washington, to read as follows:

Supplementary Rules for Oregon and Washington

Definitions

Camping: The erecting of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, parking of a motor vehicle, motor home or trailer, or mooring of a vessel for the apparent purpose of overnight occupancy.

Occupancy: Full or part-time residence on public lands. It also means activities that involve residence; the construction, presence, or maintenance of temporary or permanent structures that may be used for such purposes; or the use of a watchman or caretaker for the purpose of monitoring activities. Residence or structures include, but are not limited to, barriers to access, fences, tents, motor homes, trailers, cabins, houses, buildings, and storage of equipment or supplies.

Refuse: Trash, garbage, rubbish, waste papers, bottles or cans, debris, litter, oil, solvents, liquid waste, or other discarded materials.

Off Road Vehicle (ORV): Any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain, excluding: (1) any non-amphibious registered motorboat; (2) any military, fire, emergency, or law enforcement vehicle while being used for emergency purposes; (3) any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved; (4) vehicles in official use; and (5) any combat or combat support vehicle when used in times of national defense emergencies.

a. Camping and Occupancy

1. You must not camp longer than 14 days in a 28 day period at any one site on public land.

2. After the 14 days have been reached, you must move at least 25 air miles away from the previously occupied site.

3. You must not leave any personal property or refuse after vacating the campsite or site.

4. You must not leave personal property unattended in a day use area, campground, designated recreation area or on public lands for more than 24 hours.

5. You must not establish occupancy, take possession of, or otherwise use public lands for residential purposes except as allowed under 43 CFR 3715.2, 3715.2–1, 3715.5, 3715.6, or with prior written authorization from the BLM.

6. You must not block, restrict, place signs or otherwise interfere with the use of a road, trail, gate or other legal access to and through public lands without prior written authorization from the BLM.

7. You must not camp in any area posted as closed to camping. Closure must be attained through a final land use planning decision, **Federal Register** notification, temporary closure order, or hazardous condition.

8. If a campsite charges fees, you must register or pay camping fees within 30 minutes of occupying the camp site.

9. Whenever camping in a developed campground or designated recreation area with established campsites, you must camp in a designated site.

10. You must crate, cage, restrain on a leash which shall not exceed six feet in length, or otherwise physically control a pet or animal at all times while in a developed recreation site.

11. You must pick up and properly dispose of pet excrement.

b. Vehicles and ORV

1. You must not park or leave a vehicle or ORV in violation of posted instructions as established through a final land use planning decision, **Federal Register** notification, or other planning process.

2. You must not stop or park a vehicle or ORV in a manner that obstructs or interferes with the normal flow of traffic, or creates a hazardous condition.

3. You must not exceed posted speed limits.

4. You must possess and properly display the current Oregon ORV registration sticker as required by BLM on public land in Oregon in accordance with Oregon Revised Statutes (ORS).

5. You must not operate a motorized vehicle or ORV in violation of state laws and regulations relating to use, standards, registration, operation, and inspection.

6. You must not operate an ORV on those areas, routes, and trails closed to off-road vehicle use as established through a final land use planning decision, **Federal Register** notification, or other planning process.

7. You must not operate your ORV without a safety flag, where required by State law.

8. You must not operate an ORV with a muffler that exceeds legal decibel levels as required by State law.

9. You must not operate an ORV without required equipment as found in 43 CFR 8343.1 and State law.

10. You must not operate an ORV carelessly, recklessly, or without regard for the safety of any person, or in a manner that endangers, or is likely to endanger, a person or property.

11. You must not operate an ORV in a manner which damages or unreasonably disturbs the land, wildlife, improvements, property, or vegetative resources.

c. Fire

1. You must not fail to observe state fire restrictions or regulations.

2. You must not violate fire prevention orders.

3. You must not leave a campfire unattended without fully extinguishing it.

4. You must not use or possess fireworks in violation of State or Federal fire prevention order, law, or regulation.

5. You must not allow a fire to escape from your control.

6. You must not carelessly or negligently throw or place any ignited substance that may cause a fire.

7. You must not fire any tracer bullet or incendiary ammunition.

8. You must not throw any accelerant into a fire.

9. You must not build a fire outside of fire rings or other fire structures provided by BLM, where these are present and required by fire restrictions.

d. Conduct

1. You must not fail to disperse at the direction of an authorized officer.

2. You must not engage in fighting, threatening, abusive, indecent, obscene, or offensive behavior.

3. You must not make unreasonable noise based on location, time of day, proximity of neighbors, or in violation of posted regulations or direction from an authorized officer, or other factors that would govern the conduct of a reasonably prudent person.

4. You must not create or maintain a hazardous or physically offensive condition.

e. Firearms

1. You must not discharge a firearm or device that is designed for and capable of expelling a projectile by use of spring, air, gas or other explosive at any time into or from any area posted as a no-shooting or a safety zone, or into or from any developed camp or recreation site. No-shooting zones are established through a final land use planning decision, **Federal Register** notification, or other planning process.

2. You must not discharge or possess a firearm or explosive device in violation of State law.

f. Sanitation and Refuse

1. You must not dispose of any cans, bottles or other refuse except in designated places or receptacles.

2. You must not dump household, commercial, or industrial refuse onto public lands.

3. You must not possess glass containers where prohibited as established through a final land use planning decision, **Federal Register** notification, or other planning process.

4. You must not litter.

g. Other Acts

1. You must not violate state laws relating to the use, possession, or consumption of alcohol or controlled substances.

Penalities

On public lands in grazing districts (see 43 U.S.C. 315a) and on public lands leased for grazing under 43 U.S.C. 315m, any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than $500.00. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

On public lands subject to a conservation and rehabilitation program implemented by the Secretary under 16 U.S.C. 670g *et seq.* (Sikes Act), any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than $500.00 or imprisoned for no more than six months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

On public lands under section 303(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1733 (a) and 43 CFR 8360–7, any person who violates any of these supplementary rules on public lands within the boundaries established in the rules may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Elaine M. Brong,

Oregon State Director, Bureau of Land Management.

[FR Doc. 05–3421 Filed 2–24–05; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1071–1072 (Final)]

In the Matter of: Magnesium From China and Russia; Notice of Commission Determination To Conduct a Portion of the Hearing in Camera

AGENCY: U.S. International Trade Commission.

ACTION: Closure of a portion of a Commission hearing.

SUMMARY: Upon request of respondents Alcoa Inc. and Northwest Alloys, the Commission has determined to conduct a portion of its hearing in the above-captioned investigation scheduled for February 23, 2005, *in camera. See* Commission rules 207.24(d), 201.13(m) and 201.36(b)(4) (19 CFR 207.24(d), 201.13(m) and 201.36(b)(4)). The remainder of the hearing will be open to the public. The Commission has determined that the seven-day advance notice of the change to a meeting was not possible. *See* Commission rule 201.35(a), (c)(1) (19 CFR 201.35(a), (c)(1)).

FOR FURTHER INFORMATION CONTACT: Peter Sultan, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3094. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–3105.

SUPPLEMENTARY INFORMATION: The Commission believes that Alcoa and Northwest have justified the need for a closed session. Alcoa and Northwest seek a closed session to allow for a discussion of business proprietary financial information. In making this decision, the Commission nevertheless reaffirms its belief that whenever possible its business should be conducted in public.

The hearing will include the usual public presentations by the petitioners and by respondents, with questions from the Commission. In addition, the hearing will include a 10-minute *in camera* session for a confidential presentation by Alcoa and Northwest, followed by a 10-minute *in camera* rebuttal presentation by petitioners. Questions from the Commission relating to the BPI will follow each of the *in camera* presentations. During the *in camera* session the room will be cleared of all persons except those who have been granted access to BPI under a Commission administrative protective order (APO) and are included on the Commission's APO service list in this investigation. *See* 19 CFR 201.35(b)(1), (2). The time for the parties' presentations and rebuttals in the *in camera* session will be taken from their respective overall allotments for the hearing. All persons planning to attend the *in camera* portions of the hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that, in his opinion, a portion of the Commission's hearing in *Magnesium from China and Russia*, Inv. Nos. 731–TA–1071–1072 (Final), may be closed to the public to prevent the disclosure of BPI.

By order of the Commission.

Issued: February 18, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–3641 Filed 2–24–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: ARCOS Transaction Reporting—DEA Form 333.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 69, Number 244 page 76479 on December 21, 2004, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until March 28, 2005. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)

395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* ARCOS Transaction Reporting—DEA Form 333.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: DEA Form 333. Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None. Abstract: Manufacturers and distributors of controlled substances must report acquisition/distribution transactions to DEA to comply with Federal law and international treaty obligations. This information helps to ensure a closed system of distribution for these controlled substances.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* DEA estimates that 1,334 persons respond to this collection. DEA estimates that it takes 1 hour to complete a paper form and 10 minutes to complete the form electronically.

(6) *An estimate of the total public burden (in hours) associated with the collection:* DEA estimates this collection has a public burden of 1,309 hours annually.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: February 22, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–3624 Filed 2–24–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Request Submitted for Public Comment; Procedure for Application for Exemption From the Prohibited Transaction Provisions of Section 408(a) of the Employee Retirement Security Act (ERISA)

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employee Benefits Security Administration is soliciting comments on the proposed extension of the information collection provisions included in the procedure for applications for exemption from the prohibited transaction provisions of section 408(a) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 CFR 2570.30, *et seq.*). A copy of the information collection request (ICR) can be obtained by contacting the individual shown in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section on or before April 26, 2005.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Washington, DC 20210, (202) 693–8410, FAX (202) 693–4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

Section 408(a) of ERISA provides that the Secretary may grant exemptions from the prohibited transaction provisions of sections 406 and 407(a) of ERISA and directs the Secretary to establish an exemption procedure with respect to such provisions. In this regard, the Department previously issued a regulation which describes the procedures that must be followed in filing for such exemptions (29 CFR 2570.30. *et seq.*). Under section 408(a) of ERISA, in order for the Secretary to grant an exemption, it must be determined that such exemption is ''(1) administratively feasible; (2) in the interests of the plan and its participants and beneficiaries; and (3) protective of the rights of participants and beneficiaries.'' In order to make such determination, the Department requires full information regarding all aspects of the transaction, including the specific circumstances surrounding the transaction, and the parties and assets involved. Thus, sections 2570.34 and 2570.35 of the exemption procedures regulation lists the information that must be supplied by the applicant. This information includes: Identifying information (name, type of plan, EIN number, etc.); an estimate of the number of plan participants; a detailed description of the transaction and the parties for which an exemption is requested; statements regarding what section of ERISA is thought to be in violation and whether the transaction(s) involved have already been entered into; a statement of whether the transaction is customary in the industry; a statement of the hardship or economic loss, if any, which would result if the exemption were denied; a statement explaining why the proposed exemption would be administratively feasible, in the interests of the plan and protective of the rights of plan participants and beneficiaries; and several other statements. In addition, the applicant must certify that the information supplied is accurate and complete.

Section 408(a) of ERISA requires that before granting an exemption from

406(a) the Secretary ''shall require that adequate notice be given to interested parties, and shall afford interested persons opportunity to present views.'' Thus, § 2570.43 of the exemption procedures regulation requires that the applicant for an exemption provide interested persons with a copy of the **Federal Register** notice containing the proposed exemption and a statement which informs them of their right to comment on the proposed exemption.

II. Review Focus

The Department of Labor (Department) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The Office of Management and Budget's (OMB) approval of this ICR will expire on February 28, 2005. After considering comments received in response to this notice, the Department intends to submit the ICR to OMB for continuing approval. No change to the existing ICR is proposed or made at this time.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Procedure for Application for Prohibited Transaction Exemption Regulation pursuant to 29 CFR 2570.30, *et seq.*

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0060.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 84.

Responses: 84.

Average Response Time: 25 hours.

Estimated Total Burden Hours: 0.

Estimated Total Burden Dollars: $111,579.

Dated: February 18, 2005.

Joseph S. Piacentini,

Director, Office of Policy and Research , Employee Benefits Security Administration.

[FR Doc. 05–3635 Filed 2–24–05; 8:45 am]

BILLING CODE 4510–29–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 determination 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 wage 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 cause procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from the date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration be the Department. Further information and self-explanatory forms for the 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 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

Connecticut
CT20030001 (Jun. 13, 2004)
CT20030005 (Jun. 13, 2004)
Massachusetts
MA20030004 (Jun. 13, 2004)
New Jersey

NJ20030004 (Jun. 13, 2004)
New York
NY20030002 (Jun. 13, 2004)
NY20030004 (Jun. 13, 2004)
NY20030006 (Jun. 13, 2004)
NY20030007 (Jun. 13, 2004)
NY20030033 (Jun. 13, 2004)
NY20030038 (Jun. 13, 2004)
NY20030040 (Jun. 13, 2004)
NY20030042 (Jun. 13, 2004)
NY20030048 (Jun. 13, 2004)
NY20030049 (Jun. 13, 2004)
NY20030060 (Jun. 13, 2004)
NY20030076 (Jun. 13, 2004)

Volume II

Virginia
VA20030050 (Jun. 13, 2004)

Volume III

Alabama
AL20030007 (Jun. 13, 2004)
AL20030008 (Jun. 13, 2004)
AL20030052 (Jun. 13, 2004)

Volume IV

Illinois
IL20030012 (Jun. 13, 2004)
IL20030014 (Jun. 13, 2004)

Volume V

Missouri
MO20030002 (Jun. 13, 2004)
MO20030003 (Jun. 13, 2004)
MO20030006 (Jun. 13, 2004)
MO20030009 (Jun. 13, 2004)
MO20030010 (Jun. 13, 2004)
MO20030011 (Jun. 13, 2004)
MO20030020 (Jun. 13, 2004)
MO20030042 (Jun. 13, 2004)
MO20030044 (Jun. 13, 2004)
MO20030048 (Jun. 13, 2004)
MO20030050 (Jun. 13, 2004)
MO20030054 (Jun. 13, 2004)
MO20030057 (Jun. 13, 2004)
MO20030058 (Jun. 13, 2004)
Texas
TX20030027 (Jun. 13, 2004)
TX20030030 (Jun. 13, 2004)
TX20030038 (Jun. 13, 2004)
TX20030043 (Jun. 13, 2004)
TX20030045 (Jun. 13, 2004)
TX20030122 (Jun. 13, 2004)
TX20030123 (Jun. 13, 2004)
TX20030124 (Jun. 13, 2004)

Volume VI

None.

Volume VII

California
CA20030025 (Jun. 13, 2004)
Hawaii
HI20030001 (Jun. 13, 2004)
Nevada
NV20030001 (Jun. 13, 2004)
NV20030003 (Jun. 13, 2004)
NV20030005 (Jun. 13, 2004)
NV20030007 (Jun. 13, 2004)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed in Washington, DC, this 17th day of February, 2005.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 05–3457 Filed 2–24–05; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (05–031)]

National Environmental Policy Act; New Horizons Mission

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of draft environmental impact statement (DEIS) for implementation of the New Horizons mission.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), and NASA policy and procedures (14 CFR part 1216 subpart 1216.3), NASA has prepared and issued a DEIS for the New Horizons mission. The DEIS addresses the potential environmental impacts associated with continuing the preparations for and implementing the mission. The purpose of this proposal is to explore Pluto, its moon Charon, and possibly one or more objects within the Kuiper Belt. The New Horizons mission is planned for launch in January–February 2006 from Cape Canaveral Air Force Station (CCAFS), Florida, on an expendable launch vehicle. With a launch in mid January 2006, the New Horizons spacecraft would arrive at Pluto as early as 2015 and would conduct scientific investigations of Pluto and its moon, Charon, as it flies past these bodies. The spacecraft may then continue on an extended mission into the Kuiper Belt, where it would investigate one or more of the objects found there. The spacecraft would require electrical power for normal spacecraft operations and to operate the science instruments. One radioisotope thermoelectric generator (RTG) containing plutonium dioxide would be used for this purpose. A backup launch opportunity could occur in February 2007 with an arrival at Pluto in 2019 or 2020 depending upon the exact date of launch.

DATES: Interested parties are invited to submit comments on environmental concerns on or before April 11, 2005, or 45 days from the date of publication in the **Federal Register** of the U.S. Environmental Protection Agency's notice of availability of the New Horizons DEIS, whichever is later.

ADDRESSES: Comments submitted via first class, registered, or certified mail should be addressed to Kurt Lindstrom, Mail Stop 3K39–A, Mission and Systems Management Division, Science Mission Directorate, NASA Headquarters, Washington, DC 20546–0001. Comments submitted via express mail, a commercial deliverer, or courier service should be addressed to Kurt Lindstrom, Mail Stop 3K39–A, Mission and Systems Management Division, Science Mission Directorate, Attn: Receiving & Inspection (Rear of Building), NASA Headquarters, 300 E Street SW., Washington, DC 20024–3210. While hard copy comments are preferred, comments by electronic mail may be sent to *osspluto@hq.nasa.gov.*

The DEIS may be reviewed at the following locations:

(a) NASA Headquarters, Library, Room 1J20, 300 E Street, SW., Washington, DC 20546.

(b) The Johns Hopkins University Applied Physics Laboratory, Gibson Library, 11100 Johns Hopkins Road, Laurel, MD 20723–6099.

In addition, the DEIS may be examined at the following NASA locations by contacting the pertinent Freedom of Information Act Office:

(c) NASA, Ames Research Center, Moffett Field, CA 94035 (650–604–1181).

(d) NASA, Dryden Flight Research Center, P.O. Box 273, Edwards, CA 93523 (661–258–3449).

(e) NASA, Glenn Research Center at Lewis Field, 21000 Brookpark Road, Cleveland, OH 44135 (216–433–2755).

(f) NASA, Goddard Space Flight Center, Greenbelt Road, Greenbelt, MD 20771 (301–286–6255).

(g) NASA, Johnson Space Center, Houston, TX 77058 (281–483–8612).

(h) NASA, Kennedy Space Center, FL 32899 (321–867–9280).

(i) NASA, Langley Research Center, Hampton, VA 23681 (757–864–2497).

(j) NASA, Marshall Space Flight Center, Huntsville, AL 35812 (256–544–2030).

(k) NASA, Stennis Space Center, MS 39529 (228–688–2164).

(l) Jet Propulsion Laboratory, Visitors Lobby, Building 249, 4800 Oak Grove Drive, Pasadena, CA 91109 (818–354–5179).

Limited hard copies of the DEIS are available, on a first request basis, by contacting Kurt Lindstrom at the address or telephone number indicated herein. The DEIS is also available in Adobe® portable document format at *http://spacescience.nasa.gov/admin/pubs/plutoeis/index.htm.*

FOR FURTHER INFORMATION CONTACT: Kurt Lindstrom, Mission and Systems Management Division, Science Mission Directorate, NASA Headquarters, Washington, DC 20546–0001, telephone (202) 358–1588, or electronic mail *ossspluto@hq.nasa.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the action addressed in this DEIS is to further our knowledge of Pluto, the outermost known planet of our solar system, and its moon, Charon, and (if possible) the Kuiper Belt. The goal of the New Horizons mission would be to measure the fundamental physical and chemical properties of Pluto and Charon. Specifically, the New Horizons mission would acquire data to address the following primary scientific objectives.

—Characterize the global geology and morphology of Pluto and Charon.
—Map the surface compositions of Pluto and Charon.
—Characterize the neutral (uncharged) atmosphere of Pluto and its rate of escape.

After the Pluto-Charon flyby and data playback is complete, the spacecraft may continue on an extended mission to encounter one or more objects within the Kuiper Belt. The remote science instrumentation planned for Pluto and Charon could also be used for investigations of the Kuiper Belt Objects (KBO).

Pluto is the only major body within our solar system that has not yet been visited by spacecraft. Many of the questions posed about Pluto and Charon can only be addressed by a spacecraft mission that brings advanced instruments close to the two bodies. Scientific knowledge of all other planets and their moons, and thus understanding of the nature of the solar system, has been increased enormously through visits by spacecraft.

The science to be performed at Pluto and Charon is time-critical because of long-term seasonal changes in the surfaces and atmospheres of both bodies. The objectives of surface mapping and surface composition mapping would be significantly compromised as Pluto and Charon recede from the Sun and their polar regions become increasingly hidden in shadow. Furthermore, as Pluto recedes from the Sun, substantial decline, if not complete collapse, of its atmosphere is widely anticipated.

The recent discovery of many objects beyond Neptune in the Kuiper Belt has opened another dimension for this mission of exploration. KBOs, in stable and well-defined orbits that have never taken them close to the Sun, are likely to be remnants of solar system formation and may hold clues to the birth of the planets. Knowledge gained from close examination of objects in the Kuiper Belt would be of great value in developing theoretical models of the evolution and destiny of the solar system.

The proposed action consists of continuing preparations for and implementing the New Horizons mission. The New Horizons spacecraft would be launched on an Atlas V 551 from CCAFS in January–February 2006. This launch opportunity represents the best opportunity for achieving the time-critical science objectives at Pluto and Charon. A backup launch opportunity could occur in February 2007 with arrival at Pluto in 2019 or 2020 depending upon the exact date of launch. Accordingly, the only alternative that was evaluated is the No Action alternative.

For the New Horizons missions, the potentially affected environment for a normal launch includes the area at and in the vicinity of the launch site, CCAFS in Florida. The environmental impacts of a normal launch of the mission for the proposed action would be associated principally with the exhaust emissions from the Atlas V launch vehicle. These effects would include: (1) Short-term impacts on air quality within the exhaust cloud and near the launch pad, and (2) the potential for acidic deposition on the vegetation and surface water bodies at and near the launch complex, particularly if rain occurs shortly after launch.

Potential launch accidents could result in the release of some of the radioactive material on board the spacecraft. The spacecraft would have one RTG that uses plutonium dioxide to provide electrical power. The radioisotope inventory of the RTG would total up to approximately 124,000 curies of plutonium.

The U.S. Department of Energy (DOE), in cooperation with NASA, has performed a risk assessment of potential accidents for the New Horizons mission. This assessment used a methodology refined through applications to the Galileo, Ulysses, Cassini, and Mars Exploration Rover missions, and incorporates results of safety tests on the RTG and an evaluation of the January 17, 1997, Delta II accident at CCAFS. DOE's risk assessment for this mission indicates that in the event of a launch accident the expected impacts of released radioactive material at and in the vicinity of the launch area, and on a global basis, would be small.

NASA will hold public comment meetings during which the public is invited to participate in an open exchange of information and submission of comments on the DEIS. Each public meeting will begin with an opportunity for informal discussions with project personnel, followed by a brief NASA presentation on the New Horizons mission, and conclude with the submission of formal comments, both written and oral. The meetings will be held at the Florida Solar Energy Center, 1679 Clearlake Road, Cocoa, Florida 32922 (parking is free) on the dates and times listed below.

(a) Tuesday, March 29, 2005, beginning at 6 p.m.

(b) Wednesday, March 30, 2005, beginning at 1 p.m.

Further information on the public meetings can be obtained by contacting

Kurt Lindstrom at the address or telephone number indicated herein. Advanced registration for attending either of the meetings is not required.

Jeffrey E. Sutton,

Assistant Administrator for Infrastructure, Management and Headquarters Operations.

[FR Doc. 05–3601 Filed 2–24–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collections described in this notice. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before March 28, 2005 to be assured of consideration.

ADDRESSES: Send comments to Desk Officer for NARA, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5167.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on December 16, 2004 (69 FR 75348). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. In this notice, NARA is soliciting comments concerning the following information collections:

Title: Order Forms for Genealogical Research in the National Archives.

OMB number: 3095–0027.

Agency form numbers: NATF Forms 81, 82, 83, 84. 85, and 86.

Type of review: Regular.

Affected public: Individuals or households.

Estimated number of respondents: 97,600.

Estimated time per response: 10 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 16,267 (rounded up).

Abstract: Submission of requests on a form is necessary to handle in a timely fashion the volume of requests received for these records (approximately 12,000 per year for the NATF 81, approximately 600 per year for the NATF 82, approximately 1,000 per year for the NATF 83, approximately 6,000 per year for the NATF 84, approximately 46,000 per year for the NATF 85, and approximately 32,000 per year for the NATF 86) and the need to obtain specific information from the researcher to search for the records sought. The form is printed on carbonless paper as a multi-part form to allow the researcher to retain a copy of his request and NARA to respond to the researcher on the results of the search or to bill for copies if the researcher wishes to order the copies. As a convenience, the form will allow researchers to provide credit card information to authorize billing and expedited mailing of the copies. You can also use Order Online! (*http://www.archives.gov/research_room/obtain_copies/military_and_genealogy_order_forms.html*) to complete the forms and order the copies.

Dated: February 17, 2005.

Shelly L. Myers,

Deputy Chief Information Officer.

[FR Doc. 05–3636 Filed 2–24–05; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before April 11, 2005. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means: Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001, E-mail: *records.mgt@nara.gov,* FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Paul M. Wester, Jr., Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–3120. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape,

and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Foreign Agricultural Service (N1–166–02–1, 8 items, 8 temporary items). Records relating to dairy and sugar commodities imported into the United States. Included are such records as license applications, importer case files, reports used to monitor dairy imports, and correspondence and background information relating to countries under the U.S. sugar tariff rate quota. Also included are electronic copies of documents created using electronic mail and word processing.

2. Department of Commerce, National Oceanic and Atmospheric Administration (N1–370–04–3, 66 items, 64 temporary items). Paper and electronic records accumulated by the National Weather Service, including files relating to such matters as product and service dissemination, water, weather, and climate prediction and verification models, sensors and equipment systems, configuration management, water, weather, and climate summaries, the compilation of maps and analyses used for official forecasts, forecasts and observations, facilitative aspects of the agency's modernization initiative, and equipment engineering specifications. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of records relating to the overall management of the agency's modernization initiative and the closure of offices where closure was contested.

3. Department of Commerce, Bureau of the Census (N1–29–05–1, 1 item, 1 temporary item). Completed questionnaires accumulated in connection with a 2004 overseas enumeration test and non-aggregated respondent data obtained from those questionnaires.

4. Department of Defense, National Geospatial-Intelligence Agency (N1–537–03–5, 11 items, 10 temporary items). Geospatial contract specification files, map and chart correction records, and geospatial specification and symbols files accumulated by offices that do not have functional program responsibility. Also included are electronic copies of records created using electronic mail and word processing. Recordkeeping copies of geospatial specifications and symbols accumulated by the office assigned functional program responsibility are proposed for permanent retention. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

5. Department of the Interior, Office of the Secretary (N1–48–05–1, 4 items, 4 temporary items). Copies of records provided to the Independent Counsel investigating a dog track in Hudson, Wisconsin. Records include paper copies of documents, digital images, and an electronic index. Also included are electronic copies of documents created using electronic mail and word processing.

6. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (N1–436–05–3, 3 items, 3 temporary items). Incident reports files containing information or allegations which are of an investigative nature but do not relate to a specific investigation. Also included are electronic copies of documents created using electronic mail and word processing.

7. Department of Transportation, Bureau of Transportation Statistics (N1–570–04–30, 4 items, 3 temporary items). Records relating to unpublished regulations, standards, and guidelines. Included are such records as draft versions of proposed regulations and guidelines, public and internal comments, hearing transcripts, meeting minutes, and other background material. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of files relating to published regulations, standards, and guidelines. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

8. Department of Transportation, Bureau of Transportation Statistics (N1–570–04–31, 4 items, 3 temporary items). Records of rulemaking committees relating to unpublished rules and regulations, including meeting notes, organizing charters, reports, and correspondence. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of files relating to published rules and regulations. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

9. Department of Transportation, Bureau of Transportation Statistics (N1–570–04–32, 5 items, 4 temporary items). Records relating to the ongoing management of programs and routine projects within programs. Included are such records as correspondence, memorandums, agendas, background papers, speeches, and oversight reviews. Also included are electronic copies of records created using electronic mail and word processing. Recordkeeping copies of program management records held by the Director are proposed for permanent retention. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

10. Department of the Treasury, Financial Management Service (N1–425–05–1, 37 items, 36 temporary items). Records of the Administrative

Programs Division relating to such matters as health and safety programs, records management, supply and property management, and facilities management. Records include project files, studies, correspondence, and reports. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent are recordkeeping copies of ''Fiscal Scene,'' a publication produced by the agency.

11. Department of the Treasury, Financial Crimes Enforcement Network (N1–559–05–1, 34 items, 34 temporary items). Records relating to the agency's mission of providing Government-wide support for the detection, investigation, and prosecution of money laundering and other financial crimes. Included are such records as intelligence report case files and related electronic tracking systems, working papers, inspection reports, Web site content and Web site management records, and records relating to presentations and briefings about the agency. Also included are electronic copies of records created using electronic mail and word processing. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

12. Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances (N1–412–05–6, 2 items, 2 temporary items). Chemical review case files consisting of reviews of chemical compounds used to support risk assessments, benefit assessments, and regulatory actions. Electronic copies of records created using word processing and electronic mail are also included.

13. National Archives and Records Administration, Office of Human Resources and Information Services (N1–64–05–4, 4 items, 4 temporary items). Files relating to inappropriate Internet use, including reports identifying employees suspected of such activities. Also included are electronic copies of records created using electronic mail and word processing.

14. Social Security Administration, Office of the Inspector General (N1–47–04–2, 32 items, 29 temporary items). Audit files and related tracking databases, investigative files and allegations and related tracking databases, monetary penalty files, routine correspondence, budget files, procedures manuals, administrative files, and training records. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such records as annual and semiannual reports to Congress, strategic plans, and files relating to the establishment of the office.

15. Social Security Administration, Office of Disability and Income Security Programs (N1–47–05–1, 70 items, 70 temporary items). Claims files and other records accumulated pursuant to Title III, Title XVI, and Title XVIII, parts A and B, of the Social Security Act. Also included are electronic copies of records created using electronic mail and word processing. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

Dated: February 18, 2005.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. 05–3618 Filed 2–24–05; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412]

FirstEnergy Nuclear Operating Company (FENOC); Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the NRC or Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–66 and NPF–73, issued to FENOC (the licensee), for operation of the Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1, BVPS–2), located in Beaver County, Pennsylvania.

The proposed amendments would revise the Technical Specifications (TSs) to lower the BVPS–2 overpressure protection system (OPPS) enable temperature, allow one residual heat removal (RHR) loop to be inoperable for surveillance testing, remove the TS List of Figures and List of Tables from the BVPS–1 TSs, and make various minor changes to achieve consistency between units and with the Standard TSs for Westinghouse plants and with some TS Task Force changes.

On February 17, 2005, the licensee determined that the requirements of Title 10 of the Code of Federal Regulations (10 CFR), Section 50.91(a)(2) have not been satisfied, in that Notice for Public Comment on the above referenced license amendment requests had not been published in the **Federal Register**. The licensee further determined that there would be insufficient time to provide for the normal 30-day notice prior to the approval and implementation of the amendment without requiring plant shutdown. The licensee stated that it complied with all applicable requirements for completeness and timeliness in submitting the above license amendment application. Approval had been requested by February 15, 2005, to support revision of the existing BVPS–2 Pressure/Temperature limit curves prior to their expiration in mid-March 2005. In light of the above situation, the licensee has requested that the NRC consider these circumstances exigent and requests that further processing of the license amendment requests be completed under the provisions of 10 CFR 50.91(a)(6).

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No. The modification to the Applicability of TS 3.4.3, Safety Valves, provides alignment with the Applicability of TS 3.4.9.3, Overpressure Protection Systems, such that the TS assures that overpressure protection is specified over all operational modes.

The modification and deletion of Notes associated with RCS [reactor coolant system] injection capability of the charging pumps during Mode transitioning results in a single Note that controls the charging pump restrictions and is consistent with the STS [standard technical specifications]. As a result the charging pump RCS injection capabilities during Mode transitioning restrictions are either not changed or made more restrictive by the proposed changes.

The Unit 2 OPPS analysis documents that the TS imposed primary to secondary temperature restriction on starting each of the RCPs [reactor coolant pumps] is necessary for only the first RCP because thermal equilibrium of the reactor coolant system (RCS) is achieved shortly after the first pump is started. As a result a RCS heat injection event continues to be precluded.

The change from 15 minutes to 1 hour for charging pump swapping operations will not result in a significant increase in the probability of a low temperature overpressure event because the overall time allowed for pump swapping is short. Although the increase in time permits two charging pumps being capable of RCS injection during the Applicability of the OPPS TS, the hour is very short and permitted only for pump swapping operations. These operations are deliberate actions that are well controlled and accomplished in the shortest time possible.

The addition of a Note associated with the testing of a RHR pump will not result in a significant increase in the probability of an accident during Mode 5 because the RHR pumps are not an accident initiator and will not result in a significant increase in the consequences of a Mode 5 accident because the required cooling capability will be provided by the RHR train that is required to be in operation during the surveillance test of the inoperable RHR pump.

The additional restrictions imposed on removing the reactor coolant pumps and residual heat removal pumps from operation during Modes 4 and 5 further restrict removing these pumps from operation, thereby providing greater assurance the pumps will be operable when required.

The other changes, *i.e.*, elimination of duplicated TS requirements, renumbering and reordering of various Notes and the deletion of the Unit 2 List of Figures and Tables, are made to improve the consistency between the BVPS TS and with the STS and have no affect on plant operations.

None of the proposed changes are initiators of any accident previously evaluated. Therefore, the probability of an accident previously evaluated is not significantly increased. The consequences of an accident are also not affected by the proposed changes because none of the proposed changes will result in a change in the effluent that may be released offsite, the release duration or the release path.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No. None of the proposed changes involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the operation of plant equipment. Entering into the applicability of a TS, or utilization of the applicable Notes, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No. None of the proposed changes impact the existing margin of safety. The proposed changes assure that the affected components and systems are operable or incapable of RCS injection when required, thereby maintaining the existing margin of safety.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/

requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner/requestor is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petitioner/requestor must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *hearingdocket@nrc.gov;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to Mary O'Reilly, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308, attorney for the licensee.

For further details with respect to this action, see the application for amendments dated June 1, 2004, as supplemented July 23, 2004, and February 18, 2005, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, (301) 415–4737, or by e-mail to *pdr@nrc.gov.*

Dated in Rockville, Maryland, this 22nd day of February 2005.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Senior Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 05–3769 Filed 2–24–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The U.S. Nuclear Regulatory Commission (NRC) has issued for public comment a draft of a new guide in the agency's Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft Regulatory Guide, entitled ''Guidelines for Lightning Protection for Nuclear Power Plants,'' is temporarily identified by its task number, DG–1137, which should be mentioned in all related correspondence. This proposed regulatory guide offers guidance for NRC licensees and applicants to use in developing and implementing practices that the staff finds acceptable for complying with the agency's regulatory requirements in Criterion 2, ''Design Bases for Protection Against Natural Phenomena,'' as it appears in Appendix A, ''General Design Criteria for Nuclear Power Plants,'' to Title 10, Part 50, of the *Code of Federal Regulations* (10 CFR Part 50). Specifically, Criterion 2 requires, in part, that nuclear power plant (NPP) structures, systems, and components (SSCs) that are important to safety must be designed to withstand the effects of natural phenomena without losing their capability to perform their respective safety functions.

While the regulations address lightning protection for safety-related electrical equipment, they do not explicitly provide guidance concerning the design and installation of lightning protection systems (LPSs) to ensure that electrical transients resulting from lightning phenomena do not cause spurious operation safety-related systems or render them inoperable. As proposed, DG–1137 would augment the regulations by establishing explicit guidance that is consistent with LPS

design and installation practices that are currently applied throughout the commercial power industry.

Toward that end, the NRC staff has selected for endorsement a total of four standards issued by the Institute of Electrical and Electronics Engineers (IEEE), which taken together, provide comprehensive lightning protection guidance for nuclear power plants. Specifically, the four standards are IEEE Std. 665–1995 (2001 revision), IEEE Guide for Generating Station Grounding, IEEE Std. 666–1991, IEEE Design Guide for Electrical Power Service Systems for Generating Stations, IEEE Std. 1050–1996, IEEE Guide for Instrumentation and Control Equipment Grounding in Generating Stations, and IEEE Std. C62.23–1995 (2001 revision), IEEE Application Guide for Surge Protection of Electric Generating Plants.

The NRC staff is soliciting comments on Draft Regulatory Guide DG–1137, and comments may be accompanied by relevant information or supporting data. Please mention DG–1137 in the subject line of your comments. Comments on this draft regulatory guide submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS). Personal information will not be removed from your comments. You may submit comments by any of the following methods.

Mail comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

E-mail comments to: *NRCREP@nrc.gov*. You may also submit comments via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov*. Address questions about our rulemaking Web site to Carol A. Gallagher (301) 415–5905; e-mail *CAG@nrc.gov*.

Hand-deliver comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Fax comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 415–5144.

Requests for technical information about Draft Regulatory Guide DG–1137 may be directed to Christina E. Antonescu at (301) 415–6792 or via e-mail to *CEA1@nrc.gov*.

Comments would be most helpful if received by April 20, 2005. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of the draft regulatory guide are available through the NRC's public Web site under Draft Regulatory Guides in the Regulatory Guides document collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/*. Electronic copies are also available in the NRC's Agencywide Documents Access and Management System (ADAMS) at *http://www.nrc.gov/reading-rm/adams.html*, under Accession #ML050480101. Note, however, that the NRC has temporarily suspended public access to ADAMS so that the agency can complete security reviews of publicly available documents and remove potentially sensitive information. Please check the NRC's Web site for updates concerning the resumption of public access to ADAMS.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland; the PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *PDR@nrc.gov*. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Reproduction and Distribution Services Section; by email to *DISTRIBUTION@nrc.gov*; or by fax to (301) 415–2289. Telephone requests cannot be accommodated.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them. (5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 17th day of February, 2005.

For the Nuclear Regulatory Commission.

Michael E. Mayfield,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 05–3626 Filed 2–24–05; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Improving Government Charge Card Management

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice and request for comments.

SUMMARY: The Office of Management and Budget (OMB) requests comments on a draft guidance document entitled *Improving Government Charge Card Management*. The draft guidance, located at *http://www.whitehouse.gov/omb/financial/fia_travel.html*, consolidates and updates current government charge card program guidance previously issued by OMB, the General Services Administration, the Department of the Treasury, and other Federal agencies. The draft guidance applies to all Executive Branch departments and agencies, establishing standard minimum requirements and suggested best practices in areas of charge card management such as planning, training, risk management, data collection, credit worthiness, and strategic buying. When this guidance is finalized, it will be issued as either a new OMB Circular or as an addendum to an existing OMB Circular.

DATES: To ensure consideration of comments, interested parties should submit comments in writing to the Office of Federal Financial Management (OFFM), Office of Management and Budget, on or before March 28, 2005.

ADDRESSES: We are still experiencing delays in receiving regular mail, including first class and express mail. To ensure that your comments are received, we recommend that comments on this draft guidance be electronically mailed to *FIAReports@omb.eop.gov*, or faxed to (202) 395–3952. You may also submit written comments to Sally Clark Beecroft, Office of Federal Financial Management, Office of Management and Budget, NEOB Room 6025, 725 17th Street, NW., Washington, DC 20503, (202) 395–3993.

SUPPLEMENTARY INFORMATION: In coordinating and overseeing the Administration's financial management and procurement policies, the Office of Management and Budget (OMB) is authorized by 31 U.S.C. 1111; Reorganization Plan No. 2 of 1970; Executive Order 11541; the Chief Financial Officers Act of 1990 (31 U.S.C. 501–506); and the Office of Federal Procurement Policy Act (41 U.S.C. 405), to establish rules, regulations, circulars, bulletins, or other forms administrative

guidance for Executive branch agencies. As part of the Administration's ongoing effort to improve the efficiency and integrity of government charge card programs, OMB recently convened an interagency working group to update, consolidate, and/or clarify current rules and requirements in this important area of financial management and procurement policy. As a result, the working group developed the above-referenced draft guidance document that is designed to serve as a single source for all relevant charge card management requirements. In most cases, the draft guidance document re-states and clarifies existing guidance (*e.g.*, required policies and procedures for eliminating payment delinquencies, charge card misuse, fraud, and other forms of waste and abuse). One notable addition to the existing guidance contained in the draft is a new set of provisions related to the implementation of Sec. 639 of the Consolidated Appropriations Act, 2005 (Pub. L. 108–447), requiring Federal agencies to assess the credit worthiness of travel or purchase card applicants prior to issuing a card.

Clay Johnson III,

Deputy Director for Management.

[FR Doc. 05–3637 Filed 2–24–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51227; File No. SR–Amex–2005–010]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Listing and Trading of Notes Linked to the Performance of the Nikkei 225 Index

February 18, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 14, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 list and trade notes linked to the performance of Nikkei 225 Index (''Nikkei 225'' or ''Index'').

The text of the proposed rule change is available on the Amex's Web site *http://www.amex.com,* at the Amex'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, the Amex 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 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

Under Section 107A of the Amex Company Guide (''Company Guide''), the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.[3] The Amex proposes to list for trading under Section 107A of the Company Guide notes linked to the performance of the Nikkei 225 (the ''Nikkei Notes'' or ''Notes'').[4] Morgan Stanley will issue the Notes under the name ''PLUS℠.'' The Nikkei 225 is determined, calculated and maintained solely by NKS.[5] The Notes will provide for a multiplier of any positive performance of the Nikkei 225 during their term subject to a maximum payment amount or ceiling to be determined at the time of issuance (''Capped Value'').

The Nikkei 225 Notes will conform to the initial listing guidelines under Section 107A[6] and continued listing guidelines under Sections 1001–1003 [7] of the Company Guide. The Notes are senior non-convertible debt securities of Morgan Stanley. The Notes will have a term of no more than ten (10) years. Morgan Stanley will issue the Notes in denominations of whole units (''Unit''),

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (order approving File No. SR–Amex–89–29).

[4] Morgan Stanley & Co. Incorporated (''Morgan Stanley'') and Nihon Keizai Shimbun, Inc. (''NKS'') have entered into a non-exclusive license agreement providing for the use of the Nikkei 225 by Morgan Stanley and certain affiliates and subsidiaries in connection with certain securities including the Notes. NKS is not responsible and will not participate in the issuance and creation of the Notes.

[5] The Nikkei 225 is calculated, published and disseminated by NKS. The Notes are not sponsored, endorsed, sold or promoted by NKS. NKS is a recognized service with business information in Japan and publishes a large business daily, The Nihon Keizai Shimbon, and four other financial newspapers. NKS is not affiliated with a securities broker or dealer. The Index measures the composite price performance of selected Japanese stocks. The Index is currently based on 225 underlying stocks trading on the Tokyo Stock Exchange (''TSE'') and represents a broad cross-section of Japanese industry. All 225 of the stocks underlying the Index (''Underlying Stocks'') are stocks listed in the First Section of the TSE. Stocks listed in the First Section are among the most actively traded stocks on the TSE. The Index is a modified, price-weighted index. Each component stock's weight in the Index is based on its price per share rather than the total market capitalization of the issuers. NKS calculates the Index by multiplying the per share price of a component stock by the corresponding weighting factor for the stock (''Weight Factor''), calculating the sum of all these products and dividing that sum by a divisor. The divisor, initially set on May 16, 1949, at 225, was 23.947 as of January 14, 2005, and is subject to periodic adjustments. Each Weight Fact or is computed by dividing ¥50 by the par value of the relevant component stock, so that the share price of each component stock when multiplied by its Weight Factor corresponds to a share price based on a uniform par value of ¥50. Each Weight Factor represents the number of shares of the related component stock, which are included in one trading unit of the Index. The stock prices used in the calculation of the Index are those reported by a primary market for the component stocks, which is currently the TSE.

[6] The initial listing standards for the Notes require: (1) A minimum public distribution of one million units; (2) a minimum of 400 shareholders; (3) a market value of at least $4 million; and (4) a term of at least one year. In addition, the listing guidelines provide that the issuer has assets in excess of $100 million, stockholders' equity of at least $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer which is unable to satisfy the earning criteria stated in Section 101 of the Company Guide, the Exchange will require the issuer to have the following: (1) Assets in excess of $200 million and stockholders' equity of at least $10 million; or (2) assets in excess of $100 million and stockholders' equity of at least $20 million.

[7] The Exchange's continued listing guidelines are set forth in Sections 1001 through 1003 of Part 10 of the Exchange's Company Guide. Section 1002(b) of the Company Guide states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced as to make further dealings on the Exchange inadvisable. With respect to continued listing guidelines for distribution of the Notes, the Exchange will rely, in part, on the guidelines for bonds in Section 1003(b)(iv). Section 1003(b)(iv)(A) provides that the Exchange will normally consider suspending dealings in, or removing from the list, a security if the aggregate market value or the principal amount of bonds publicly held is less than $400,000.

with each Unit representing a single Note. The original public offering price will be $10 per Unit. The Notes will entitle the owner at maturity to receive an amount based upon the percentage change of the Nikkei 225. The Notes will not have a minimum principal amount that will be repaid, and accordingly, payment on the Notes prior to or at maturity may be less than the original issue price of the Notes.[8] The Notes are also not callable by the issuer, Morgan Stanley, or redeemable by the holder.

The payment that a holder or investor of a Note will be entitled to receive (''Redemption Amount'') will depend on the relation of the level of the Nikkei 225 at the close of the market on the second trading day[9] prior to maturity of the Notes (''Final Level'') and the closing value of the Index on the trading day immediately following the day the Notes are priced for initial sale to the public (''Initial Level''). If there is a ''market disruption event''[10] when determining the Final Level of the Index, the Final Level will be determined on the next available trading day during which no ''market disruption event'' occurs.

If the percentage change of the Index is positive (*i.e.* Final Level is greater than the Initial Level), the Redemption Amount per Unit will equal:

$$\$10+\left[\$10\times\left(\frac{\text{Final Level}-\text{Initial Level}}{\text{Initial Level}}\right)\times\text{Upside Leverage Factor}\right],\text{ not to exceed}$$

the Capped Value, which, as set forth in the prospectus, is expected to be $11.35 to $11.575, or 113.5% to 115.75% of the issue price.[11]

The Upside Leverage Factor, determined at the time of issuance, is expected to be 300%.

If the percentage change of the Index is zero or negative (*i.e.,* the Final Level is less than or equal to the Initial Level), the Redemption Amount per Unit will equal:

$$\$10\times\left(\frac{\text{Final Level}}{\text{Initial Level}}\right)$$

The Notes are cash-settled in U.S. dollars and do not give the holder any right to receive a portfolio security, dividend payments, or any other ownership right or interest in the portfolio or index of securities comprising the Nikkei 225. The Notes are designed for investors who want to participate in and gain enhanced upside exposure to a broad representation of the Japanese stock market and who are willing to forego principal protection and market interest payments on the Notes during their term. The issuer, Morgan Stanley, has disclosed in the prospectus that the original issue price of the Notes includes the agent's commissions and the cost of hedging Morgan Stanley's obligations under the Notes. According to Morgan Stanley, this fact is expected to adversely affect the secondary market prices of the Notes.[12] The Commission has previously approved the listing of securities linked in whole, or in part, to the performance of the Nikkei 225 on the Exchange.[13]

As of January 13, 2005, the market capitalization of the securities included in the Nikkei 225 ranged from a high of approximately 14.8 trillion yen ($144.3 billion) to a low of approximately 29.7 billion yen ($289.6 million). The average daily trading volume for these same securities for the last six months ranged from a high of approximately 56.7 million shares to a low of approximately 2,878 shares ($12.8 million). The Index is composed of 225 securities and is broad-based. The highest weighted stock has a weight of 3.177% while the top five (5) stocks in the Index account for 13.515%. The level or value of the Index is calculated once per minute during TSE trading hours[14] and is readily accessible to U.S. investors at *http://www.nni.nikkei.co.jp* and *http://www.bloomberg.com*. NKS is under no obligation to continue the calculation and dissemination of the Index. In the event that NKS ever ceases to maintain the Index, the Exchange will contact the Commission staff to consider prohibiting the continued trading of the Notes.[15]

In order to maintain continuity in the level of the Index in the event of certain changes due to non-market factors affecting the Underlying Stocks, such as the addition or deletion of stocks, substitution of stocks, stock dividends, stock splits or distributions of assets to stockholders, the divisor used in calculating the Index is adjusted in a manner designed to prevent any instantaneous change or discontinuity in the level of the Index. The divisor remains at the new value until a further adjustment is necessary as the result of

[8] A negative return of the Nikkei 225 will reduce the redemption amount at maturity with the potential that the holder of the Note could lose his entire investment amount.

[9] A ''trading day'' is generally a day on which trading is conducted on the TSE and on any exchange on which futures or options related to the Index are traded, other than a day on which trading on any such exchange is scheduled to close prior to its regular final weekday closing time.

[10] A ''market disruption event'' is defined as (i) the occurrence of a suspension, absence, or material limitation of trading of 20% or more of the component stocks of the Index on the primary market for more than two hours of trading or during the one-half hour period preceding the close of the principal trading session on such primary market; (ii) a breakdown or failure in the price and trade reporting systems of any primary market as a result of which the reported trading prices for 20% or more of the component stocks of the Index during the last one-half hour preceding the close of the principal trading session on such primary market are materially inaccurate; or (iii) the suspension, material limitation or absence of trading on any major securities market for trading in futures or options contracts or exchange traded funds related to the Index for more than two hours of trading or during the one-half hour period preceding the close of the principal trading session on such market, and a determination by Morgan Stanley that any event described in clauses (i)–(iii) above materially interfered with the ability of Morgan Stanley or any of its affiliates to unwind or adjust all or a material portion of the hedge position with respect to the Notes.

[11] Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Natasha Cowen, Attorney, Division, Commission, on February 15, 2005.

[12] Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Natasha Cowen, Attorney, Division, Commission, on February 9, 2005.

[13] *See* Securities Exchange Act Release Nos. 50016 (July 14, 2004), 69 FR 43639 (July 21, 2004) (approving the listing and trading of Morgan Stanley PLUS Notes linked to the Nikkei 225); 38940 (August 15, 1997), 62 FR 44735 (August 22, 1997) (approving the listing and trading of notes based on the Major 11 International Index that includes the Nikkei 225); 34821 (October 11, 1994), 59 FR 52568 (October 18, 1994) (approving the listing and trading of warrants on the Nikkei 300); and 27565 (December 22, 1989), 55 FR 376 (January 4, 1990) (approving the listing and trading of warrants based on the Nikkei 225). *See also* Securities Exchange Act Release No. 49670 (May 7, 2004), 69 FR 27959 (May 17, 2004) (approving the listing and trading of Accelerated Return Notes linked to the Nikkei 225).

[14] TSE trading hours are currently 9:00 a.m. to 11:00 a. m. and from 12:30 p.m. to 3:00 p.m. Tokyo time, Monday through Friday. Due to time zone differences, on any normal trading day the TSE will close prior to the opening of business in New York City on the same calendar day. Therefore, the closing level of the Index on a trading day will generally be available in the U.S. by the opening of business on the same calendar day.

[15] Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Ira Brandriss, Assistant Director, and Natasha Cowen, Attorney, Division of Market Regulation (''Division''), Commission, on January 27, 2005.

another change. As a result of each change affecting any Underlying Stock, the divisor is adjusted in such a way that the sum of all share prices immediately after the change multiplied by the applicable Weight Factor and divided by the new divisor, *i.e.*, the level of the Index immediately after the change, will equal the level of the Index immediately prior to the change.[16]

Because the Notes are issued in $10 denominations, the Amex's existing equity floor trading rules will apply to the trading of the Notes. First, pursuant to Amex Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes.[17] Second, the Notes will be subject to the equity margin rules of the Exchange.[18] Third, the Exchange will, prior to trading the Notes, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes and highlighting the special risks and characteristics of the Notes. With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes: (1) to determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of such transaction. In addition, Morgan Stanley will deliver a prospectus in connection with initial sales of the Notes.

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Notes. Specifically, the Amex will rely on its existing surveillance procedures governing equities, which include additional monitoring on key pricing dates,[19] and which have been deemed adequate under the Act. In addition, the Exchange has an effective surveillance sharing agreement with the TSE that may be used as a basis for listing and trading securities linked to the Nikkei 225.[20] The Exchange also notes that the TSE is a member of the Intermarket Surveillance Group (''ISG'').[21] As a result, the Exchange asserts that market surveillance information is available from the TSE, if necessary, due to regulatory concerns that may arise in connection with the component stocks. In the event that it becomes necessary, the Exchange will seek the Commission's assistance pursuant to memoranda of understanding or similar inter-governmental agreements or arrangements that may exist between the Commission and the Japanese securities regulators.[22] The Exchange also has a general policy which prohibits the distribution of material, non-public information by its employees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act[23] in general and furthers the objectives of Section 6(b)(5)[24] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange did not receive any written comments on 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-comment@sec.gov*. Please include File Number SR–Amex–2005–010 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–Amex–2005–010. 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. Copies of such filing also will

[16] Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Ira Brandriss, Assistant Director, and Natasha Cowen, Attorney, Division, Commission, on January 27, 2005. Underlying Stocks may be deleted or added by NKS. However, to maintain continuity in the Index, the policy of NKS is generally not to alter the composition of the Underlying Stocks except when an Underlying Stock is deleted in accordance with the following criteria. Any stock becoming ineligible for listing in the First Section of the TSE due to any of the following reasons will be deleted from the Underlying Stocks: bankruptcy of the issuer; merger of the issuer into, or acquisition of the issuer by, another company; delisting of the stock or transfer of the stock to the ''Seiri-Post'' because of excess debt of the issuer or because of any other reason; or transfer of the stock to the Second Section of the TSE. Upon deletion of a stock from the Index, NKS will select, in accordance with certain criteria established by it, a replacement for the deleted Underlying Stock. In an exceptional case, a newly listed stock in the First Section of the TSE that is recognized by NKS to be representative of a market may be added to the Underlying Stocks. As a result, an existing Underlying Stock with low trading volume and not representative of the market will be deleted.

[17] Amex Rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts, relative to every customer and to every order or account accepted.

[18] *See* Amex Rule 462 and Section 107B of the Company Guide.

[19] Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Ira Brandriss, Assistant Director, and Natasha Cowen, Attorney, Division, Commission, on January 27, 2005.

[20] *See* Information Sharing Agreement between the Amex and the TSE dated September 25, 1990.

[21] ISG membership obligates an exchange to compile and transmit market surveillance information and resolve in good faith any disagreements regarding requests for information or responses thereto. Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Ira Brandriss, Assistant Director, and Natasha Cowen, Attorney, Division, Commission, on January 27, 2005.

[22] Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, and Ira Brandriss, Assistant Director, and Natasha Cowen, Attorney, Division, Commission, on January 27, 2005.

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

be available for inspection and copying at the principal offices of Amex. 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–Amex–2005–010 and should be submitted on or before March 18, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

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.[25] The Commission notes that it has previously approved the listing of securities the performance of which have been linked to, or based on, the Index.[26] Accordingly, the Commission finds that the listing and trading of the Notes based on the Index 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.[27]

The requirements of Section 107A of the Company Guide were designed to address the concerns attendant to the trading of hybrid securities, like the Notes. The Commission notes that the Amex will distribute a circular to its membership calling attention to the specific risks associated with the Notes, and impose other requirements of its rules as described in the proposal above. The Commission notes, in addition, that Morgan Stanley will deliver a prospectus in connection with the initial sales of the Notes. By imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Commission believes the Amex has addressed adequately the potential problems that could arise from the hybrid nature of the Notes.

In approving the product, the Commission recognizes that the Index is a modified capitalization-weighted index[28] based on 225 common stocks traded on the TSE, which represent a broad cross-section of Japanese industry. The Underlying Stocks are listed in the First Section of the TSE and are, therefore, among the most actively traded stocks on the TSE. Given the composition of the Index, the Commission believes that the listing and trading of the Notes that are linked to the Index should not unduly impact the market for the underlying securities comprising the Index or raise manipulative concerns.[29]

The Commission also believes that any concerns that a broker-dealer, such as Morgan Stanley, or a subsidiary providing a hedge for the issuer, will incur undue position exposure are minimized by the size of the Notes issuance in relation to the net worth of Morgan Stanley.[30]

Finally, the Commission notes that the value of the Index will be calculated once per minute throughout the TSE trading day and will be readily accessible to U.S. investors. The Exchange represents that the Index will be calculated, published, and disseminated solely by NKS. NKS will also make the changes in the composition of the Index. Although NKS is under no obligation to continue the calculation and dissemination of the Index, in the event the calculation and dissemination every minute of the Index is discontinued, Amex represents that it will contact Commission staff and consider prohibiting the continued listing of the Notes.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. The Exchange has requested accelerated approval because this product is similar to several other instruments currently listed and traded on the Amex.[31] The Commission believes that the Notes will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the Notes promptly. Additionally, the Notes will be listed pursuant to Amex's existing hybrid security listing standards as described above. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,[32] to approve the proposal on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[33] that the proposed rule change (SR–Amex–2005–010) is hereby approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[34]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–778 Filed 2–24–05; 8:45 am]

BILLING CODE 8010–01–P

[25] *See id.*

[26] *See* Securities Exchange Act Release Nos. 50016 (July 14, 2004), 69 FR 43639 (July 21, 2004) (approving the listing and trading of Morgan Stanley PLUS Notes linked to the performance of the Nikkei 225); 49999 (July 9, 2004), 69 FR 43023 (July 19, 2004) (approving the listing and trading of Contingent Principal Protection Notes linked to the performance of the Nikkei 225); 49670 (May 7, 2004), 69 FR 27959 (May 17, 2004) (approving the listing and trading of Accelerated Return Notes linked to the Nikkei 225 for Nasdaq); and 38940 (August 15, 1997), 62 FR 44735 (August 22, 1997) (approving the listing and trading of Market Index Target-Term Securities the return on which is based on changes in the value of a portfolio of 11 foreign indexes, including the Nikkei 225).

[27] 15 U.S.C. 78f(b)(5). In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[28] *See supra* note 5.

[29] The issuer Morgan Stanley disclosed in the prospectus that the original issue price of the Notes includes the agent's commissions and the cost of hedging Morgan Stanley's obligations under the Notes. According to Morgan Stanley, this fact is expected to adversely affect the secondary market prices of the Notes. Such hedging activity must, of course, be conducted in accordance with applicable regulatory requirements.

[30] *See* Securities Exchange Act Release Nos. 44913 (October 9, 2001), 66 FR 52469 (October 15, 2001) (order approving the listing and trading of notes whose return is based on the performance of the Nasdaq-100 Index) (File No. SR–NASD–2001–73); 44483 (June 27, 2001), 66 FR 35677 (July 6, 2001) (order approving the listing and trading of notes whose return is based on a portfolio of 20 securities selected from the Amex Institutional Index) (File No. SR–Amex–2001–40); and 37744 (September 27, 1996), 61 FR 52480 (October 7, 1996) (order approving the listing and trading of notes whose return is based on a weighted portfolio of healthcare/biotechnology industry securities) (File No. SR–Amex–96–27).

[31] *See supra* note 25.

[32] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[33] 15 U.S.C. 78o–3(b)(6) and 78s(b)(2).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51220; File No. SR–CBOE–2004–89]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Reduced-Value Options on the Russell 2000 Stock Index

February 17, 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 December 23, 2004, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by CBOE. On February 10, 2005, CBOE filed Amendment No. 1 to the proposed rule change.[3] On February 14, 2005, CBOE 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] and Rule 19b–4(f)(6) thereunder,[6] which renders it 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

CBOE proposes to amend certain of its rules to provide for the listing and trading of reduced-value options on the Russell 2000® Index (''Russell 2000'' or ''Index''), a broad-based securities index. Options on each index would be cash-settled, a.m.-settled, and would have European-style expiration. The text of the proposed rule change is available on CBOE's Web site (*http://www.cboe.com*), at the CBOE's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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 purpose of the proposed rule change is to amend CBOE rules to allow the Exchange to list and trade reduced-value options on the Russell 2000.[7] Specifically, CBOE proposes listing cash-settled, a.m.-settled, European-style index options that are based on one-fifth (1/5th) and one-tenth (1/10th) the value of the Russell 2000 (''Reduced-Value Options''). The Russell 2000 is a broad-based securities index created in 1984 by the Frank Russell Company for the purpose of tracking the performance of small-cap companies. The Russell 2000 is a capitalization-weighted index and includes only common stocks belonging to corporations domiciled in the United States and its territories and that are traded on the New York Stock Exchange or the American Stock Exchange. The Russell 2000 is completely reconstituted annually to ensure that larger stocks do not distort the performance and characteristics of the true small-cap market.[8] The Russell 2000 includes the smallest 2000 securities in the Russell 3000.[9] CBOE has been trading European-style, cash-settled options on the Russell 2000 since 1992.

The proposed rule change will allow CBOE to attract additional business from customers that may not otherwise be able to invest in regular Russell 2000 options. Over the years, the value of the Russell 2000 has significantly increased such that, as of December 15, 2004, the value of the index stood at approximately 643. Accordingly, the premium for Russell 2000 options also has increased proportionately, making the use of Russell 2000 options as a hedging tool cost-prohibitive for some retail investors. To make trading Russell 2000 options accessible to a greater range of investors, CBOE proposes to introduce two new options contracts that are based on one-fifth (1/5th) and one-tenth (1/10th) the value of the Russell 2000, respectively. For example, a January (2005) Russell 2000 640 call would cost an investor approximately $1,560, whereas, with adoption of the proposed reduced-value contracts, the 1/5th version of the same call would cost an investor $312.00 and a 1/10th version of the call would cost only $156.00.[10] CBOE will make no modifications to the Russell 2000 index methodology or calculation, for which the Frank Russell Company is the reporting authority. In addition to regular index options, the Exchange also may provide for the listing of LEAPS in accordance with CBOE Rule 24.9.[11]

The Exchange believes that offering reduced-value Russell 2000 options will provide an important opportunity for investors to hedge and speculate upon the market risks associated with the stocks comprising the Russell 2000, without having to extend great outlays of capital. This should attract a wider range of investors and, in turn, create a more active and liquid trading environment for all options on the Russell 2000. The Exchange will continue listing and trading the existing Russell 2000 options contracts, and the reduced-value Russell 2000 options will trade under their own trading symbols that are different than Russell 2000 trading symbol (RUT).

The Commission and the Options Clearing Corporation will be notified of the trading symbol, and CBOE will issue a circular detailing the option contract specifications to CBOE membership prior to the listing of options series on the reduced-value Russell 2000. In addition, the Exchange will disseminate prices for the reduced-value Russell 2000 contracts every 15 seconds through the Option Price Reporting Authority. The Exchange will notify the Division of Market Regulation immediately in the event the Frank Russell Company ceases to maintain or calculate the Index or if the Index values are not disseminated every 15 seconds by a widely available source.[12] CBOE further represents that,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Form 19b–4, dated February 10, 2005, which replaced the original filing in its entirety (''Amendment No. 1'').

[4] *See* Form 19b–4, dated February 14, 2005, which was a partial amendment (''Amendment No. 2''). In Amendment No. 2, CBOE represented, in part, that in the event the Frank Russell Company ceases to maintain or calculate the Index or if values are not disseminated every 15 seconds by a widely available source, CBOE will notify the Division of Market Regulation (''Division'').

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6).

[7] The Exchange currently is approved to list and trade European-style, cash-settled options, including long-term index option series (''LEAPS''), on the Russell 1000 Index, Russell 2000 Index, Russell 3000 Index, Russell 1000 Growth Index, Russell 1000 Value Index, Russell 2000 Growth Index, Russell 2000 Value Index, Russell 3000 Growth Index, Russell 3000 Value Index, Russell Midcap Index, Russell Midcap Growth Index, Russell Midcap Value Index, Russell Top 200® Index, Russell Top 200® Growth Index, and the Russell Top 200® Value Index. *See* Securities Exchange Act Release Nos. 49388 (March 10, 2004), 69 FR 12720 (March 17, 2004); 48591 (October 2, 2003), 68 FR 58728 (October 10, 2003); 31382 (October 30, 1992), 67 FR 52802 (November 5, 1992).

[8] *See http://www.russell.com* or *http://www.cboe.com* for further description and background of the Index.

[9] The Russell 3000® Index contains the largest 3,000 companies incorporated in the United States and the U.S. territories. The companies are ranked by total market capitalization.

[10] Estimates are based on a randomly selected last sale price (intra-day) for the 2005 January 640 call on the Russell 2000 during the December 15, 2004 trading day. The approximate cost to an investor does not include applicable fees or commissions that may be incurred in the execution of trades.

[11] This is consistent with the Exchange's ability to list LEAPS on all other Russell Indexes. *See supra* note 7.

[12] *See* Amendment No. 2.

if the Russell 2000 Index ceases to be maintained or calculated, or if the Index values are not disseminated every 15 seconds by a widely available source, it will not list any additional series for trading and will limit all transactions in such options to closing transactions only for the purpose of maintaining a fair and orderly market and protecting investors.

Strike prices for the reduced-value Russell 2000 contracts will be set to bracket the index in 2½ point increments for strikes at or below 200 and in 5-point increments for strikes above 200. The minimum tick size for series trading below $3 will be $0.05 and for series trading above $3 the minimum tick will be $0.10. The trading hours for reduced-value options on the Russell 2000 will be 8:30 a.m. to 3:15 p.m. (c.s.t).

Position and Exercise Limits. Consistent with CBOE Rule 24.4(d), positions in reduced-value index options shall be aggregated with positions in full-value indices. As such, the position and exercise limits applicable to the one-fifth value and one-tenth value Russell 2000 options shall be, conversely, increased by a factor of 5 and 10, respectively. To illustrate, for the purposes of determining the applicable position limits for the one-tenth value Russell 2000, ten reduced-value Russell 2000 contracts would be equal to one Russell 2000 contract and, for the one-fifth value Russell 2000, five reduced-value Russell 2000 contracts would be equal to one Russell 2000 contract. Reducing the contract size of the Russell 2000 Index option by one-tenth (or one-fifth) while increasing the position limit from 50,000 contracts to 500,000 contracts (or from 50,000 contracts to 250,000), would have no effect on the monetary value of the portfolio that could be controlled by a particular person or firm. This also is consistent with previous filings in which the Exchange introduced reduced-value versions of other broad-based indexes.[13]

The Exchange also proposes making a technical correction to Rule 24.4(d), which provides, ''[p]ositions in reduced-value index options shall be aggregated with positions in full-value indices. For such purposes, ten (10) reduced-value contracts shall equal one contract.'' The latter sentence in this rule presumes that all reduced-value index options shall be reduced only to one-tenth the value of the original index. The Exchange believes that it is more appropriate to amend this sentence in the form of an example to illustrate the calculations to make based on the ratio of the reduced-value contract being proposed. As such, the rule will now provide two examples; one in which the index would be reduced by one-tenth and one in which the index would be reduced by one-fifth.

Exercise and Settlement. Exercise and settlement on the reduced-value Russell 2000 options will be identical to existing options on the Russell 2000. The reduced-value options will expire on the Saturday following the third Friday of the expiration month. Trading in the expiring contract month will normally cease at 3:15 p.m. (CST) on the business day preceding the last day of trading in the component securities of the Index (ordinarily the Thursday before expiration Saturday, unless there is an intervening holiday). The exercise settlement value of the Index at option expiration will be calculated by Reuters, on behalf of the Frank Russell Company, based on the opening prices of the component securities on the last business day prior to expiration. If a component security fails to open for trading, the exercise settlement value will be determined in accordance with CBOE Rules 24.7(e) and 24.9(a)(4). When the last trading day is moved because of Exchange holidays (such as when CBOE is closed on the Friday before expiration), the last trading day for expiring options will be Wednesday, and the exercise settlement value of index options at expiration will be determined at the opening of regular trading on Thursday.

Maintenance. Because the Russell 2000 is to be monitored and maintained by the Frank Russell Company, the Frank Russell Company will be responsible for making all necessary adjustments to the indexes to reflect component deletions, share changes, stock splits, stock dividends (other than an ordinary cash dividend), and stock price adjustments due to restructuring, mergers, or spin-offs involving the underlying components. Some corporate actions, such as stock splits and stock dividends, require simple changes to the available shares outstanding and the stock prices of the underlying components. Other corporate actions, such as share issuances, change the market value of the Index and would require the use of an index divisor to effect adjustments.

The Russell 2000 is re-constituted annually on June 30, based on prices and available shares outstanding as of the preceding May 31. New index components are added only as part of the annual re-constitution, after which, should a stock be removed from an index for any reason, it cannot be replaced until the next re-constitution.

Although CBOE is not involved in the maintenance of the Russell 2000, the Exchange represents that it will monitor the Russell 2000 on a quarterly basis and will notify the Staff in the Division by filing a rule change pursuant to Rule 19b–4 if: (1) The number of securities in the index drops by ⅓rd or more; (2) 10% or more of the weight of the index is represented by component securities having a market value of less than $75 million; (3) less than 80% of the weight of the index is represented by component securities that are eligible for options trading pursuant to CBOE Rule 5.3; (4) 10% or more of the weight of the index is represented by component securities trading less than 20,000 shares per day; or (5) the largest component security accounts for more than 15% of the weight of each Index or the largest five components in the aggregate account for more than 50% of the weight of the Index. These are, generally, similar maintenance procedures that were adopted by CBOE for the monitoring of several other Russell Indexes.[14]

Surveillance. Because the index underlying the reduced-value options remains unchanged, the Exchange represents that CBOE's surveillance procedures are adequate to monitor the trading in reduced-value options and LEAPS on the Russell 2000. Further, the Exchange shall have complete access to the information regarding the trading activity of the underlying securities.

Margin. The Russell 2000 is a ''broad-based index'' and, under CBOE margin rules, the margin requirement for a short put or call on each respective reduced-value Russell 2000 option contract shall be 100% of the current market value of the contract, plus up to 15% of the respective underlying index value.[15] More specifically, for purchases of puts or calls with more than 9 months until expiration, customers must deposit and continue to maintain 75% of the total cost of the option's current market value.[16] When the time until expiration reaches 9 months, the option no longer has value for margin purposes.[17] Purchases of puts or calls with 9 months or less until expiration must be paid for

[13] *See* Securities Exchange Act Release No. 43000 (June 30, 2000), 65 FR 42409 (July 10, 2000) (notice of filing and immediate effectiveness of rule change SR–CBOE–00–15) (proposing the listing of options on reduced-value versions of the Nasdaq 100 Stock Index).

[14] *See* Securities Exchange Act Release No. 48591 (October 2, 2003), 68 FR 58727 (October 10, 2003) (order approving SR–CBOE–2003–17) (listing and trading of options on 11 Russell Indexes).

[15] *See* CBOE Rule 12.3(c)(5)(A).

[16] *See* CBOE Rule 12.3(c)(4)(B).

[17] *See id.*

in full. Writers of uncovered puts or calls must deposit and continue to maintain 100% of the option proceeds plus 15% of the aggregate contract value (current index level × $100) minus the amount, if any, by which the option is out-of-the-money, subject to a minimum for calls of option proceeds plus 10% of the aggregate contract value and a minimum for puts of option proceeds plus 10% of the aggregate exercise price amount.[18]

Other Exchange Rules Applicable. Except as modified herein, the Rules in Chapter XXIV will govern the trading of options on the aforementioned Russell Indexes on the Exchange. Additionally, in accordance with CBOE Rule 24A.4(b) (Special Terms for FLEX Index Options), CBOE reserves the right to approve and open for trading FLEX options on the reduced-value versions of the Russell 2000, and, in accordance with Rule 24A.7(a)(i), because the Russell 2000 is a broad-based index, there shall be no position or exercise limits for these FLEX index options. Finally, CBOE affirms that it possesses the necessary systems capacity to support new series that would result from the introduction of the reduced-value Russell Index options, including LEAPS. The Exchange will consider the potential impact on system capacity before listing FLEX reduced-value options on the Russell 2000. The Exchange also, concurrent with this the submission of this rule filing, provided the Division with a letter that describes the potential impact that the introduction of these options will have on quoting capacity.

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with Section 6 of the Act,[19] in general, and furthers the objectives of Section 6(b)(5) of the Act,[20] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[18] For calculating maintenance margin, the option's current market value, as opposed to the total cost/option proceeds method, must be used. Additional margin may be required pursuant to Exchange Rule 12.10.

[19] 15 U.S.C. 78f.

[20] 15 U.S.C. 78f(b)(5).

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 with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[21] and Rule 19b–4(f)(6) thereunder.[22] In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change, as required by Rule 19b–4(f)(6). At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[23]

CBOE asked the Commission to waive the 30-day operative delay contained in Rule 19b–4(f)(6)(iii) under the Act.[24] The Commission believes that such waiver is consistent with the protection of investors and the public interest, since the proposed rule change merely allows CBOE to begin listing and trading additional versions of the Russell 2000 index option, which has previously been approved by the Commission. The Commission does not believe that the filing raises any new regulatory issues. Therefore, the Commission hereby waives the 30-day operative delay.[25]

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6).

[23] For purposes of calculating the 60-day abrogation period, the Commission considers the proposal to have been filed on February 14, 2005, the date the CBOE filed Amendment No. 2.

[24] 17 CFR 240.19b–4(f)(6)(iii).

[25] For purposes only of waiving the 30-day pre-operative period, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–CBOE–2004–89 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–CBOE–2004–89. 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 CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2004–89 and should be submitted on or before March 18, 2005.

[26] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–770 Filed 2–24–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51231; File No. SR–NASD–2004–089]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Proposed Amendments To Require Limit Order Protection and To Expand the Application of Manning Obligations to Exchange-Listed Securities

February 18, 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 June 9, 2004, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I, II, and III below, which items have been prepared by the NASD. On November 2, 2004, the NASD filed Amendment No. 1 to the proposed rule change.[3] 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

NASD is proposing to require providing price improvement to customer limit orders under certain circumstances and to expand the application of NASD IM–2110–2 to exchange-listed securities.

Below is the text of the proposed rule change. Proposed new language is *italicized*; proposed deletions are in brackets.

* * * * *

IM–2110–2. Trading Ahead of Customer Limit Order

(a) General Applications

To continue to ensure investor protection and enhance market quality, *NASD's* [the Association's] Board of Governors is issuing an interpretation to *NASD* [the] Rules [of the Association] dealing with member firms' treatment of their customer limit orders in Nasdaq *and exchange-listed* securities. This interpretation, which is applicable from 9:30 to 6:30 p.m. Eastern Time, will require members acting as market makers to handle their customer limit orders with all due care so that market makers do not ''trade ahead'' of those limit orders. Thus, members acting as market makers that handle customer limit orders, whether received from their own customers or from another member, are prohibited from trading at prices equal or superior to that of the limit order without executing the limit order. [Such orders shall be protected from executions at prices that are superior but not equal to that of the limit order.] In the interests of investor protection, *NASD* [the Association] is eliminating the so-called disclosure ''safe harbor'' previously established for members that fully disclosed to their customers the practice of trading ahead of a customer limit order by a market-making firm (1).

(1) For purposes of [the pilot program expanding] the operation of certain Nasdaq transaction and quotation reporting systems and facilities [in SR–NASD–99–57] during the period from 4 p.m. to 6:30 p.m. Eastern Time. If a customer does not formally assent (''opt-in'') to processing of [their]*the customer's* limit order(s) during the extended hours period commencing after the normal close of the Nasdaq market, limit order protection will not apply to that customer's order(s).

Interpretation

The following interpretation of Rule 2110 has been approved by the Board:

A member firm that accepts and holds an unexecuted limit order from its customer (whether its own customer or a customer of another member) in a Nasdaq *or exchange-listed* security and that continues to trade the subject security for its own market-making account at prices that would satisfy the customer's limit order, without executing that limit order, shall be deemed to have acted in a manner inconsistent with just and equitable principles of trade, in violation of Rule 2110, provided that[, until September 1, 1995, customer limit orders in excess of 1,000 shares received from another member firm shall be protected from the market maker's executions at prices that are superior but not equal to that of the limit order, and provided further, that] a member firm may negotiate specific terms and conditions applicable to the acceptance of limit orders only with respect to limit orders that are: (a) for customer accounts that meet the definition of an ''institutional account'' as that term is defined in Rule 3110(c)(4); or (b) 10,000 shares or more, unless such orders are less than $100,000 in value. *In the event that a member acting as market maker trades ahead of an unexecuted customer limit order at a price that is better than the unexecuted limit order, such member is required to execute the limit order at the price received by the member or better.* Nothing in this interpretation, however, requires members to accept limit orders from any customer.

By rescinding the safe harbor position and adopting this interpretation, *NASD* [the Association] wishes to emphasize that members may not trade ahead of their customer limit orders in their market-making capacity even if the member had in the past fully disclosed the practice to its customers prior to accepting limit orders. *NASD* [The Association] believes that, pursuant to Rule 2110, members accepting and holding unexecuted customer limit orders owe certain duties to their customers and the customers of other member firms that may not be overcome or cured with disclosure of trading practices that include trading ahead of the customer's order. The terms and conditions under which institutional account or appropriately sized customer limit orders are accepted must be made clear to customers at the time the order is accepted by the firm so that trading ahead in the firm's market-making capacity does not occur. [For purposes of this interpretation, a member that controls or is controlled by another member shall be considered a single entity so that if a customer's limit order is accepted by one affiliate and forwarded to another affiliate for execution, the firms are considered a single entity and the market-making unit may not trade ahead of that customer's limit order.]

As outlined in NASD Notice to Members 97–57, the minimum amount of price improvement necessary in order for a market maker to execute an incoming order on a proprietary basis when holding an unexecuted limit order for a Nasdaq security trading in fractions, and not be required to execute the held limit order, is as follows:

- If actual spread is greater than 1/16 of a point, a firm must price improve an incoming order by at least a 1/16. For stocks priced under $10[,] (which are quoted in 1/32 increments), the firm must price improve by at least 1/64.
- If actual spread is the minimum quotation increment, a firm must price

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 to SR–NASD–2004–089 replaces and supercedes the NASD's original 19b–4 filing in its entirety.

improve an incoming order by one-half the minimum quotation increment.

For Nasdaq securities authorized for trading in decimals pursuant to the Decimals Implementation Plan for the Equities and Options markets, the minimum amount of price improvement necessary in order for a market maker to execute an incoming order on a proprietary basis in a security trading in decimals when holding an unexecuted limit order in that same security, and not be required to execute the held limit order, is as follows:

(1) For customer limit orders priced at or inside the best inside market displayed in Nasdaq, the minimum amount of price improvement required is $0.01; and

(2) For customer limit orders priced outside the best inside market displayed in Nasdaq, the market maker must price improve the incoming order by executing the incoming order at a price at least equal to the next superior minimum quotation increment in Nasdaq (currently $0.01).

NASD [The Association] also wishes to emphasize that all members accepting customer limit orders owe those customers duties of ''best execution'' regardless of whether the orders are executed through the member's market-making capacity or sent to another member for execution. As set out above, the Best Execution Rule requires members to use reasonable diligence to ascertain the best inter-dealer market for the security and buy or sell in such a market so that the price to the customer is as favorable as possible under prevailing market conditions. *NASD* [The Association] emphasizes that order entry firms should continue to routinely monitor the handling of their customers' limit orders regarding the quality of the execution received.

(b) and (c) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed rule Change

In its filing with the Commission, NASD 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. NASD 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 Interpretive Material (IM) 2110–2, Trading Ahead of Customer Limit Order (commonly referred to as the ''Manning Interpretation'') generally prohibits a member from trading for its own account at prices that would satisfy a customer's limit order, unless the member immediately thereafter executes the customer limit order.[4] The legal underpinnings for the Manning Interpretation are a member's basic fiduciary obligations and the requirement that it must, in the conduct of its business, ''observe high standards of commercial honor and just and equitable principles of trade.'' [5]

The Manning Interpretation is designed to ensure that customer limit orders are executed in a fair manner by prohibiting a member firm from trading ahead of customers' limit orders in its principal capacity without executing the customer limit order. The Interpretation currently, however, only requires that a member that ''trades ahead'' of a customer limit order execute the customer limit order at its limit price. If the member trades ahead of a customer limit order and receives a better price than the unexpected customer limit order, the Manning Interpretation currently would not obligate the member to pass along the better price if received; it need only fill the customer limit order at the limit price.

NASD believes that where a member trades at a price better than an unexpected customer limit order, the member should be required to pass along such price improvement to the unexecuted customer limit order. Accordingly, NASD is proposing to prohibit a member from trading for its own account in a Nasdaq or exchange-listed security [6] at a price that is better than an unexpected customer limit order in that security, unless the member immediately thereafter executes the customer limit order at the price at which it traded for its own account or better.

In recognition that the proposed rule change may alter the way that many members handle customer orders, NASD believes that it is important to provide members with adequate time to develop and implement systems to comply with the proposed rule change. Therefore, NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following SEC approval. The implementation date will be 90 days after the issuance of such Notice to Members announcing SEC approval of the proposed rule change.

NASD also is proposing several technical changes to the Manning Interpretation to delete language contained in the rule text that is no longer necessary. Specifically, as part of a proposed expansion of the Manning Interpretation in 1994 to include all member-to-member customer limit orders, the Manning Interpretation included a phase-in period that expired on September 1, 1995.[7] Prior to that time period, the Manning Interpretation permitted member firms to handle member-to-member limit orders that were larger than 1,000 shares more liberally (such limit orders were only required to be protected from executions at prices that were superior but not equal to that of the limit order). Given that the phase-in period has expired, NASD is proposing to delete the rule text related to the phase-in period.

NASD also proposes to delete the rule text relating to the application of the Manning Interpretation to affiliates as it also is no longer necessary. The rule text relating to affiliates was necessary when the Manning Interpretation did not apply to member-to-member limit orders to ensure that limit orders routed between affiliates were protected. However, because the Manning Interpretation has since been expanded to apply to member-to-member customer limit orders, if a member accepts a customer limit order and forwards that order to another member

[4] For example, if a member bought 100 shares at $10 when holding customer limit orders in the same security to buy at $10 equaling, in aggregate, 1000 shares, the member is required to fill 100 shares of the customer limit orders. NASD Rule 6440(f)(2) imposes similar requirements with respect to the receipt of customer limit orders in exchange-listed securities traded over-the-counter.

[5] *See* NASD rule 2110. *See* also NASD Rule 232(a) (the ''Best Execution Rule''). Note: NASD has proposed changes to the Best Execution Rule in SR–NASD–2004–026. *See* Securities Exchange Act Release No. 51229 (February 18, 2005). *See also* related filing, File No. SR–NASD–2004–045. *See* Securities Exchange Act Release No. 51230 (February 18, 2005).

[6] NASD Rule 6440(f)(2) currently prohibits members from trading ahead of their customer limit orders in exchange-listed securities traded over-the-counter. To ensure consistency in the application of limit order protection to Nasdaq and exchange-listed securities, NASD also is proposing to apply explicitly its Manning Interpretation to exchange-listed securities. NASD will recommend to Nasdaq that it consider deleting NASD Rule 6440(f)(2), in light of the proposed application of NASD IM–1210–2 to exchange-listed securities.

[7] *See* Securities Exchange Act Release No. 35751 (May 22, 1995), 60 FR 27997 (May 26, 1995) (File No. SR–NASD–94–62).

(regardless of whether or not such member is an affiliate) for execution, the Manning Interpretation would apply.

In addition, NASD is proposing to delete certain unnecessary rule text contained in footnote one relating to a Nasdaq pilot program expanding the operation of certain Nasdaq transaction and quotation reporting systems and facilities during the period from 4 p.m. to 6:30 p.m. eastern time. This Nasdaq pilot program became a permanent program in 2003 and this footnote text inadvertently was not deleted as part of the rule filing making the pilot permanent.[8] Finally, NASD no longer refers to itself or its subsidiary, NASD Regulation, Inc., using its full corporate name, ''the Association,'' ''the NASD'' or ''NASD Regulation, Inc.'' Instead, NASD uses ''NASD'' unless otherwise appropriate for corporate or regulatory reasons. Accordingly, the proposed rule change replaces several references to ''Association'' in the text of the proposed rule change with ''NASD.''

2. Statutory Basis

NASD believes that the proposed rule change, as amended, is consistent with the provisions of section 15A(b)(6) of the Act,[9] which requires, among other things, that NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change, as amended, will improve treatment of customer limit orders and enhance the integrity of the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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–2004–089 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–2004–089. 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 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–2004–089 and should be submitted on or before March 18, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 05–3678 Filed 2–24–05; 8:45 am]

BILLING CODE 8010–01–M

[8] *See* Securities Exchange Act No. 47308 (February 4, 2003), 68 FR 6976 (February 11, 2003) (File No. SR–NASD–2003–14).

[9] 15 U.S.C. 78*o*–3(b)(6)

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51233; File No. SR–NASD–2005–017]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Regarding Modifications to the Nasdaq Opening Process For Nasdaq-Listed Stocks

February 18, 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 25, 2005, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On February 15, 2005, Nasdaq amended the proposed rule change (''Amendment No. 1'').[3] Nasdaq has designated the proposed rule change as ''non-controversial'' under Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is filing the proposed rule change, as amended, to extend a current pilot program until April 30, 2005, during which time Nasdaq will continue

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, Nasdaq restated the proposed rule change in its entirety.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

to reject the entry of Total Day Orders prior to 9:25 a.m. The pilot rule language under NASD Rule 4701(ss)(2) was established on November 3, 2004, and is effective through February 2, 2005.[6] This proposal would extend the pilot language under Rule 4701(ss)(2) without change through April 30, 2005. Therefore, there is no proposed rule language contained in this proposal.

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, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to extend through April 30, 2005, a pilot designed to address a harmful unintended consequence of the Modified Nasdaq Opening. Specifically, upon implementing the improved pre-opening trading environment set forth in Rule 4704(b), Nasdaq identified a harmful unintended consequence of the Modified Opening Process (''MOP'') by which Nasdaq establishes its opening order book and unlocks and uncrosses the market. As described in SR–NASD–2004–071, firms have three options for determining the price at which their carryover quotes are opened at 9:25: (1) The last quotation price entered during the previous day; (2) the last quotation price the firm enters after 7:30 and before 9:25 a.m.; or (3) the quote limits for Nasdaq, currently $.01 (bid) and $2,000 (ask).[7] Many Nasdaq participants have programmed their quotation management systems to select the first option, carrying over the final quotation entered during the previous trading day. At the same time, a small number of firms have entered X Orders into Nasdaq's system that cross the market by a significant amount, in some cases by as much as 20 dollars. When Nasdaq applies the MOP, which automatically executes orders that would cross the market, the system executes those X Orders that are significantly away from the market against the stale carryover quotations of other members resulting in inferior executions.

To address this situation quickly, Nasdaq changed the pre-opening trading environment for a pilot period ending February 2, 2005.[8] Specifically, Nasdaq moved the beginning entry time for X Orders from 7:30 a.m. to 9:25 a.m. As a result, X Orders do not participate in the market opening process described in Rule 4704(b), which begins at 9:25 a.m., eliminating the risk of X Orders automatically executing against a stale quote during that process. Nasdaq believes that that change was necessary and sufficient to address quickly the harmful unintended consequence described above and to preserve a fair and orderly opening of trading in Nadsaq. It is important to note that participation in pre-opening trading is completely voluntary on firms' part, that the actual opening of the market and concomitant market maker obligations would continue to begin at 9:30 a.m. as is the case today.

Nasdaq proposes to extend the pilot through April 30, 2005, while the Commission considers Nasdaq's proposed permanent solution to this issue. On January 25, 2005, Nasdaq filed a proposal to make three changes to the opening process: (1) Applying the Market Opening Process at 8 a.m. rather than 9:25 as currently approved; (2) extending the availability of Total Day and Total Immediate or Cancel Orders to 8 a.m. from 9:25, and adding the availability of Total Good-till-Canceled Orders during the same period; and (3) establishing a system default that protects market participants from unexpected executions upon the opening of Nasdaq's execution functionality at 8 a.m.[9] According to Nasdaq, these modifications would provide a more efficient long-term solution, but they would take longer to implement than simply rejecting X Orders until 9:25. Nasdaq believes it is imperative to address the situation quickly and to simultaneously pursue a long-term solution.

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A of the Act,[10] in general, and with Section 15A(b)(6) of the Act,[11] in particular, in that Section 15A(b)(6) requires, among other things, that a national securities association's rules be designed to protect investors and the public interest. Nasdaq believes that its current proposal is consistent with the NASD's obligations under these provisions of the Act because it would result in a more orderly opening for all Nasdaq stocks. The proposed rule change, as amended, would create a fair, orderly, and unified opening for Nasdaq stocks, prevent the occurrence of locked and crossed markets in halted securities, and preserve price discovery and transparency that is vital to an effective opening of trading.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change, as amended, would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Nasdaq neither solicited nor received written comments with respect to the proposed rule change, as amended.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change, as amended, does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13] Nasdaq has requested that the Commission waive the five-day pre-filing notice requirement and the 30-day operative delay for ''non-controversial'' proposals, based upon a representation that the proposal is of the utmost importance to the fair and orderly operation of The Nasdaq Stock Market during the pre-opening trading period. The Commission believes that waiver of

[6] *See* Securities Exchange Act Release No. 50640 (November 5, 2004), 69 FR 65664 (November 15, 2004) (SR–NASD–2004–172) (''Release No. 34–50640'').

[7] *See* Securities Exchange Act Release No. 50405 (September 16, 2004), 69 FR 57118 (September 23, 2004) (SR–NASD–2004–071).

[8] *See* Release No. 34–50640, *supra* note 6.

[9] *See* SR–NASD–2005–009.

[10] 15 U.S.C. 78*o*–3.

[11] 15 U.S.C. 78*o*–3(b)(6).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

the five-day pre-filing requirement and the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow Nasdaq to continue the pilot without interruption. For this reason, the Commission designates the proposal to be effective and operative upon filing with the Commission.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2005–017 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–2005–017. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2005–017 and should be submitted on or before March 18, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–771 Filed 2–24–05; 8:45 am]

BILLING CODE 8010–01–P

[14] For purposes only of waiving the 30-day operative delay of the proposed rule change, the Commission considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51224; File No. SR–NASD–2005–019]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify Pricing for NASD Members Using the Nasdaq Market Center and Nasdaq's Brut Facility

February 17, 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 1, 2004, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq has designated this proposal in part as one establishing or changing a due, fee or other charge imposed by the self-regulatory organization under Section 19(b)(3)(A)(ii)[3] of the Act and Rule 19b–4(f)(2) thereunder,[4] and in part as one concerned with the administration of a self-regulatory organization under Section 19(b)(3)(A)(iii)[5] of the Act and Rule 19b–4(f)(3) thereunder,[6] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify the pricing for NASD members using the Nasdaq Market Center and Nasdaq's Brut Facility. Nasdaq states that it will implement the proposed rule change on February 1, 2005. The text of the proposed rule change is available on the NASD's Web site (*http://www.nasd.com*), at the NASD'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, 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

Consolidation of Fee Schedule for Nasdaq Market Center and Brut Facility. In November 2004, Nasdaq established a uniform fee schedule for transactions in Nasdaq-listed securities through the Nasdaq Market Center and Nasdaq's Brut Facility.[7] Nasdaq is now proposing a uniform fee schedule for transactions in exchange-listed securities. Nasdaq states that, as is currently true for the Nasdaq Market Center, there will be no charge or credit associated with orders to buy or sell exchange-listed securities other than exchange-traded funds listed on the American Stock Exchange (''Amex-listed ETFs''), although Nasdaq is introducing a fee of $0.004 per share executed for orders that are routed by Brut using an exchange's proprietary

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] 15 U.S.C. 78s(b)(3)(A)(iii).

[6] 17 CFR 240.19b–4(f)(3).

[7] *See* Securities Exchange Act Release No. 50670 (November 16, 2004), 69 FR 67979 (November 22, 2004) (SR–NASD–2004–167); Securities Exchange Act Release No. 50787 (December 2, 2004), 69 FR 71459 (December 9, 2004) (SR–NASD–2004–170).

order delivery system (such as the New York Stock Exchange's SuperDOT system). Moreover, as of February 1, 2005, Amex-listed ETFs will be subject to the same tiered fee schedule as Nasdaq-listed securities. As a result, market participants' combined volume in Nasdaq-listed securities and Amex-listed ETFs in both the Nasdaq Market Center and Brut will be considered when determining each market participants' fees for orders in Nasdaq-listed securities and Amex-listed ETFs. In conjunction with this change, the fee schedule is also being clarified by moving transaction charges for exchange-listed securities from NASD Rule 7010(d) to NASD Rule 7010(i) and by clarifying that the fee schedule in NASD Rule 7010(i)(1) applies to Nasdaq-listed securities subject to the Nasdaq UTP Plan. Thus, as provided by NASD Rule IM–4400, the fees associated with dually listed securities that are subject to the Consolidated Quotation Service and Consolidated Tape Association national market system plans are the fees for exchange-listed securities, rather than Nasdaq-listed securities.

According to Nasdaq, the proposed rule change also provides that transactions executed through Nasdaq's Brut Facility will be considered when determining the amount of revenue shared with members under NASD Rule 7010(c)(2), Nasdaq's market data revenue sharing program for exchange-listed securities. Because such transactions are reported through Nasdaq, Nasdaq states that they now result in the receipt of market data revenue by Nasdaq that can be shared with members under the program. Moreover, the proposed rule change provides that executions in exchange-listed securities against a market participants' own quote or order are subject to the same fees as other transactions; currently, all such executions are free in the Nasdaq Market Center.

Preferenced Order Fees and Routing Fees. Nasdaq is proposing to eliminate the current $0.02 per order fee for entry of preferenced orders into the Nasdaq Market Center. Nasdaq is also proposing to modify the fees for orders that are routed from the Nasdaq Brut Facility to other market centers. Fees are based upon multiple volume-based usage tiers that take account of the combined Nasdaq Market Center and Brut volume of a market participant. According to Nasdaq, in the past, a market participant's volume of liquidity provision in Nasdaq-listed securities determined the tier to which such market participant was assigned. As discussed above, volume in Amex-listed ETFs will now also be considered in making this volume determination. Moreover, Nasdaq is proposing several modifications to the routing fee schedule. First, the tiers to which a market participant is assigned will now be based in part upon the volume of shares on the Nasdaq Market Center and Brut books that are accessed during a month and the volume of shares routed, as well as the volume of liquidity provided. Moreover, a new tier with a routing charge of $0.0025 per share executed will be established. Second, orders that are routed outside of both the Nasdaq Market Center and Brut without first attempting to execute against the Brut book (*i.e.*, ''Thru Brut orders'') will not be counted in determining the routing tier for which a market participant qualifies, and will be assessed a routing charge of $0.004 per share executed.[8] For other orders, the routing charges will be as follows: (i) If a market participant provides a daily average of 500,000 or fewer shares of liquidity during a month, its routing charge is $0.003 per share executed; (ii) if a market participant provides a daily average of more than 500,000 but fewer than 10,000,001 shares of liquidity during a month, its routing charge is $0.0028 per share executed; (iii) if a market participant provides a daily average of more than 10,000,000 but fewer than 20,000,001 shares of liquidity during a month, *or* provides a daily average of more than 20,000,000 shares of liquidity during a month but accesses and/or routes a daily average of 50,000,000 or fewer shares during the month, its routing charge is $0.0027 per share routed; and (iv) if a market participant provides a daily average of more than 20,000,000 shares of liquidity during a month and accesses and/or routes a daily average of more than 50,000,000 shares during the month, its routing charge will be $0.0025 per share executed.

Although the newly reduced routing charge is available at only high levels of volume, Nasdaq believes that the change is necessary as a response to a recent decision by a Nasdaq competitor to offer market participants with comparably high volumes reduced fees for accessing liquidity.[9] According to Nasdaq, by lowering its routing fee in a comparable manner, Nasdaq seeks to provide an overall level of transaction fees that allows it to compete for order flow from market participants that are in a position to benefit from its competitor's pricing change. Moreover, Nasdaq notes that routing fees are only one component of the fees that market participants pay, and the credits that they receive, to execute orders during a month. According to Nasdaq, because a market participant qualifying for the reduced routing fee must access and/or route high volumes of liquidity, its average cost of order execution is likely to be higher than the average cost of order execution of a large number of market participants that provide significant liquidity but access and/or route to a lesser extent.

Additional Clarifications. The fees currently in NASD Rule 7010(i) are applicable to members and also to non-members that use Nasdaq's Brut Facility.[10] Nasdaq states that it expects that it will continue to seek to apply the same fee schedule to members and non-members that use Brut. Nasdaq is submitting a separate filing to make the proposed rule changes contained in this filing applicable to non-members.[11] In order to facilitate that filing, however, Nasdaq is removing references to non-members from NASD Rule 7010 and adopting a new paragraph that provides that the fees applicable to non-members using Brut are the fees established for members by SR–NASD–2004–167, and made applicable to non-members by SR–NASD–2004–170. Nasdaq states that, because this change does not alter any of the fees currently applicable to non-members, it is being filed as a proposed rule change concerned solely with the administration of a self-regulatory organization under Section 19(b)(3)(A)(iii) of the Act.[12] In SR–NASD–2005–020, Nasdaq is, in turn, proposing to amend this new rule language to provide that the fees applicable to non-members are same as the fees applicable to members established by this rule filing, SR–NASD–2005–019. This procedure will ensure that Nasdaq can file member fee changes on an immediately effective basis, while allowing corresponding fee changes applicable to non-members to be filed either for Commission approval under Section 19(b)(2) of the Act[13] or as

[8] Orders routed by Brut to the Nasdaq Market Center would not be assessed the routing charge, but would be assessed Nasdaq's normal execution charge, if executed. Telephone conversation between John Yetter, Associate General Counsel, Nasdaq, and Marc McKayle, Special Counsel, Division of Market Regulation (''Division''), Commission, and David Liu, Attorney, Division, Commission, on February 17, 2005.

[9] *See http://www.inetats.com/prodserv/bd/fee/fee.asp.*

[10] Under NASD Rule 4710, the fees applicable to UTP Exchanges that participate in the Nasdaq Market Center are governed by contract.

[11] *See* SR–NASD–2005–020 (February 1, 2005).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 15 U.S.C. 78s(b)(2).

''non-controversial'' filings under Rule 19b–4(f)(6) under the Act.[14]

2. Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[15] in general, and with Section 15A(b)(5) of the Act,[16] in particular, in that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. Nasdaq states that, although the proposed reduction in routing fees is applicable only to market participants with high volumes of liquidity accessing and liquidity provision activity, the average cost of order execution of such market participants is actually higher than the average cost of a large number of lower volume market participants. Accordingly, Nasdaq believes that the proposed routing fee change is consistent with an equitable allocation of fees. Moreover, as with all of Nasdaq's tiered fees, Nasdaq states that the change takes account of Nasdaq's lower per share costs and enhanced revenue opportunities associated with higher volumes of liquidity provision and liquidity accessing. Nasdaq believes that the proposed changes with respect to exchange-listed securities will introduce greater uniformity and clarity in the fee schedule applicable to such securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Nasdaq states that written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The forgoing rule change is subject in part to Section 19(b)(3)(A)(ii) of the Act[17] and subparagraph (f)(2) of Rule 19b–4[18] thereunder because it establishes or changes a due, fee, or other charge imposed by the self-regulatory organization and in part to Section 19(b)(3)(A)(iii) of the Act[19] and subparagraph (f)(3) of Rule 19b–4[20] thereunder because it is concerned with the administration of a self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. 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.[21]

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–NASD–2005–019 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–2005–019. 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 the 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–2005–019 and should be submitted on or before March 18, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–772 Filed 2–24–05; 8:45 am]

BILLING CODE 8010–01–P

[14] 17 CFR 240.19b–4(f)(6).

[15] 15 U.S.C. 78*o*–3.

[16] 15 U.S.C. 78*o*–3(b)(5).

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

[18] 17 CFR 240.19b–4(f)(2).

[19] 15 U.S.C. 78s(b)(3)(A)(iii).

[20] 17 CFR 240.19b–4(f)(3).

[21] 15 U.S.C. 78s(b)(3)(C).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51230; File No. SR–NASD–2004–045]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Adopt NASD Rule 2111 To Prohibit Members From Trading Ahead of Customer Market Orders

February 18, 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 March 12, 2004, the National Association of Securities Dealers, Inc. (''NASD''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. On February 16, 2005, NASD amended the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Amendment No. 1 to SR–NASD–2004–045 filed on February 16, 2005. Amendment No. 1 made clarifying changes to the proposed rule text.

[4] NASD notes that related to this proposed rule filing it has also filed SR–NASD–2004–026, a proposed rule change that would amend NASD Rule 2320(a), known as the ''Best Execution Rule.'' *See* Securities Exchange Act Release No. 51229 (February 18, 2005) (SR–NASD–2004–026). NASD has also filed SR–NASD–2004–089, a proposed rule change that would provide price improvement to customer limit orders under certain circumstances. *See* Securities Exchange Act Release No. 51231 (February 18, 2005) (SR–NASD–2004–089).

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

NASD is proposing to prohibit members from trading ahead of a customer market order under the circumstances described herein. Below is the text of the proposed rule change. Proposed new language is in italics.

2111. Trading Ahead of Customer Market Orders

(a) A member must make every effort to execute a customer market order that it receives fully and promptly.

(b) A member that accepts and holds a market order of its own customer or a customer of another broker-dealer in a Nasdaq or exchange-listed security without immediately executing the order is prohibited from trading that security on the same side of the market for its own account, unless it immediately thereafter executes the customer market order up to the size and at the same price at which it traded for its own account or at a better price.

(c) A member that is holding a customer market order that has not been immediately executed must make every effort to cross such order with any market order, marketable limit order, or non-marketable limit order priced better than the best bid or offer, received by the member on the other side of the market up to the size of such order at a price that is no less than the best bid and no greater than the best offer at the time that the subsequent market order, marketable limit order or non-marketable limit order is received by the member and that is consistent with the terms of the orders. In the event that a member is holding multiple orders on both sides of the market that have not been executed, the member must make every effort to cross or otherwise execute such orders in a manner that is reasonable, and is consistent with the objectives of this rule and with the terms of the orders. The member must have a written methodology in place governing the execution and priority of all such pending orders and must ensure that such methodology is consistently applied.

(d) A member may negotiate specific terms and conditions applicable to the acceptance of a market order only with respect to market orders that are: (1) for customer accounts that meet the definition of an ''institutional account'' as that term is defined in Rule 3110(c)(4), or (2) 10,000 shares or more, unless such orders are less than $100,000 in value.

(e) This rule applies to limit orders that are marketable at the time they are received by the member or become marketable at a later time. Such limit orders shall be treated as market orders for purposes of this rule, however, these orders must continue to be executed at their limit price or better. If a customer limit order is not marketable when received, the limit order must be provided the full protections of IM–2110–2 or Rule 6440(f)(2), as applicable. In addition, if the limit order was marketable when received and then becomes non-marketable, once the limit order becomes non-marketable, it must be provided the full protections of IM–2110–2 or Rule 6440(f)(2), as applicable.

(f) The obligations under this rule shall not apply to a member's proprietary trade if such proprietary trade is for the purposes of facilitating the execution, on a riskless principal basis, of another order from a customer (whether its own customer or the customer of another member) (the ''facilitated order''), provided that all of the following requirements are satisfied:

(1) The handling and execution of the facilitated order must satisfy the definition of a ''riskless'' principal transaction, as that term is defined in NASD Rules 4632(d)(3)(B), 4642(d)(3)(B), 4652(d)(3)(B), 4632A(e)(1)(C) or 6420(d)(3)(B);

(2) A member that relies on this exclusion to the rule must give the facilitated order the same per-share price at which the member accumulated or sold shares to satisfy the facilitated order, exclusive of any markup or markdown, commission equivalent or other fee;

(3) A member must submit, contemporaneously with the execution of the facilitated order, a report as defined in NASD Rules 4632(d)(3)(B)(ii), 4642(d)(3)(B)(ii), 4652(d)(3)(B)(ii), 6420(d)(3)(B)(ii) and 4632A(e)(1)(C)(ii), or a substantially similar report to another trade reporting system; and

(4) Members must have written policies and procedures to assure that riskless principal transactions relied upon for this exclusion comply with applicable NASD rules. At a minimum these policies and procedures must require that the customer order was received prior to the offsetting transactions, and that the offsetting transactions are allocated to a riskless principal or customer account in a consistent manner and within 60 seconds of execution. Members must have supervisory systems in place that produce records that enable the member and NASD to reconstruct accurately, readily, and in a time-sequenced manner all orders on which a member relies in claiming this exception.

(g) Nothing in this rule changes the application of Rule 2320 with respect to a member's obligations to customer orders.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD 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

Background. NASD Interpretive Material 2110–2, Trading Ahead of Customer Limit Order (commonly referred to as the ''Manning Rule'') generally prohibits members from trading for their own account at prices that would satisfy a customer's limit order, unless the member immediately thereafter executes the customer limit order.[5] The legal underpinnings for the Manning Rule are a member's basic fiduciary obligations and the requirement that it must, in the conduct of its business, ''observe high standards of commercial honor and just and equitable principles of trade.''[6]

NASD believes that the same principles on which the Manning Rule is based should apply to the treatment of customer market orders. As such, on March 12, 2004, NASD filed the instant proposed rule change, proposing amendments to require market order protection. The proposed rule change sought to adopt new NASD Rule 2111 that would prohibit a member from trading ahead of a customer market order under the circumstances described therein. NASD proposed certain changes to proposed NASD Rule 2111 with Amendment No. 1.

Proposal. NASD is proposing that a member be prohibited from trading for

[5] For example, if the member bought 100 shares at $10 when holding customer limit orders in the same security to buy at $10 equaling, in aggregate, 1000 shares, the member is required to fill 100 shares of the customer limit orders. NASD Rule 6440(f)(2) imposes similar requirements with respect to the receipt of customer limit orders in exchange-listed securities.

[6] *See* NASD Rule 2110.

its proprietary account on the same side of the market as a customer market order, if that customer market order has not been executed fully and promptly. Specifically, the proposed rule change would prohibit a member from trading for its own account on the same side of the market as a customer market order in a Nasdaq or exchange-listed security[7] if the member accepts and holds a customer market order in that security without immediately executing the order, unless such member immediately thereafter executes the customer market order up to the size and at the same price at which it traded for its own account or a better price.[8] Similar to the application of the Manning Rule, customer market orders would include orders received from the member's own customers or customer orders of another broker-dealer. In addition, if a member is holding a customer market order that has not been immediately executed, such member would be required to make every effort to match the pending market order against any market orders, marketable limit orders or non-marketable limit orders priced better than the best bid or offer received by the member on the other side of the market up to the size of the pending market order and at a price that is no less than the best bid and no greater than the best offer at the time such subsequent market order, marketable limit order or non-marketable limit order is received by such member and is consistent with the terms of the pending order.

In the event that a member is holding multiple orders on both sides of the market that have not been executed, the member must make every effort to cross or otherwise execute such orders in a manner that is reasonable and is consistent with the objectives of the proposed rule change and with the terms of the orders. The member also must have a written methodology in place governing the execution priority of all such pending orders and must ensure that such methodology is consistently applied.

For example, assume the inside market for security ABCD is 10 to 10.05 and Firm A receives a market order to buy 1,000 shares of ABCD from Customer C1, which Firm A has not immediately executed. If Firm A buys 1,000 shares of ABCD at 10 from Firm B (or from any other source), Firm A would be required to sell 1,000 shares of ABCD to C1 at 10 or better. Similarly, if Firm A bought shares for its own account below the best bid of 10, it would be required to sell stock to C1 at that same price below the bid or better.

If a member does not execute an order fully and promptly, but has not bought or sold securities for its own account on the same side of the market as the customer order or has not received a market order, marketable limit order or non-marketable limit order priced better than the best bid or offer from another customer on the contra-side of the market, the proposed rule change would not impose any specific obligations on the member above and beyond the member's current obligations to market orders, such as a member's best execution requirements under NASD Rule 2320.[9]

The proposed rule change also would incorporate several of the same types of exclusions that apply to the Manning Rule. First, the proposed rule change would permit members to negotiate specific terms and conditions applicable to the acceptance of a market order with respect to a market order for customer accounts that meet the definition of an ''institutional account'' as that term is defined in NASD Rule 3110(c)(4) or a market order that is for 10,000 shares or more, unless such order is less than $100,000 in value.

Second, the proposal would provide an exception for member proprietary trades that are part of an execution, on a riskless principal basis, of another order from a customer (whether its own customer or the customer of another member) (the ''facilitated order''). This exclusion would apply only if the following requirements are met: (1) The handling and execution of the facilitated order must satisfy the definition of a ''riskless'' principal transaction, as that term is defined in NASD Rules; (2) the member must give the facilitated order the same per-share price at which the member accumulated or sold shares to satisfy the facilitated order, exclusive of any markup or markdown, commission equivalent or other fee; (3) a member must submit, contemporaneously with the execution of the facilitated order, a report as defined in NASD Rules 4632(d)(3)(B)(ii), 4642(d)(3)(B)(ii), 4652(d)(3)(B)(ii), 6420(d)(3)(B)(ii) or 4632A(e)(1)(C)(ii), or a substantially similar report; and (4) members must have written policies and procedures to assure that riskless principal transactions relied upon for this exclusion comply with applicable NASD rules.[10]

For example, assume that the inside market for security ABCD is 10 to 10.05 and Firm A receives a market order to buy 1,000 shares of ABCD from Customer C1 and immediately thereafter, receives a market order to buy 500 shares of ABCD from Customer C2. Firm A has not immediately executed the orders from C1 and C2. If Firm A purchases 1,000 shares at 10 to fill C1's order on a riskless principal basis and otherwise meets the requirements of the riskless principal exception to the proposed rule change, the riskless principal trade would not trigger an execution of C2's order under the proposed rule change. Under the same facts noted above, alternatively if Firm A were to execute C2's order for 500 shares on a riskless principal basis prior to executing C1's order, the riskless principal trade would not trigger the execution (or partial execution) of C1's order.[11]

[7] NASD Rule 6440(f)(1) currently prohibits a member from personally buying (selling) an exchange-listed security for its own account while such member holds an unexecuted market order to buy (sell) such security for a customer. The proposed rule change would prohibit a broad range of conduct, including conduct prohibited by NASD Rule 6440(f)(1) and therefore, NASD staff will recommend to Nasdaq that it consider deleting NASD Rule 6440(f)(1), in light of the proposal described herein.

[8] The agency obligation of a broker-dealer with respect to a customer order is defined by the customer's expectation of the treatment of the order. A customer's market order generally represents the expectation that the order will be executed fully and promptly at the current best bid, for a sell order, or best offer, for a buy order, regardless of the impact on market price. In attempting to meet this expectation, there is some reasonable period of time in which market orders may queue while the broker-dealer is executing orders ahead on both sides of the market. This proposed rule change represents NASD's view that, when that reasonable time period has expired, the member shall not be permitted to trade that security for its own account on the same side of the market as its customer market order without giving the customer market order an execution at that same price or better.

[9] *See* NASD Rule 2320(a) (the ''Best Execution Rule''). NASD has proposed changes to the Best Execution Rule in SR–NASD–2004–026 (February 12, 2004), *See* footnote 4, *supra.*

[10] With respect to requirement (4), the member's policies and procedures, at a minimum, must require that the customer order was received prior to the offsetting transactions, and that the offsetting transactions are allocated to a riskless principal or customer account in a consistent manner and within 60 seconds of execution. Members must have supervisory systems in place that produce records that enable the member and NASD to reconstruct accurately, readily, and in a time-sequenced manner, all orders on which a member relies in claiming this exemption.

[11] Except as specifically provided in the proposed rule change, NASD has not mandated any particular order handling and execution priority procedures among market orders. Thus, a member may choose any reasonable methodology for the way in which it executes multiple orders that it holds, but the member must ensure that such methodology is applied consistently. For example, a member could use a first in first out (FIFO) methodology or some other objective methodology or formula. It would be inappropriate, however, for a member's methodology to give priority, for example, to orders of certain ''preferred accounts'' or preference institutional orders over retail orders. To the extent a member elects a specific methodology, the member must document that methodology and have written supervisory procedures and systems in

The proposed rule change also applies to limit orders that are marketable at the time they are received by the member or that become marketable at a later time. Such limit orders would be treated as market orders for purposes of the proposed rule change; however, these orders must continue to be executed at their limit price or better. If a customer limit order is not marketable when received, the limit order must be provided the full protections of IM–2110–2 for Nasdaq securities of NASDRule 6440(f)(2) for exchange-listed securities. In addition, if the limit order was marketable when received and then becomes non-marketable, once the limit order becomes non-marketable, it must be provided the full protections of IM–2110–2 or NASD Rule 6440(f)(2).

The proposed rule change applies to NASD members irrespective of upon which market they trade. If a member were to execute a proprietary trade on an exchange while holding a customer market order on the same side of the market that the member has not fully and promptly executed, then the member would be deemed to have violated the proposed rule change unless (1) the member immediately provides an execution to that market order at a price equal to or better than the proprietary trade; or (2) the member's proprietary trade was in accordance with a functional role, recognized within the rules of that exchange, of acting as a liquidity provider, such as acting in the role of a specialist or some other substantially similar capacity.

NASD is emphasizing that nothing in the proposed rule change modifies the application of NASD Rule 2320 with respect to a member's obligations to customer orders. For example, to the extent a member does not execute a market order fully and promptly, compliance with the proposed rule change would not safeguard the member from potential liability due to non-compliance with its best execution responsibilities.

Finally, in recognition that the proposed rule change may alter the way that many members handle customer orders, NASD believes it is important to provide members with adequate time to develop and implement systems to comply with the proposed rule change. Therefore, should the Commission approve the proposed rule change NASD is proposing an implementation date of 90 days after the issuance of a *Notice to Members* announcing SEC approval of the proposed rule change.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[12] in general, and with Section 15A(b)(6) of the Act,[13] in particular, which requires that NASD rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will improve the treatment of market orders and enhance the integrity of the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD 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 or 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–2004–045 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–2004–045. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2004–045 and should be submitted on or before March 18, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–773 Filed 2–24–05; 8:45 am]

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place to ensure that the methodology it has chosen is consistent with the duty of best execution. Further, simply because a member employs a methodology for execution of orders and that methodology is followed in a particular circumstance does not automatically mean that any or all customer orders executed pursuant to such a methodology have received best execution under NASD Rule 2320.

[12] 15 U.S.C. 78*o*–3.

[13] 15 U.S.C. 78*o*–3(b)(6).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51223; File No. SR–NASD–2005–010]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 To Modify Restrictions on Computer-Generated Quoting

February 17, 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 25, 2005, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. On February 16, 2005, the Exchange filed Amendment No. 1 to the proposal. 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

Nasdaq proposes to amend NASD Rules 4705 and IM–4613 to modify restrictions on autoquoting and computer-generated quoting of Nasdaq-listed stocks. Nasdaq will implement the proposed rule change 30 days after the date of its filing.

The text of the proposed rule change is available on the Nasdaq's Web site *http://www.nasdaq.com*, at the Nasdaq'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, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to amend its rules governing autoquoting and computer-generated quoting (collectively, ''CGQ'')[5] in Nasdaq-listed stocks to provide market participants with greater latitude in using technology to manage their quotation activity. The limitations contained in IM–4613 were originally implemented due to capacity and operational constraints that no longer exist. The Commission recently approved Nasdaq's proposal to remove restrictions on CGQ in exchange-listed securities.[6] In a similar vein, this proposed rule change will eliminate member filing requirements that are currently associated with CGQ in Nasdaq-listed securities. Market participants have developed sophisticated systems that generate quote updates through automated means. In many cases, these systems reflect trading strategies in which quoted prices are based on several factors, such as the last sale, bids, offers, and sizes of stocks, futures, and options, and statistically derived relationships among these instruments. IM–4613 currently interprets Rule 4613, which governs quotation activity in Nasdaq, to allow CGQ only under certain conditions. In light of substantial experience administering the restrictions of the current rule, Nasdaq has concluded that the conditions currently imposed upon CGQ are unnecessary, and should be replaced with a flexible rule allowing Nasdaq to impose temporary restrictions on CGQ if Nasdaq determines that they are necessary to protect the integrity of Nasdaq's systems.

IM–4613 provides that a market maker must request approval to engage in CGQ by submitting an application to Nasdaq, and must update its application to reflect subsequent changes. In 2003, Nasdaq streamlined the approval process by allowing firms to proceed with CGQ after providing five days' notice, unless Nasdaq specifically rejects or imposes conditions upon a firm's application.[7] Because the capacity of Nasdaq systems is well in excess of current and foreseeable quoting and trading volumes, however, Nasdaq has not found occasion to reject or condition approval of any firm's application. Moreover, Nasdaq has found that the information provided through the applications and their updates is less useful to a technical understanding of firms' CGQ activity than ongoing personal contact between Nasdaq and programmers and traders at the firms that engage in CGQ. Accordingly, Nasdaq has concluded that the requirement to file and update the application imposes an unwarranted paperwork burden on firms and should be eliminated.

Moreover, Nasdaq believes that the provision of IM–4613 that restricts CGQ at prices away from the inside market is now unnecessary in light of Nasdaq's capacity and the fully automated nature of the Nasdaq market. Quotes at prices away from the inside market are regularly executed by orders that ''sweep the book,'' and therefore such quotes offer liquidity at prices acceptable to the market participants that enter orders accessing them.[8] Moreover, since the Nasdaq Market Center allows market participants to establish quotes at multiple levels, Nasdaq believes that market participants with multiple quotes should be permitted to use automation to manage their quotes away from the inside market as well as their quotes at the inside market.

Nasdaq notes, however, that IM–4613 contains an important safeguard, in that it allows Nasdaq to restrict or impose conditions on CGQ by one firm or multiple firms in order to protect the integrity of Nasdaq's systems if necessary. Although Nasdaq has not had occasion to use this authority and, consistent with the reduced restrictions

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] IM–4613 currently defines ''autoquoting'' as the use of any system that ''track[s] changes to the inside quotation in Nasdaq and automatically react[s] by generating another quote to keep the market maker's quote away from the best market'' and defines ''computer-generated quoting'' as ''effecting, without a physical entry, a quote update that is not designed to keep a * * * quote away from the Nasdaq and/or national best bid/best offer.'' For the sake of simplicity, the term ''CGQ'' is used in this filing to refer to all forms of automated entry or updating of quotes or orders.

[6] Securities Exchange Act Release No. 50683 (November 17, 2004), 69 FR 68204 (November 23, 2004) (SR–NASD–2004–107).

[7] Securities Exchange Act Release No. 48274 (August 1, 2003), 68 FR 47119 (August 7, 2003) (SR–NASD–2003–102).

[8] Nasdaq notes, however, that Rule 4613(c) continues to require that a market maker's quotations be reasonably related to the prevailing market. Accordingly, a market maker whose quotation is so far away from the inside market as to preclude an execution against the quote may be required to re-enter its quotations under the rule and may be suspended if it fails to do so.

on CGQ reflected in this rule change, Nasdaq does not currently foresee circumstances that would require its use, nevertheless Nasdaq believes that this authority should be retained with appropriate modifications to ensure that Nasdaq has the flexibility to respond to exigent circumstances. Specifically, Nasdaq proposes to adopt a new paragraph in Rule 4705, which governs the general terms and conditions of participation in the Nasdaq Market Center, to provide that Nasdaq may impose upon any Nasdaq Market Center Participant such temporary restrictions upon the automated entry or updating of orders or Quotes/Orders as Nasdaq may determine to be necessary to protect the integrity of Nasdaq's systems. Thus, the modified rule would be broader than the current rule in several respects. First, it would recognize that order entry and updating, like quotation entry and updating, can be automated, and that a rule allowing the restriction of automated activity should not reflect an artificial distinction between these two forms of interaction with the market. Second, the modified rule would apply to all Nasdaq Market Center Participants, whether market makers, electronic communications networks, or order entry firms, in recognition of the fact that automated activity is not limited to market makers, and would apply to both Nasdaq-listed and exchange-listed securities. The modified rule would be narrower, however, in that it contemplates only such temporary restrictions on automated activity as may be necessary to address, for example, a system problem at a particular firm or an unexpected period of extremely high message traffic. Although the rule does not define temporary, it would be Nasdaq's intent to file a proposed rule change to impose a permanent restriction on a particular aspect of automated activity if it appeared that the circumstances giving rise to a particular restriction could not be mitigated within a one-month period. Any temporary restriction imposed will be communicated to affected participants in writing, to ensure that the market participants have a clear understanding of the scope of the restriction and to provide a clear record in the event that a market participant seeks review of the restriction.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[9] in general and with Section 15A(b)(6) of the Act,[10] in particular, in that it is designed to 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. Easing restrictions on CGQ will allow market participants to make greater use of automation in establishing their quotations, which should enhance the price discovery process and allow members to increase the number of stocks in which they are registered as market makers. At the same time, Nasdaq's retained authority to impose restrictions on CGQ will allow Nasdaq to address any temporary system problems that may arise. The proposed rule change will also remove certain paperwork burdens that are currently imposed upon market makers engaging in CGQ.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change, as amended, does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective [11] pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, as amended, 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.[14]

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 No. SR–NASD–2005–010 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–2005–010. 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 Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2005–010 and should be submitted on or before March 18, 2005.

[9] 15 U.S.C. 78o–3.

[10] 15 U.S.C. 78o–3(b)(6).

[11] Nasdaq provided the Commission with notice of its intent to file the proposed rule change at least five days prior to the filing date.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] For purposes of calculating the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on February 16, 2005, when Amendment No. 1 was filed.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–774 Filed 2–24–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51225; File No. SR–NASD–2005–020]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify Pricing for Non-Members Using Nasdaq's Brut Facility

February 17, 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 1, 2005, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. Nasdaq has filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] 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

Nasdaq proposes to modify the pricing for non-members using Nasdaq's Brut Facility. Nasdaq proposes to implement the proposed rule change on February 1, 2005. The text of the proposed rule change is available on the NASD's Web site (*http://www.nasd.com*), at the NASD'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, 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

Consolidation of Fee Schedule for Nasdaq Market Center and Brut Facility. In November 2004, Nasdaq established a uniform fee schedule for transactions in Nasdaq-listed securities through the Nasdaq Market Center and Nasdaq's Brut Facility.[5] In SR–NASD–2005–019, Nasdaq proposed a uniform fee schedule for NASD members executing transactions in exchange-listed securities through the Nasdaq Market Center and Nasdaq's Brut Facility.[6] Nasdaq is now proposing to make the uniform fee schedule applicable to non-members trading through Nasdaq's Brut Facility.

Nasdaq states that, as is currently true for the Nasdaq Market Center, there will be no order specific charges or credits associated with orders to buy or sell exchange-listed securities other than exchange-traded funds listed on the American Stock Exchange (''Amex-listed ETFs''), although Nasdaq is introducing a fee of $0.004 per share executed for orders that are routed by Brut using an exchange's proprietary order delivery system (such as the New York Stock Exchange's SuperDOT system). Moreover, as of February 1, 2005, Amex-listed ETFs will be subject to the same tiered fee schedule as Nasdaq-listed securities. As a result, market participants' combined volume in Nasdaq-listed securities and Amex-listed ETFs in both the Nasdaq Market Center and Brut will be considered when determining each market participants' fees for orders in Nasdaq-listed securities and Amex-listed ETFs. In conjunction with this change, the fee schedule is also being clarified by moving transaction charges for exchange-listed securities from NASD Rule 7010(d) to NASD Rule 7010(i) and by clarifying that the fee schedule in NASD Rule 7010(i)(1) applies to Nasdaq-listed securities subject to the Nasdaq UTP Plan. Thus, as provided by NASD Rule IM–4400, the fees associated with dually listed securities that are subject to the Consolidated Quotation Service and Consolidated Tape Association national market system plans are the fees for exchange-listed securities, rather than Nasdaq-listed securities. Moreover, the proposed rule change provides that executions in exchange-listed securities against a market participants' own quote or order are subject to the same fees as other transactions; currently, all such executions are free in the Nasdaq Market Center.

Routing Fees. Nasdaq is also proposing to modify the fees for orders that are routed from the Nasdaq Brut Facility to other market centers. Fees are based upon multiple volume-based usage tiers that take account of the combined Nasdaq Market Center and Brut volume of a market participant. According to Nasdaq, in the past, a market participants' volume of liquidity provision in Nasdaq-listed securities has determined the tiers to which a market participant was assigned. As discussed above, volume in Amex-listed ETFs will now also be considered in making this volume determination. Moreover, Nasdaq is proposing several modifications to the routing fee schedule. First, the tiers to which a market participant is assigned will now be based in part upon the volume of shares on the Nasdaq Market Center and Brut books that are accessed during a month and the volume of shares routed, as well as the volume of liquidity provided. Moreover, a new tier with a routing charge of $0.0025 per share executed will be established. Second, orders that are routed outside of both the Nasdaq Market Center and Brut without first attempting to execute against the Brut book (*i.e.*, ''Thru Brut orders'') will not be counted in determining the routing tier for which a market participant qualifies, and will be assessed a routing charge of $0.004 per share executed.[7] For other orders, the

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 50670 (November 16, 2004), 69 FR 67979 (November 22, 2004) (SR–NASD–2004–167); Securities Exchange Act Release No. 50787 (December 2, 2004), 69 FR 71459 (December 9, 2004) (SR–NASD–2004–170).

[6] *See* SR–NASD–2005–019 (February 1, 2005).

[7] Orders routed by Brut to the Nasdaq Market Center would not be assessed the routing charge, but would be assessed Nasdaq's normal execution charge, if executed. Telephone conversation between John Yetter, Associate General Counsel, Nasdaq, and Marc McKayle, Special Counsel, Division of Market Regulation (''Division''), Commission, and David Liu, Attorney, Division, Commission, on February 17, 2005.

routing charges will be as follows: (i) If a market participant provides a daily average of 500,000 or fewer shares of liquidity during a month, its routing charge is $0.003 per share executed; (ii) if a market participant provides a daily average of more than 500,000 but fewer than 10,000,001 shares of liquidity during a month, its routing charge is $0.0028 per share executed; (iii) if a market participant provides a daily average of more than 10,000,000 but fewer than 20,000,001 shares of liquidity during a month, *or* provides a daily average of more than 20,000,000 shares of liquidity during a month but accesses and/or routes a daily average of 50,000,000 or fewer shares during the month, its routing charge is $0.0027 per share routed; and (iv) if a market participant provides a daily average of more than 20,000,000 shares of liquidity during a month and accesses and/or routes a daily average of more than 50,000,000 shares during the month, its routing charge will be $0.0025 per share executed.

Although the newly reduced routing charge is available at only high levels of volume, Nasdaq believes that the change is necessary as a response to a recent decision by a Nasdaq competitor to offer market participants with comparably high volumes reduced fees for accessing liquidity.[8] According to Nasdaq, by lowering its routing fee in a comparable manner, Nasdaq seeks to provide an overall level of transaction fees that allows it to compete for order flow from market participants that are in a position to benefit from its competitor's pricing change. Moreover, Nasdaq notes that routing fees are only one component of the fees that market participants pay, and the credits that they receive, to execute orders during a month. According to Nasdaq, because a market participant qualifying for the reduced routing fee must access and/or route high volumes of liquidity, its average cost of order execution is likely to be higher than the average cost of order execution of a large number of market participants that provide significant liquidity but access and/or route to a lesser extent.[9]

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A of the Act,[10] in general, and with Section 15A(b)(5) of the Act,[11] in particular, in that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. The proposed rule change applies to non-members that use Nasdaq's Brut Facility for certain fee changes that are being implemented in SR–NASD–2005–019 for NASD members that use the Nasdaq Market Center and/or Nasdaq's Brut Facility.[12] Accordingly, the proposed rule change promotes an equitable allocation of fees between members and non-members using Nasdaq's order execution facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change, as amended, is subject to Section 19(b)(3)(A)(iii) of the Act[13] and Rule 19b–4(f)(6) thereunder[14] because the proposal: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that Nasdaq has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.[15]

Nasdaq has requested that the Commission waive the five-day pre-filing notice requirement and the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will permit Nasdaq to make Brut's fee structure consistent for both NASD members and non-NASD members. In addition, the Commission has determined to waive the five-day pre-filing notice requirement. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[16]

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–NASD–2005–020 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–2005–020. 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

[8] *See http://www.inetats.com/prodserv/bd/fee/fee.asp.*

[9] Nasdaq is also proposing to eliminate the current $0.02 per order fee for entry of preferenced orders in the Nasdaq Market Center. Although this change is being made to the unified member fee schedule, it would not directly affect non-members because the Nasdaq Market Center is not directly accessible by non-members. *See* SR–NASD–2005–019 (February 1, 2005).

[10] 15 U.S.C. 78*o*–3.

[11] 15 U.S.C. 78*o*–3(b)(5).

[12] *See* SR–NASD–2005–019 (February 1, 2005).

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

[16] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 the 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–2005–020 and should be submitted on or before March 18, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–775 Filed 2–24–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51229; File No. SR–NASD–2004–026]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto To Amend NASD Rule 2320(a) Governing Best Execution

February 18, 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 12, 2004, the National Association of Securities Dealers, Inc. (''NASD''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. On May 11, 2004, NASD amended the proposed rule change.[3] On February 14, 2005, NASD amended the proposed rule change a second time.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.[5]

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

NASD is proposing to amend Rule 2320(a) (''Best Execution Rule''). Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

2300. TRANSACTIONS WITH CUSTOMERS

2320. Best Execution and Interpositioning

(a) In any transaction for or with a customer *or a customer of another broker-dealer*, a member and persons associated with a member shall use reasonable diligence to ascertain the best [inter-dealer] market *center* for the subject security and buy or sell in such market *center* so that the resultant price to the customer is as favorable as possible under prevailing market conditions. Among the factors that will be considered in determining whether a member has used ''reasonable diligence'' are:

(1) [T]*t*he character of the market for the security, e.g., price, volatility, relative liquidity, and pressure on available communications;

(2) the size and type of transaction;

(3) the number of [primary] market[s] *centers* checked;

(4) *accessibility of the quotation* [location and accessibility to the customer's broker/dealer of primary markets and quotations sources.]*; and*

(5) the terms and conditions of the order which result in the transaction, as communicated to the member and persons associated with the member.

(b) through (g) No change.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD 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

Background. The Best Execution Rule currently requires a member, in any transaction for or with a customer, to use reasonable diligence to ascertain the best inter-dealer market for a security and to buy or sell in such a market so that the price to the customer is as favorable as possible under the prevailing market conditions. NASD has received a number of questions regarding the application of the term ''customer,'' in the context of best execution. NASD Rule 0120(g) defines ''customer'' to exclude a broker or dealer, unless the context otherwise requires. For example, if a firm that receives an order from a customer (''originating broker-dealer'') routes the order to a member firm (''recipient member'') and the recipient member executes the order in a manner inconsistent with the Best Execution Rule, the recipient member could argue that it has not violated the Best Execution Rule because the transaction was not ''for or with a customer,'' but rather for or with a broker-dealer.

NASD believes that not applying the Best Execution Rule to recipient members is contrary to the interests of the investing public as well as the general intent of the Best Execution Rule. To determine whether the scope of the Best Execution Rule requires further clarification to include customer orders received by a member from another broker-dealer, NASD issued *Notice to Members 02–40* in July 2002 seeking comment on this issue. NASD received eleven comment letters in response to NASD *Notice to Members 02–40*.[6] The

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[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Amendment No. 1 to SR–NASD–2004–026 filed on May 11, 2004. *See infra* discussion accompanying notes 6–7.

[4] *See* Amendment No. 2 to SR–NASD–2004–026 filed on February 14, 2005. *See infra* discussion accompanying note 7.

[5] NASD notes that related to amending NASD Rule 2320(a) it has also filed SR–NASD–2004–045, a proposed rule change that would require market order protection by prohibiting members from trading ahead of a customer market order. *See* Securities Exchange Act Release No. 51230 (February 18, 2005) (SR–NASD–2004–045). NASD has also filed SR–NASD–2004–089, a proposed rule change that would require limit order protection by requiring members to provide price improvement under certain circumstances. See Securities Exchange Act Release No. 51231 (February 18, 2005)(SR–NASD–2004–089).

[6] *See* letter from Dan Jamieson dated July 18, 2002; letter from Seidel & Shaw, LLC dated July 29, 2002; letter from Consolidated Financial Investments, Inc. dated Aug. 1, 2002; letter from the Law Offices of Steve A. Buchwalter, P.C. dated Aug. 6, 2002; letter from A.G. Edwards & Sons, Inc. dated Aug. 8, 2002; letter from Raymond James & Associates, Inc. dated Aug. 8, 2002; letter from T. Rowe Price Investment Services, Inc. dated Aug. 8, 2002; letter from Security Traders Association dated Aug. 22, 2002; letter from The Island ECN, Inc. dated Aug. 22, 2002; letter from the Trading Committee and the Self-Regulation and Supervisory Practices Committee of the Securities Industry Association dated Sept. 9, 2002; and letter from the Subcommittee on Market Regulation of the

majority of the commenters asserted that the Best Execution Rule should be amended to clarify the scope of the duty with respect to customer orders received from another broker-dealer.

On February 11, 2004, NASD filed the instant proposed rule change, proposing that a recipient member provide best execution to customer orders routed to it when there was either a written agreement between the originating broker-dealer and the recipient member or written representations from the recipient member that it would provide best execution to the originating broker-dealer's customer orders. The proposal also sought to clarify that the recipient member was not required to enter into any such written agreements with the originating broker-dealer, and that the originating broker-dealer (to the extent it is was a member) would remain obligated to comply with the Best Execution Rule, irrespective of whether such an agreement existed.

On May 11, 2004, NASD filed Amendment No. 1 to SR–NASD–2004–026. Amendment No. 1 continued to require that a recipient member provide best execution to customer orders routed to it when there was either a written agreement between the originating broker-dealer and the recipient member or written representations from the recipient member that it would provide best execution to the originating broker-dealer's customer orders. In addition, Amendment No. 1 added a new reasonable diligence factor to the text of the Best Execution Rule that required consideration of the existence of a written agreement or written representations when a customer order is routed to another broker-dealer. Also, the amendment modified the text of new proposed paragraph (a)(2) of the Best Execution Rule. Lastly, the amendment provided proposed interpretive guidance concerning Rule 2320, as amended.

Proposal. With Amendment No. 2, NASD proposes to amend the Best Execution Rule to require that a recipient member provide best execution to all transactions for or with a customer of another broker-dealer. Specifically, NASD is proposing to amend the Best Execution Rule to state that the rule governs ''any transaction for or with a customer or a customer of another broker-dealer.'' NASD believes this proposed rule change will better ensure customer orders receive the equivalent best execution protections. This will occur without regard to whether a customer order is executed by the originating broker-dealer or routed to another broker-dealer.[7] Moreover, best execution protection will apply whether the originating or recipient member executes the order as principal or routes it as agent to another market center. The recipient firm's duty under the rule is owed only to orders accepted by the recipient firm. The proposed rule change should enhance NASD's regulatory program and create a more uniform and consistent standard of best execution than currently exists.[8]

Furthermore, NASD proposes amending the Best Execution Rule to modernize the text of the rule. The Best Execution Rule currently requires a member to ascertain the best ''inter-dealer'' market for a security and to buy or sell in such a market so that the price to the customer is as favorable as possible under the prevailing market conditions. As a result of changes in market structure, NASD is proposing to delete the term ''inter-dealer'' from NASD Rule 2320(a). This modification will clarify that member requirements to ascertain the best market for a security are not limited to ''inter-dealer'' markets, but may include all ''market centers'' in which a security is traded. NASD also proposes amending the reasonable diligence factors to reflect current market structure and to delete terms that are outdated. Specifically, NASD is recommending that the reference to the ''number of primary markets checked'' be updated to instead refer to ''the number of market centers checked'' and that the reference to the ''location and accessibility to the customer's broker-dealer of primary markets and quotation sources'' be updated to emphasize the importance of ''accessibility of the quotation.'' Lastly, NASD proposes adding a new factor that examines the ''terms and conditions of the order'' in determining whether a member has used due diligence. This will allow NASD staff to consider the communication of a customer's instructions to assess whether a member and persons associated with a member have used ''reasonable diligence.''

Should the Commission approve the proposed rule change, NASD will announce the effective date of the proposed rule change in a *Notice to Members* to be published no later than 60 days following Commission approval. Also in this *Notice to Members*, NASD will issue interpretive guidance consistent with the interpretive positions specified in this rule filing. The implementation date of the proposed changes will be 30 days following publication of the *Notice to Members* announcing Commission approval.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[9] in general, and with Section 15A(b)(6) of the Act,[10] in particular, which requires that NASD rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The obligation of a member firm to provide best execution to its customers has long been an important investor protection rule, characteristic of fair and orderly markets and a central focus of NASD's examination, customer complaint, and automated surveillance programs. NASD believes that the proposed rule change will expand customer protection under the Best Execution Rule, provide better clarity to members, and enhance NASD's ability to pursue actions for failure to provide best execution.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD 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

As discussed in the Section 2A above, NASD published *Notice to Members 02–40* (July 2002) seeking comment on whether the scope of the duty of best execution should be clarified to include customer orders received by a member

Committee on Federal Regulation of Securities, Section of Business Law of the American Bar Association dated Oct. 2, 2002.

[7] NASD believes that this approach is preferable to that specified in the original rule proposal and Amendment No. 1 because customer orders will receive best execution protections without regard to whether there is a written agreement or written representations from a recipient member.

[8] NASD notes that by extending the scope of the Best Execution Rule to customer orders of another broker-dealer, the proposed rule change does not alter the obligation of an originating broker-dealer member to examine regularly and rigorously execution quality likely to be obtained from different market centers trading a security. *See Notice to Members 01–22* (April 2001), which reiterates the best execution obligations that apply to member firms when they receive, handle, route for execution, or execute customer orders, and that also provides guidance to members concerning a broker-dealer's obligation, as articulated on numerous occasions by the SEC, to examine regularly and rigorously execution quality likely to be obtained from the different markets or market makers trading a security.

[9] 15 U.S.C. 78*o*–3.

[10] 15 U.S.C. 78*o*–3(b)(6).

from another broker-dealer. A copy of the *Notice to Members 02–40* and copies of the comment letters received in response to the *Notice to Members 02–40* are on file with the Commission.

Specifically, NASD solicited comment on several approaches, including whether the scope of the duty of best execution should be: (1) Limited to customer orders where there is an agreement or arrangement between the two broker-dealers that the recipient broker-dealer would comply with the duty of best execution; (2) limited to customer orders routed pursuant to an arrangement or an agreement noted in NASD *Notice to Members 02–40* (*i.e.*, where a broker-dealer agrees to provide automated executions to a routing broker-dealer's customer orders or there is another arrangement between the two broker-dealers such as a payment for order flow, reciprocal, or correspondent arrangement); (3) limited to customer orders routed pursuant to an arrangement or an agreement where the recipient broker-dealer assesses a fee or charge to execute the order; (4) defined more broadly to include all orders that are identified by the routing broker-dealer as customer orders; or (5) clarified or amended in some other fashion. NASD also solicited comment on whether the Best Execution Rule should distinguish, if at all, between customer orders received by a member from a foreign affiliate or foreign broker-dealer (as opposed to customer orders received by a member from a domestic affiliate or domestic broker-dealer that is subject to SEC, NASD, or other legal obligations concerning best execution).

NASD received eleven comments in response to the *Notice to Members 02–40*.[11] Seven commenters asserted that the Best Execution Rule should be amended to clarify the scope of the duty with respect to customer orders received from another broker-dealer.[12] Three of the seven commenters asserting that the Best Execution Rule should be amended, believed that all routed orders should be treated by the receiving member as customer orders and, therefore, provided best execution. Two commenters thought that the Best Execution Rule should be amended to provide best execution protections specified by the Rule to all orders that are identified by the originating broker-dealer as customer orders. Lastly, two commenters articulated that the receiving broker-dealer should only have a duty of best execution under NASD Rule 2320 when the receiving broker-dealer has explicitly agreed to handle orders received from the originating broker-dealer as customer orders.

Four commenters asserted that the Best Execution Rule should not be amended at all.[13] In general, commenters that opposed amending the Best Execution Rule asserted that an amendment was unnecessary. Some of the reasons given for advocating for no change to the Best Execution Rule included assertions that a change could stifle competition, the costs associated with amending the Rule outweigh the benefits, and that such a proposal would raise concerns regarding customers' privacy interests. After considering the comments received in response to the *Notice to Members 02–40*, NASD proposed amending the Best Execution Rule. On February 11, 2004, NASD filed SR–NASD–2004–026. On May 11, 2004, NASD filed Amendment No. 1 to SR–NASD–2004–026.

In a letter dated August 17, 2004, the Securities Industry Association (''SIA'') through its Ad Hoc Best Execution Committee (''SIA Committee'') submitted comments to NASD in response to NASD's filing of Amendment No. 1.[14] In this letter, the SIA Committee asserted that the proposal pending at the SEC is unnecessary in light of the effective safeguards already in place as a result of interplay between the current regulatory framework imposed on originating broker-dealers and competitive forces requiring recipient members to provide high-quality executions to orders routed to them. NASD staff did not agree with the SIA Committee's position that the current regulatory framework sufficiently addresses best execution obligations of recipient members. In addition, the SIA Committee urged NASD, to the extent that NASD is determined to amend the Best Execution Rule, to consider an alternative approach that would focus on extending the scope of the Rule to include transactions for or with a ''customer of another broker-dealer.'' NASD believes the SIA Committee's alternative approach is consistent with the approach NASD proposed in Amendment No. 2.

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–2004–026 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–2004–026. 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

[11] *See* footnote 6, *supra.*

[12] *See* letters from Dan Jamieson; Consolidated Financial Investments, Inc.; the Law Offices of Steve A. Buchwalter, P.C.; Raymond James & Associates, Inc.; T. Rowe Price Investment Services, Inc.; Security Traders Association; and The Island ECN, Inc.

[13] *See* letters from Seidel & Shaw, LLC; A.G. Edwards & Sons, Inc.; the Securities Industry Association, Trading Committee and Self-Regulation and Supervisory Practices Committee; and the American Bar Association, Section of Business Law, Subcommittee on Market Regulation of the Committee on Federal Regulation of Securities.

[14] Letter from Amal Aly and Ann Vlcek, on behalf of the Ad Hoc Best Execution Committee of the Securities Industry Association, to Barbara Z. Sweeney, NASD, dated Aug. 17, 2004.

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–2004–026 and should be submitted on or before March 18, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–776 Filed 2–24–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51228; File No. SR–PCX–2005–18]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to PCX Rules 6.33 and 6.44, Amending Procedural Requirements for the PCX Market Maker and Floor Broker Examinations

February 18, 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 4, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by PCX. PCX filed this proposal pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal 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

PCX proposes to amend PCX Rules 6.33 and 6.44 in order to amend the procedural requirements for the Market Maker and Floor Broker examinations. The text of the proposed rule change is available on PCX's Web site (*http://www.pacificex.com/legal/legal_pending.html*), at the 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 its proposal and discussed any comments it received regarding the proposal. 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

PCX proposes to amend PCX Rules 6.33 (Registration of Market Makers) and 6.44 (Registration of Floor Brokers) in order to amend the procedural requirements for the Market Maker and Floor Broker examinations. These rules contain requirements that the Exchange give examinations with a specific number of questions (100 for Market Makers and 121 for Floor Brokers) and allow for a specific amount of time for the applicant to complete the examination (3 hours for Market Makers and 3 hours 30 minutes for Floor Brokers). With the implementation of PCX Plus, the Exchange's electronic order delivery, execution and reporting system for designated option issues through which orders and Quotes with Size are consolidated for execution and/or display, the Exchange completely revised its qualifying examinations in 2003. As such, the old requirements are no longer applicable and the rules need to be amended to remove the obsolete references.

The Exchange continually reviews and modifies its qualifying examinations. The examinations are amended to reflect changes in the industry as well as specific trading rules applicable to the PCX. Questions are added and deleted as changes in the marketplace dictate. As such, the Exchange needs the ability to administer examinations without being required to submit a rule change to amend the number of questions or the amount of time for the applicant to complete the examination. Removing the current language from PCX Rules 6.33 and 6.44 will give the Exchange much greater flexibility in administering such examinations. The Exchange represents that it will file any changes to the examinations, including the addition or removal of questions, changes in the time allotted for completion or any other aspect of the examination, with the Commission before implementing such changes in accordance with the Commission's current policy on examinations. The Exchange plans to continually monitor the examination process and make adjustments to both the examinations and the time allowed to complete the examinations when such adjustments are needed.

2. Statutory Basis

PCX believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] which requires the rules of the exchange be designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest. The PCX also believes that the proposed rule change is consistent with Section 6(c)(3) of the Act,[6] which authorizes PCX to prescribe standards of training, experience, and competence for persons associated with PCX members.

B. Self-Regulatory Organization's Statement on Burden on Competition

PCX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not:

(i) significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(c)(3).

Act[7] and Rule 19b–4(f)(6) thereunder.[8] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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–2005–18 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 File Number SR–PCX–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 (*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 PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2005–18 and should be submitted on or before March 18, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–777 Filed 2–24–05; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5004]

Culturally Significant Objects Imported for Exhibition Determinations: ''Pioneering Modern Painting: Cézanne and Pissarro 1865–1885''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Pioneering Modern Painting: Cézanne and Pissarro 1865–1885,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owners. I also determine that the exhibition or display of the exhibit objects at The Museum of Modern Art, New York, NY from on or about June 24, 2005 to on or about September 12, 2005, Los Angeles County Museum from on or about October 20, 2005 to on or about January 16, 2006, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: (202) 453–8048). The address is Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: February 17, 2005.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 05–3700 Filed 2–24–05; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 5002]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: East Timor and South Pacific Scholarship Programs

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/E/EAP–05–01.

Catalog of Federal Domestic Assistance Number: 00.000.

Application Deadline: April 14, 2005.

Executive Summary: The Office of Academic Programs of the Bureau of Educational and Cultural Affairs announces an open competition to administer the United States-East Timor (USET) Scholarship Program and the United States-South Pacific (USSP) Scholarship Program. Eligible applicants may submit a proposal to administer one or both of the scholarship programs. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to organize and carry out academic exchange program activities for students from East Timor and the sovereign island nations of the South Pacific (eligible nations are listed below in the Overview section). The grantee(s) will be responsible for all aspects of the programs, including publicity and recruitment of applicants; merit-based competitive selection; placement of students at an accredited U.S. academic institution; student travel to the U.S.; orientation; up to four years of U.S. degree study at the bachelor's or master's level; enrichment programming; advising, monitoring and support; pre-return activities; evaluation; and follow-up with program alumni. The duration of the grant(s) will be up to five years, beginning in Summer 2005. The Conference Report accompanying the FY–2005 Consolidated Appropriations Act (Pub. L. 108–447) earmarks $500,000 to support the U.S.-East Timor Scholarship Program and $500,000 to support the U.S.-South Pacific Scholarship Program.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: In response to Public Law 103–236, which directed the Bureau of Educational and Cultural Affairs (ECA) to provide scholarships to students from East Timor and from the sovereign island nations of the South Pacific region, ECA created the USET Scholarship Program and the USSP Scholarship Program for academic study at accredited colleges and universities in the United States.

United States—East Timor Scholarship Program Overview: The goal of the USET Scholarship Program is to identify and support undergraduate level study at accredited higher education institutions in the United States for a select cadre of academically talented East Timorese who are expected to assume future leadership roles in East Timor's development. As East Timor makes the transition to independence and democratic government, it is essential to develop the human resource capacity of the East Timorese people, especially in fields such as agricultural science, business, communications, economics, education, environmental science, international relations, political science, and psychology. The eligible academic fields of study were selected to emphasize the areas of critical development need in East Timor.

USET scholarships are typically offered for four years total including up to one year of English language and pre-academic training followed by up to three years for the completion of the undergraduate degree in designated fields. In almost all cases, USET students will have undergraduate credits for transfer from their home institutions.

United States—South Pacific Scholarship Program Overview: The USSP Scholarship Program was established by the United States Congress to provide opportunities for U.S. study to students from South Pacific nations in fields important for the region's future development. Public Law 103–236 authorized academic scholarships to qualified students from the sovereign island nations of the South Pacific region to pursue undergraduate and graduate study at institutions of higher education in the United States.

This program supports increased mutual understanding between the people of the U.S. and those of the South Pacific Islands. Students from the following nations are eligible to apply for these scholarships: Cook Islands, Fiji, Kiribati, Niue, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu.

Fields of study under the program are based on recommendations from Department of State regional bureau representatives and Public Affairs Sections (PAS) at U.S. embassies abroad and have included public administration, journalism, education, environmental studies, agriculture, political science, business and other fields. The grantee organization should arrange for the students' enrollment at accredited U.S. institutions of higher education where a full liberal arts curriculum (including social sciences, humanities and sciences) is available. Students selected for these scholarships enroll in four-year undergraduate degree programs, or in master's degree programs. The latter have generally involved one year of preparatory U.S. study followed by up to two years of formal master's degree study.

The requirements for administration of this program are outlined in further detail in this document and in the Program Objectives, Goals and Implementation (POGI) document. The proposal should respond to each item in the POGI.

In a cooperative agreement, the Bureau is substantially involved in program activities above and beyond routine grant monitoring. Bureau activities and responsibilities for this program include:

(1) Participation in the design and direction of program activities;

(2) Approval of key personnel;

(3) Approval and input on program timelines and agendas;

(4) Guidance in execution of all program components;

(5) Review and approval of all program publicity and recruitment materials;

(6) Participation in student interview and selection panels;

(7) Review of selection decisions prior to offer of award;

(8) Consultation on and approval of academic placement assignments;

(9) Approval of changes to students' proposed academic field or institution;

(10) Approval of decisions related to special circumstances or problems throughout duration of program;

(11) Assistance with SEVIS-related issues;

(12) Assistance with participant emergencies;

(13) Liaison with relevant U.S. Embassies and country desk officers at the State Department.

II. Award Information

Type of Award: Cooperative Agreement.

The Bureau's level of involvement in this program is listed under number I above.

Fiscal Year Funds: 2005.

Approximate Total Funding: $1 million.

Approximate Number of Awards: 1–2.

Anticipated Project Start Date: June 2005, pending availability of funds.

Anticipated Project Completion Date: June 2010.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is the Bureau's intent to renew the grant(s) for two additional fiscal years, before openly competing it again.

III. Eligibility Information

III.1 Eligible Applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2 Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, the grantee must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such

records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3 Other Eligibility Requirements

Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. The Bureau anticipates awarding one grant in an amount up to $1 million, or two grants of up to $500,000 each, to support program and administrative costs required to implement the exchange program(s). Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information To Request an Application Package

Please contact the East Asia and Pacific Programs Branch, ECA/A/E/EAP, Room 208, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, phone: (202) 453–8102, fax: (202) 453–8107, e-mail: *mcmahonmp@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number *ECA/A/E/EAP–05–01* located at the top of this announcement when making your request.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document, which consists of required application forms, and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Matthew McMahon and refer to the Funding Opportunity Number *ECA/A/E/EAP–05–01* located at the top of this announcement on all other inquiries and correspondence.

IV.2 To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm.* Please read all information before downloading.

IV.3 Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The original and *10* copies of the application should be sent per the instructions under IV.3e. ''Submission Dates and Times section'' below.

IV.3a You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence to all Regulations Governing the J Visa: The Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR part 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, recordkeeping, reporting and other requirements. The Grantee will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547. Telephone: (202) 401–9810. Fax: (202) 401–9809. Please refer to Solicitation Package for further information.

IV.3d.2 Diversity, Freedom and Democracy Guidelines: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3 Program Monitoring and Evaluation: Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey

questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

Participant satisfaction with the program and exchange experience.

Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

Participant behavior, concrete actions to apply knowledge in profession or home community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it: (1) Specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.,* surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3d.4. Describe your plans for: *i.e.* sustainability, overall program management, staffing, coordination with ECA and PAS or any other requirements etc.

IV.3e Please take the following information into consideration when preparing your budget:

IV.3e.1 Applicants must submit a comprehensive budget for the entire program. In addition, the proposal must include a comprehensive budget narrative demonstrating how costs were derived. The budget format should break out costs on a year-by-year basis. If applying to administer both the USET and USSP programs, the applicant's budget proposal should include a budget summary page that breaks out program and administrative costs assigned to each program. The total amount of funding requested from ECA may not exceed $1 million, if applying to administer both the USET and USSP programs, or $500,000, if applying to administer one of the two programs. At this level of funding, applicants are encouraged to budget for at least ten (10) students for degree study, *i.e.*, at least five (5) each under the USET and USSP programs. The number of participants that the organization proposes to sponsor should be clearly stated. ECA reserves the right to reduce, revise or increase the proposed budget in accordance with funding availability and the needs of the program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets.

IV.3e.2 Allowable costs for the program include the following:

(1) Publicity, recruitment, selection, placement and communication with applicants and participants.

(2) Travel for student participants between home and program location.

(3) Tuition and fees, stipends for living costs, book allowances, and other necessary maintenance costs and expenses for the students.

(4) Advising and monitoring of students.

(5) Academic and cultural support and enrichment activities.

(6) Pre-return activities and evaluation.

(7) Staff and administrative expenses to carry out the program activities. Administrative and overhead costs should be as low as possible.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f Submission Dates and Times: Application Deadline Date: April 14, 2005.

Explanation of Deadlines: In light of recent events and heightened security measures, proposal submissions must be sent via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.) and be shipped no later than the above deadline. The delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. ECA will *not* notify you upon receipt of application. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not

be accepted at any time. Only proposals submitted as stated above will be considered. Applications may not be submitted electronically at this time.

Applicants must follow all instructions in the Solicitation Package.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM.''

The original and *10* copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: *ECA/A/E/EAP–05–01*, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3g Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1 Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

(1) *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the program goals and mission. Proposals should demonstrate understanding of the participating nations and of the needs of students from the region(s) as related to the program goals.

(2) *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above. Each component of the program should be addressed.

(3) *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should explain how objectives will be met through specific activities to be carried out in the U.S., and in East Timor and/or the South Pacific region.

(4) *Multiplier effect/impact:* Programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages. Anticipated results of the program in East Timor and/or the South Pacific region as well as in the U.S. should be addressed.

(5) *Diversity:* Proposals should demonstrate substantive support for the Bureau's policy on diversity. To the full extent possible, scholarship recipients for this program should be representative of diversity in the following categories: country of origin/residence within country(ies); gender; ethnic community of origin within country(ies), where relevant; urban and rural regions (with emphasis on outreach beyond capital cities); and proposed fields of study within the general parameters outlined in this solicitation. Proposals should explain what efforts will be undertaken to achieve these goals. The U.S. study and enrichment programs should also incorporate and demonstrate the diversity of the American people, regions and culture.

(6) *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program goals. Proposal should explain how the grantee organization will meet the requirements of students on this specific program. Proposals should describe the applicant's knowledge of, or prior experience with, students from East Timor, and/or the South Pacific nations, and/or other developing countries.

(7) *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

(8) *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau-supported programs are not isolated events.

(9) *Project Evaluation:* Proposals should include a plan to evaluate the program's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus a description of a methodology that will link outcomes to original project objectives is recommended. The grantee will be expected to submit quarterly program reports.

(10) *Cost-effectiveness and Cost-sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions. Budget estimates should be as accurate as possible over the full period of the grant.

VI. Award Administration Information

VI.1 Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments.''
OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.
OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.
OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants*, and *http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3 Reporting Requirements

You must provide ECA with a hard copy original plus two copies of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) Quarterly financial and program reports, the latter of which should include record and analysis of program activities from that period.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.)

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4 Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three work days prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Matthew McMahon, Program Officer, East Asia and Pacific Programs Branch (ECA/A/E/EAP), Room 208, *ECA/A/E/EAP–05–01,* U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, phone: (202) 453–8102, fax: (202) 453–8107, e-mail: *mcmahonmp@state.gov.*

Individual students interested in applying for either the USET or USSP scholarship should not contact the Office of Academic Programs. Instead they should visit the following Web site for more information on the current programs: *http://www.eastwestcenter.org/edu-sp.asp.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number *ECA/A/E/EAP–05–01.*

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: February 15, 2005.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 05–3698 Filed 2–24–05; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5003]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Middle East Partnership Initiative (MEPI) U.S. Business Internship Program for Young Middle Eastern Women

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/E 05–01-MEPI.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates: Application Deadline: April 1, 2005.

Executive Summary: The Office of Academic Exchange Programs of the Bureau of Educational and Cultural Affairs announces an open competition for Middle East Partnership Initiative (MEPI) U.S. Business Internship Program for Young Middle Eastern Women. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to administer the participant recruitment, selection, pre-program preparation and alumnae components of the MEPI U.S. Business Internship Program for Young Middle Eastern Women.

Eligible countries/locales are listed under the heading Funding Opportunity Description in this RFGP.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation. The funding for this program is provided through a transfer to the Bureau from the Middle East Partnership Initiative (MEPI).

Purpose: Subject to the availability of funds, the Bureau invites proposals from public and private non-profit

organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) for the administration of the participant recruitment, selection, pre-program preparation and alumni components of the MEPI U.S. Business Internship Program for Young Middle Eastern Women for participants from Algeria, Bahrain, Egypt, Iraq, Israel (limited to the Israeli Arab sector), Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates, West Bank/Gaza and Yemen.

ECA anticipates awarding one grant in the amount of $260,000 to fund these activities for 40 participants.

The goal of the MEPI U.S. Business Internship Program for Young Middle Eastern Women is to provide participants unique opportunities to learn management and business skills while working in the dynamic and productive U.S. business environment. The U.S. portion of the program will consist of a four-week MBA-level academic program, including coursework in management, finance, business strategy and information technology, followed by a three-month internship in a U.S. business. Cultural enrichment and monitoring must be provided throughout the program. The program will cover international and domestic travel, health insurance, housing and a living stipend in the U.S. Following the completion of the program, participants will be integrated into an alumnae community to support the development of an alumnae network.

Organizations submitting proposals must demonstrate the ability to effectively administer the participant recruitment, selection, pre-program preparation and alumnae components of the program in the Middle East and North Africa as described in the four (4) administrative categories below. The Bureau of Educational and Cultural Affairs and the Public Affairs section of U.S. embassies must be consulted in the implementation of these responsibilities, especially in the resolution of any issues or problems that may arise. The administrative portion of the grant should be kept to a minimum, and the Bureau encourages applicants to provide maximum levels of cost sharing and funding from private sources in support of this project.

A. Publicity, Recruitment and Selection

The proposal should include a plan for advertisement, recruitment and the open, merit-based selection of 40 principal and 10 alternate candidates from under-represented and geographically diverse socio-economic backgrounds in the eligible countries and locales. Organizations submitting proposals must be prepared to begin advertising and recruitment efforts in May 2005. The internship program is expected to begin in November 2005.

Applicant organizations must demonstrate the ability to conduct focused advertising and recruitment efforts in all eligible countries and locales to yield quality applications from women who meet the following eligibility requirements:

1. Women who are citizens of and currently residing in the following countries and locales: Algeria, Bahrain, Egypt, Iraq, Israel (limited to the Israeli Arab sector), Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates, West Bank/Gaza and Yemen.

2. Women between the ages of 22 and 30 at the time of application.

3. Women who have (a) an undergraduate degree in business or law from a recognized academic institution; or (b) an undergraduate degree in any field with at least three years of substantive experience in the private sector. Applicants who have completed undergraduate degrees outside the specified countries are not eligible.

4. Proficiency in written and spoken English as documented by a minimum score of 550 on the Institutional Testing Program (ITP) or TOEFL test.

5. Demonstrated interest in achieving professional growth in the business sector of their home countries or locales.

Individuals who are currently enrolled in an academic program in the United States, who are living and/or working in the U.S., and/or who have previously participated in a program sponsored or funded by the U.S. Government and who have not fulfilled their two-year home residency requirement by the time of application are not eligible for the program.

The proposal should describe how project information will be disseminated to potential candidates, and how inquiries and applications will be screened and selected for the semi-finalist round interview process. The proposal should also include a specific strategy to conduct targeted outreach to women who are from outside the capital cities, live in economically disadvantaged sectors and have not previously studied in the United States. The deadline for applications is June 27, 2005.

The proposal should describe how your organization will administer in-country semi-finalist interview panels. Interview panels should be comprised of representatives from the Public Affairs section of U.S. embassies, embassy Economic/Commercial sections, locally qualified businessmen/women, NGO officials, and alumni of USG exchange programs. Candidates should be evaluated based on academic excellence, leadership potential, proficiency in written and spoken English, maturity, and flexibility and suitability to operate successfully in an American corporate environment. Recommended semi-finalist candidates must also possess a sufficient level of information technology knowledge and word processing ability to operate in a U.S. business. Interview evaluations must be standard in all countries and locales and must use a numeric ranking system. Interview panels should be completed no later than July 11, 2005. The dossiers of recommended semi-finalist candidates are due at the Bureau of Educational and Cultural Affairs in Washington, DC no later than July 20.

Note that all program materials must emphasize that this is an academic and professional training program. No program related communications should suggest or imply that the program will provide employment opportunities in the United States. Program communications should also emphasize that participants will not be able to extend or transfer their U.S. visa sponsorship at the completion of their internship, as they are expected to return to their home countries to fulfill the two-year home residency requirement of the J visa.

Applicant organizations should ensure that the Department of State, through the Bureau of Educational and Cultural Affairs and the Middle East Partnership Initiative, is acknowledged as the program sponsor in all program related communications. All communications and publicity, paper or electronic, must include the full program name, the Department of State seal and the following text: ''A program of the U.S. Department of State, Bureau of Educational and Cultural Affairs and the Middle East Partnership Initiative.'' The Bureau and MEPI program officers must approve all publicity and advertising materials before they are published.

B. Pre-Program Preparation

The proposal should include a plan to provide a pre-departure briefing, including distribution of explanatory materials on the U.S. and the program. Given the heightened security issues facing foreign visitors and travelers to the U.S., this pre-departure orientation may also include the participants' immediate and extended families. The pre-departure orientation should take place before September 15, 2005.

The proposal should also address how organizations will counsel program applicants and family members on the program goals and address concerns about living in the U.S.

Organizations should also be prepared to provide support to finalists for visa applications and travel and to the Bureau of Educational and Cultural Affairs, the Public Affairs Section of the U.S. embassies, finalists and their families in matters relating to, but not limited to, program communications.

C. Alumnae Network

The proposal should include a plan to promote communication and networking among program participants after they return from the U.S. Alumnae activities should include an enrichment workshop. This workshop should be held in the region and last 2–3 days. The purpose of the workshop is to enable the participants to network and to expand the skill sets they acquired during the internship project.

Additional grantee responsibilities will include the production of four issues of a quarterly newsletter for the alumnae network. The newsletter content should encompass professional information as well as submissions from alumnae. The first newsletter should be published in March 2006 to coincide with the participants' return from the U.S. Subsequent issues should be published and distributed in June 2006, October 2006, and December 2006. The Bureau and MEPI should be closely consulted during the development and implementation of the alumnae activities.

D. Program Administration and Support Services

The proposal should include a plan to

1. Establish and maintain participant statistical database, including the following fields: name, address, citizenship, country of residence, field-of-study, degree received, business placement, email, phone.
2. Maintain records, including opening, maintaining, sharing and closing intern files. Retain records of grants and other pertinent documentation.
3. Review of applicants, including a technical review of applications for eligibility and thoroughness, checking for accurate bio-data, transcripts, recommendations, TOEFL scores and follow-up, if necessary, to secure missing documentation. Provide the Bureau with the original and 4 copies of the applications of the principal and alternate candidates.
4. Facilitate travel to an international gateway airport for participants before and after the U.S. portion of the program. Please note that purchase of international airplane tickets will be arranged through a separate grant. The grantee organization under this cooperative agreement will only be expected to provide logistical assistance, support, and travel funds in the participants' home countries/locales.

The Bureau, in collaboration with MEPI, is substantially involved in program activities above and beyond routine grant monitoring. The Bureau and MEPI activities and responsibilities related to this cooperative agreement are as follows: review and clearance of advertising and publicity material, regular communications with grantee organization staff, review and clearance of pre-departure orientation material, final selection of recommended participants, and management of regular communications with program finalists.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: FY 2004/FY 2005—carried over into FY 2005 for obligation.

Approximate Total Funding: $260,000.

Approximate Number of Awards: 1.

Approximate Average Award: $260,000.

Anticipated Award Date: May 15, 2005 (pending allocation and commitment through internal ECA procedures).

Anticipated Project Completion Date: December 31, 2006.

III. Eligibility Information

III.1. Eligible applicants

Proposals may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3 Other Eligibility Requirements

a. Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding one grant, in an amount up to $260,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information To Request an Application Package

Please contact the Office of Academic Exchange Programs, ECA/A/E, Room 234, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, 202–619–4360 (phone), 202–401–5914 (fax) or *borisre@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/E 05–01–MEPI located at the top of this announcement when making your request.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

Please specify Bureau Program Officer Rhonda E. Boris and refer to the Funding Opportunity Number ECA/A/E 05–01–MEPI located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm.* Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The original and 10 copies of the application should be sent per the instructions under IV.3e. ''Submission Dates and Times section'' below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence To All Regulations Governing The J Visa. The Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR part 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements. A cooperating agency of the Bureau, which will administer the U.S. portions of this program under a separate renewal agreement, will be responsible for issuing DS–2019 forms to participants.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD–SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 401–9810, FAX: (202) 401–9809.

IV.3.d.2 Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3.d.3. Program Monitoring and Evaluation. Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes*. *Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes*, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.

2. *Participant learning*, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. *Participant behavior*, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between

participants, community members, and others.

4. *Institutional changes*, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.*, surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3.e.1. Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3.e.2. Allowable costs for the program include the following:

1. Recruitment and advertising costs;
2. Staff travel and per diem related to recruitment and selection activities. Applicant should indicate expenses separately as they relate to recruitment and selection, indicating the travel destination.
3. Cost of standardized TOEFL examination;
4. Orientation costs;
5. Alumni newsletter; and
6. Alumni enrichment seminar.

Domestic Administrative Costs

1. Staff salaries and benefits. Each person and his/her position must be listed separately. In addition, note the percentage of his/her total time spent on this project;
2. Communication costs (*e.g.* fax, telephone, postage, communication equipment);
3. Office supplies;
4. Administration of tax withholding and reporting as required by Federal, State and local authorities and in accordance with relevant tax treaties;
5. Audit fees;
6. Other direct expenditures; and
7. Indirect costs.

Overseas Administrative Costs

1. Staff salaries and benefits. Each person and his/her position must be listed separately. In addition, note the percentage of his/her total time spent on this project;
2. Communication costs (including telephone, fax, postage, communication equipment, *etc.*);
3. Office supplies;
4. Administration of tax withholding and reporting as required by Federal, State and local authorities and in accordance with relevant tax treaties;
5. Other direct costs; and
6. Indirect costs.

The above cost allocations are subject to the availability of funds. The Bureau reserves the right to modify any of the above cost allocations to achieve project efficiencies and cost-savings.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Submission Dates and Times: Application Deadline Date: April 1, 2005.

Explanation of Deadlines: In light of recent events and heightened security measures, proposal submissions must be sent via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, *etc.*) and be shipped no later than the above deadline. The delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. ECA will not notify you upon receipt of application. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered. Applications may not be submitted electronically at this time.

Applicants must follow all instructions in the Solicitation Package.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and 10 copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/E 05–01–MEPI, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

IV.3h. Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. embassy(ies) for its (their) review.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

5. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

6. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

7. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended.

8. *Cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

9. *Cost-sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

10. *Value to U.S.-Partner Country Relations:* Proposed projects should receive positive assessments by the U.S. Department of State's geographic area desk and overseas officers of program need, potential impact, and significance in the partner country(ies).

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants. http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus two copies of the following reports:

1. A final program and financial report no more than 90 days after the expiration of the award;

2. A recruitment and selection report to be submitted by October 1, 2005, and to include the following information:

(a) Detailed report of the advertising and recruitment strategy in each country. This report should include the names of newspapers, journals, radio stations and television stations used to advertise the program, as well as a list of cities visited and the universities, institutions, advising centers and other organizations at which recruitment presentations were made. Include the number of applications distributed in each country, and the number of completed applications received.

(b) Description of the selection and notification process of semi-finalists. Include the dates of selection committee meetings, as well as names, titles and affiliation of committee members.

(c) Detailed report on the selection and notification process of finalists.

(d) A preliminary list of all participants, their countries of origin, cities of residence, home institutions/employers, job title, job responsibilities and fields of university study. Please include participants' ethnic backgrounds and disability information, if available.

(e) Description of pre-departure orientation programs including dates, locations and program schedules (*i.e.* speakers and topics).

3. An interim report to be submitted by February 1, 2006, and containing the following information:

(a) Report on re-entry support and other alumni activities, including dates, locations and program schedules (*i.e.* speakers and topics).

(b) Detailed report on the use of Web sites or other electronic communication to promote the development of the alumnae network.

(c) Samples of the quarterly alumni newsletters.

(d) Update on planning for the annual alumni conference.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Rhonda E. Boris, Program Officer, Office of Academic Exchange Programs, ECA/A/E, Room 234, ECA/A/E 05–01–MEPI, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, 202–619–4360 (phone), 202–401–5914 (fax) or *borisre@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/E 05–01–MEPI.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: February 18, 2005.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 05–3699 Filed 2–24–05; 8:45 am]

BILLING CODE 4710–05–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Notice Regarding Products in the 2004 Annual Review

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) received petitions in 2004 to modify the list of products that are eligible for duty-free treatment under the GSP program and to modify the GSP status of certain GSP beneficiary developing countries because of country practices. The list of country practice petitions accepted for review will be announced in the **Federal Register** at a later date. This notice announces the product petitions that are accepted for further review in the 2004 GSP Annual Review, and sets forth the schedule for comment and public hearing on these petitions, for requesting participation in the hearing, and for submitting pre-hearing and post-hearing briefs.

FOR FURTHER INFORMATION CONTACT: Contact the GSP Subcommittee of the Trade Policy Staff Committee, Office of the United States Trade Representative, 1724 F Street, NW., Room F–220, Washington, DC 20508. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION: The GSP provides for the duty-free importation of designated articles when imported from designated beneficiary developing countries. The GSP is authorized by title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*), as amended (the ''1974 Act''), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

In a **Federal Register** notice dated November 15, 2004, USTR extended the due date for the filing of product and country practice petitions for the 2004 GSP Annual Review to December 13, 2004 (69 FR 65674). The product petitions received requested changes in the list of eligible products by adding or removing products, or by waiving the ''competitive need limitations'' (CNLs) for a country for an eligible article. The President's authority to grant CNL waivers is set forth in section 503(d) of the 1974 Act (19 U.S.C. 2463(d)).

The interagency GSP Subcommittee of the Trade Policy Staff Committee (TPSC) has reviewed the product petitions, and the TPSC has decided to initiate a full review of the product petitions listed in Annex II. Annex II to this notice sets forth, for each type of change requested: the case number, the Harmonized Tariff Schedule of the United States (HTS) subheading number, a brief description of the product (*see* the HTS for an authoritative description available on the U.S. International Trade Commission (USITC) Web site (*http://www.usitc.gov/taffairs*)), and the petitioner for each petition included in this review. Acceptance of a petition for review does not indicate any opinion with respect to the disposition on the merits of the petition. Acceptance indicates only that the listed petitions have been found eligible for review by the TPSC and that such review will take place. Modifications to the list of articles eligible for duty-free treatment under the GSP resulting from the 2004 Annual Review will be announced on or about June 30, 2005, in the **Federal Register**, and any changes will take effect on the effective date announced.

Opportunities for Public Comment and Inspection of Comments

The GSP Subcommittee of the TPSC invites comments in support of or in opposition to any petition which is included in this Annual Review (Annex II). Submissions should comply with 15 CFR part 2007, except as modified below. All submissions should identify the subject article(s) in terms of the case number and HTS subheading number as shown in Annexes II. The GSP regulations (15 CFR part 2007) provide the schedule of dates for conducting an annual review unless otherwise specified in a **Federal Register** notice. This notice specifies the revised schedule for public comment and hearings, set out in Annex I.

Requirements for Submissions

In order to facilitate prompt processing of submissions, USTR strongly urges and prefers electronic e-mail submissions in response to this notice. Hand-delivered submissions will not be accepted. These submissions should be single copy transmissions in English with the total submission not to exceed 50 single-spaced standard letter-size pages. E-mail submissions should use the following subject line: ''2004 GSP Annual Review'' followed by the Case Number and HTS subheading number found in the Annex II (for example, 2004–07 5702.91.30) and, as appropriate ''Written Comments'', ''Notice of Intent to Testify'', ''Pre-hearing brief'', ''Post-hearing brief'' or ''Comments on USITC Advice''. (For example, an e-mail subject line might read ''2004–07 5702.91.30 Written Comments''.) Documents must be submitted in English in one of the following formats: WordPerfect (.WPD), MSWord (.DOC) , or text (.TXT) files. Documents may not be submitted as electronic image files or contain imbedded images (for example, ''.JPG'', ''.PDF'', ''.BMP'', or ''.GIF''). E-mail submissions containing such files will not be accepted. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel files, formatted for printing

on 8½ × 11 inch paper. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

If the submission contains business confidential information, a non-confidential version of the submission must also be submitted that indicates where confidential information was redacted by inserting asterisks where material was deleted. In addition, the confidential submission must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of each page of the document. The non-confidential version must also be clearly marked at the top and bottom of each page (either ''PUBLIC VERSION'' or ''NON-CONFIDENTIAL''). Documents that are submitted without any marking might not be accepted or will be considered public documents.

For any document containing business confidential information submitted as an electronic attached file to an e-mail transmission, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the characters ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the party (government, company, union, association, etc.) which is making the submission.

E-mail submissions should not include separate cover letters or messages in the message area of the e-mail; information that might appear in any cover letter should be included directly in the attached file containing the submission itself, including the sender's e-mail address and other identifying information. The e-mail address for these submissions is *FR0441@USTR.GOV*. Documents not submitted in accordance with these instructions might not be considered in this review. If unable to provide submissions by e-mail, please contact the GSP Subcommittee to arrange for an alternative method of transmission.

Public versions of all documents relating to this review will be available for review Tuesday, March 15, by appointment in the USTR public reading room, 1724 F Street, NW., Washington, DC. Appointments may be made from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, by calling (202) 395–6186.

Notice of Public Hearings

Hearings will be held by the GSP Subcommittee of the TPSC on March 24, 2005, beginning at 10 a.m. at the U.S. International Trade Commission, Main Hearing Room, 500 E Street, SW., Washington, DC 20436. The hearings will be open to the public and a transcript of the hearings will be made available for public inspection or can be purchased from the reporting company. No electronic media coverage will be allowed.

All interested parties wishing to make an oral presentation at the hearings must submit, following the above ''Requirements for Submissions'', the name, address, telephone number, and facsimile number and email address, if available, of the witness(es) representing their organization to the Chairman of the GSP Subcommittee by 5 p.m., March 10, 2005. Requests to present oral testimony in connection with the public hearings must be accompanied by a written brief or statement, in English, and also must be received by 5 p.m., March 10, 2005. Oral testimony before the GSP Subcommittee will be limited to five-minute presentations that summarize or supplement information contained in briefs or statements submitted for the record. Post-hearing briefs or statements will be accepted if they conform with the regulations cited above and are submitted, in English, by 5 p.m., April 15, 2005. Parties not wishing to appear at the public hearings may submit post-hearing written briefs or statements, in English, by 5 p.m., April 15, 2005.

In accordance with sections 503(a)(1)(A) and 503(e) of the 1974 Act and the authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, the U.S. Trade Representative has requested that the USITC provide its advice on the probable economic effect of the following actions on U.S. industries producing like or directly competitive articles and on consumers, as appropriate: (1) The elimination of U.S. import duties for all beneficiary developing countries, (2) the removal of a country from eligibility for duty-free treatment under the GSP for such article, and (3) whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limits specified in section 503(d)(1) of the 1974 Act for the country specified. Comments by interested persons on the USITC Report prepared as part of the product review should be submitted by 5 p.m., 10 days after the date of USITC publication of its report.

Stephen Wanser,

Deputy Director, GSP, GSP Subcommittee of the Trade Policy Staff Committee.

BILLING CODE 3190–W5–P

Annex I

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

GSP – 2004 ANNUAL REVIEW
PUBLIC COMMENT AND HEARING SCHEDULE

March 10, 2005	Due Date for Requests to Appear at Public Hearings and Submission of Pre-hearing Briefs.
March 10, 2005	Due Date for Providing the Name, Address, Telephone, Fax, Email Address and Organization of Witnesses.
(March 23, 2005	U.S. International Trade Commission scheduled hearings on economic effect on U.S. industries.)
March 24, 2005	USTR's TPSC GSP Subcommittee Public Hearings to Be Held at U.S. International Trade Commission, Main Hearing Room, 500 E Street, S.W., Washington, D.C. 20436.
April 15, 2005	Due Date for Submission of Post-hearing and Rebuttal Briefs.
May 2005	USITC Scheduled to Publish Report to the President.
	Comments on the USITC Report to the President due 10 days after USITC date of publication.
June 30, 2005	Annual Review Decisions Scheduled to Be Announced on or about this Date.

For Further Information Contact GSP Information Center, Office of the U.S. Trade Representative, 1724 F Street, N.W. Washington, D.C. 20508 Telephone: 202-395-6971

For Public Documents Related to this Review: USTR Public Reading Room, 1724 F Street N.W., Washington, D.C. Appointments May Be Made from 9:30 A.M. to Noon and 1 P.M. to 4 P.M., Monday Through Friday by Calling (202) 395-6186.

Notification of Any Changes Will Be Given in the *Federal Register*.

Annex II

The Harmonized Tariff Schedule of the United States (HTS) subheadings listed below have been accepted as product petitions for the 2004 Generalized System of Preferences (GSP) Annual Review for modification of the (GSP). The tariff nomenclature in the HTS for the subheadings listed below are definitive; the product descriptions in this list are *for informational purposes only* (except in those cases where only part of a subheading is the subject of a petition). The descriptions below are not intended to delimit in any way the scope of the subheading. The HTS may be viewed on http://www.usitc.gov/tata/index.htm.

Case No.	HTS Subheading	Brief Description	Petitioner
A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences.		
2004-01	0804.10.20	Dates, fresh or dried, whole, with or without pits, packed in units weighing (with immediate container, if any) not over 4.6 kg	USTR 1/
2004-02	0804.10.40	Dates, fresh or dried, whole, with pits, packed in units weighing over 4.6 kg	do.
2004-03	0804.10.60	Dates, fresh or dried, whole, without pits, packed in units weighing over 4.6 kg	do.
2004-04	0804.10.80	Dates, fresh or dried, other than whole	do.
2004-05	2008.99.25	Dates, otherwise prepared or preserved, not elsewhere specified or included	do.
2004-06	5702.51.20	Carpets and other textile floor coverings, of pile construction, not made up, woven but not on a power-driven loom, of wool or fine animal hair	USTR 2/
2004-07	5702.91.30	Carpets and other textile floor coverings, not of pile construction, made up, woven but not on a power-driven loom, of wool or fine animal hair	do.
2004-08	5702.92.0010	Carpets and other textile floor coverings, not of pile construction, made up, woven but not on a power-driven loom, of man-made textile materials	do.
2004-09	5702.99.1010	Carpets and other textile floor coverings, not of pile construction, made up, woven but not on a power-driven loom, of cotton	do.
2004-10	5703.10.0020	Carpets and other textile floor coverings, tufted, hand-hooked, that is, in which the tufts were inserted by hand or by means of a hand tool, of wool or fine animal hair	do. Government of Nepal
2004-11	5703.20.10	Carpets and other textile floor coverings, tufted, hand-hooked, that is, in which the tufts were inserted by hand or by means of a hand tool, of nylon or other polyamides	USTR 2/

1/ USTR is self-initiating a petition for this HTS.

2/ Section 1555 of Public Law 108-429 authorizes the President to designate certain carpets and rugs as eligible articles under the Generalized System of Preferences. USTR is self-initiating a petition for this HTS.

Annex II
-2-

Case No.	HTS Subheading	Brief Description	Petitioner
A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences. (continued)		
2004-12	5703.30.0020	Carpets and other textile floor coverings, tufted, hand-hooked, that is, in which the tufts were inserted by hand or by means of a hand tool, of other man-made textile materials	USTR 1/
2004-13	7320.10.60	Leaf springs and leaves therefore, suitable for motor vehicle suspension, to be used in motor vehicles having G.V.W. of 4 metric tons or over	Rassini-NHK Autopecas Ltda., Brazil
B.	Petitions to remove duty-free status from beneficiary developing country/countries for a product on the list of eligible articles for Generalized System of Preferences. 2/		
2004-14	3904.61.00 (Russia)	Polytetrafluoroethylene (PTFE), in primary forms	Asahi Glass Chemicals, Inc., Bayonne, NJ; Dalkin America, Inc., Orangeburg, NY; E. I. Dupont de Nemours & Co. Inc., Wilmington, DE
C.	Petitions for waiver of competitive need limits for a product on the list of eligible products for the Generalized System of Preferences.		
2004-15	3823.19.20 (Philippines)	Industrial monocarboxylic fatty acids or acid oils from refining derived from coconut, palm-kernel, or palm oil	Government of the Philippines
2004-16	4107.19.50 (Argentina)	Other whole upholstery leather of bovines (not buffalo) and equines, without hair on, prepared after tanning or crusting, not of heading 4114	Camara de la Curtidora Argentina, Argentina
2004-17	4107.92.80 (Argentina)	Other grain splits bovine (not buffalo) and equine leather, not whole, without hair on, fancy, prepared after tanning or crusting, not of heading 4114	do.
2004-18	6802.91.25 (Turkey)	Other monumental or building stone and articles thereof, of travertine, further worked than simply cut or sawn or dressed or polished	Istanbul Minerals and Metals Exporters Association, Turkey

1/ Section 1555 of Public Law 108-429 authorizes the President to designate certain carpets and rugs as eligible articles under the Generalized System of Preferences. USTR is self-initiating a petition for this HTS.

2/ The country named is the beneficiary developing country specified by the petitioner. While the Trade Policy Staff Committee (TPSC) review will focus on that country, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner as well as the GSP status of the entire article.

[FR Doc. 05–3720 Filed 2–24–05; 8:45 am]
BILLING CODE 3190–W5–C

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974: System of Records

AGENCY: Office of the Secretary, Department of Transportation (DOT).

ACTION: Notice of establishment of system of records.

SUMMARY: The Privacy Act of 1974, as amended, 5 U.S.C. 552a, requires that agencies that maintain a system of records publish a notice in the **Federal Register** of the existence and character of the system of records. In accordance with the Privacy Act, DOT is giving notice of a system of records to track consumer complaints by airline passengers.

DATES: This notice will be effective, without further notice, on April 6, 2005, unless modified by a subsequent notice to incorporate comments received by the public. Comments must be received by March 28, 2005, to be assured consideration.

ADDRESSES: Send comments to Yvonne Coates, Privacy Officer, United States Department of Transportation, Office of the Secretary, 400 7th Street, SW., Room 6106, Washington DC 20590 or *Yvonne.Coates@ost.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Daeleen M. Chesley or Blane A. Workie, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Office of the General Counsel, 400 7th Street, SW., Room 10424, Washington, DC 20590, 202–366–1617 (voice), 202–366–7153 (fax), or *daeleen.chesley@ost.dot.gov* (e-mail).

SUPPLEMENTARY INFORMATION: The Office of the Assistant General Counsel for Aviation Enforcement and Proceedings operates a complaint handling system for consumers who experience air travel service problems and enters all complaints in a computerized system. This system of records, which is used primarily to monitor complaint records of individual airlines and air travel companies and to determine the extent to which these entities are in compliance with Federal aviation civil rights and consumer protection regulations, contains personal information about individuals. The following information may be contained in the system: Name; home and/or business address; telephone number(s); e-mail address; name of the airline or company about which the individual is complaining; flight date; flight number; origin and destination cities of trip; nature of service issue and/or individual's disability and accommodations requested; and sex, race, color, ethnicity, religion, and/or national origin of individual.

DOT/OST 102

SYSTEM NAME:

Aviation Consumer Complaint Application Online System (CCA).

SECURITY CLASSIFICATION:

Sensitive, unclassified.

SYSTEM LOCATION:

This system of record is in the Office the Assistant General Counsel for Aviation Enforcement and Proceedings, Office of the Secretary, U.S. Department of Transportation, 400 7th Street, SW., Room 4107, Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM OF RECORDS:

The system consists of information on individuals who have filed air travel service complaints or other inquiries with the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings regarding an air carrier and/or air travel company.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information in the system consists of service-related consumer complaints, inquiries, opinions, and compliments regarding air carriers or air travel companies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 40127, 41310, 41702, 41705, and 41712.

PURPOSES:

To monitor complaint records of individual airlines and air travel companies; to determine the extent to which these entities are in compliance with Federal aviation civil rights and consumer protection regulations; to report complaint statistics to Congress, the media, and the general public; to serve as a basis for rulemaking, legislation, and research; and to assist airlines in identifying and remedying consumer concerns.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) ACPD may disclose information from this system of records to authorized representatives of the United States Government or a U.S. or foreign air carrier or air travel company about whom the complaint or record concerns for purposes of improving customer service.

(2) The Office of the Assistant General Counsel for Aviation Enforcement and Proceedings may use information from this system of records to determine whether to further investigate or take enforcement action against an air carrier or air travel company for possible violations of federal aviation civil rights and consumer protection statutes and regulations.

(3) The Office of the Assistant General Counsel for Aviation Enforcement and Proceedings may disclose information about an individual from this system of records to an advocacy organization provided that the individual gave the organization permission to inquire on his or her behalf.

(4) See Prefatory Statement of General Routine Uses, 65 FR 19477 (April 11, 2000).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Documents are stored in electronic form and as paper records in file folders stored in file cabinets.

RETRIEVABILITY:

Electronic records are retrievable by consumer's name, air carrier name, complaint code and/or record number. Paper records are retrievable by name of air carrier about which the record concerns.

SAFEGUARDS:

Access to records is limited to those who process the records for the specific routine uses stated above (*e.g.,* personnel in the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, air carriers to which the service complaint or document relates, and Federal agencies that have a specific need for the information). Various methods of computer security limit access to records in the automated database. Paper records are stored in file cabinets located in a secured office area.

RETENTION AND DISPOSAL:

Most paper records are destroyed after a one-year period. Paper records used for investigations and enforcement proceedings are maintained for a longer period of time. Electronic records are stored for an indefinite period of time.

SYSTEM MANAGER AND ADDRESS:

Assistant General Counsel for Aviation Enforcement and Proceedings, Office of the Secretary, U.S. Department of Transportation, 400 7th Street, SW., Room 4107, Washington, DC 20590.

NOTIFICATION PROCEDURE:

Same as ''System Manager.''

RECORD ACCESS PROCEDURES:

Same as ''System Manager.''

CONTESTING RECORD PROCEDURES:

Same as ''System Manager.''

RECORD SOURCE CATEGORIES:

Information contained in this system is provided by individuals, or on behalf of individuals, through telephone calls, e-mails, and written correspondence received by the Department of Transportation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

5 U.S.C. 552a(k).

Dated: February 18, 2005.

Yvonne L. Coates,

Departmental Privacy Officer.

[FR Doc. 05–3646 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 159: Global Positioning System (GPS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 159 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 159: Global Positioning System.

DATES: The meeting will be held March 7–11, 2005 from 9 a.m. to 4:30 p.m. (unless stated otherwise).

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 159 meeting.

Note: *Specific working group sessions will be held March 7–10.*

The plenary agenda will include:

- March 11:
  - Opening Plenary Session (Welcome and Introductory Remarks, Approve Minutes of Previous Meeting)
  - Review Working Group Progress and Identify Issues for Resolution
  - Global Positioning System (GPS)/3rd Civil Frequency (WG–1)
  - GPS/Wide Area Augmentation System (WAAS) (WG–2)
  - GPS/GLONASS (WG–2A)
  - GPS/Inertial (WG–2C)
  - GPS/Precision Landing Guidance (WG–4)
  - GPS/Airport Surface Surveillance (WG–5)
  - GPS/Interference (WG–6)
  - GPS/GRAS (WG–8)
    - Review of EUROCAE activities
    - Review/Approval, Revised DO–246B–GNSS Based Precision Approach Local Area Augmentation System (LAAS)—Signal-in-Space Interface Control Document (ICD), RTCA Paper No. 015–05/SC159–924.
    - Closing Plenary Session (Assignment/Review of Future Work, Other Business, Date and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 8, 2005.

Natalie Ogletree,

FAA General Engineer, RTCA Advisory Committee.

[FR Doc. 05–3611 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 135/EUROCAE Working Group 14: Environmental Conditions and Test Procedures for Airborne Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 135/EUROCAE Working Group 14 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 135/EUROCAE Working Group 14: Environmental Conditions and Test Procedures for Airborne Equipment.

DATES: The meeting will be held March 8–10, 2005 starting at 9 a.m.

ADDRESSES: The meeting will be held at Honeywell BRGA, Bell Road, Mohave Conference Room, 5353 West Bell Rd., Glendale, AZ 85308.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 135 meeting. The agenda will include:

- March 8–10:
  - Opening Plenary Session (Welcome and Introductory Remarks)
  - Approval of Summary from the Forty-Fourth Meeting
  - RTCA Paper No. 146–04/SC135–648
  - Review Results of RTCA Program Management Committee Meeting.
  - Approval of DO–160E
  - Discussion of Follow-on Terms of Reference
  - Report from Working Group for Section 21
  - Discuss Change Process for Revision F
  - Review List of Change Proposals
  - Deferred from Revision E
  - Deferred from FRAC
  - Identify Areas for Continuing Work on DO–160
  - Section 17—Voltage Spike
  - Section 23—Ligtining Direct Effects
  - Section 24—Icing
  - Section 25—ESD
  - User's Guide
  - Review Schedule to Release DO–160F
  - Closing Plenary Session (New/Unfinished Business, Date and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 8, 2005.

Natalie Ogletree,

FAA General Engineer, RTCA Advisory Committee.

[FR Doc. 05–3612 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 189/ EUROCAE Working Group 53: Air Traffic Services (ATS) Safety and Interoperability Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 189/EUROCAE Working Group 53 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 189/ EUROCAE Working Group 53: Air Traffic Services (ATS) Safety and Interoperability Requirements.

DATES: The meeting will be held March 14–16, 2005, starting at 9 a.m.

ADDRESSES: The meeting will be held at Science Applications International Corporation (SAIC), 400 Virginia Ave., SW., Suite 800, Washington DC 20024–2730.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 189/ EUROCA Working Group 53 meeting. The agenda will include:

- March 14–15:
  - Opening Plenary Session (Welcome and Introductory Remarks, Review/ Approval of Meeting, Review/ Approval of Meeting Minutes)
  - SC–189/WG–53 co-chair report and review of work program
  - Progress work on PU–24, Version 4.0
  - Progress work on PU–40, Revision G
- March 16:
  - Closing Plenary Session
  - Debrief on progress for the work
  - Review schedule and action items

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 8, 2005.

Natalie Oglette,

FAA General Engineer, RTCA Advisory Committee.

[FR Doc. 05–3613 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aircraft Audio Systems and Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability and requests for public comment.

SUMMARY: This notice announces the availability of, and requests comments on proposed Technical Standard Order (TSO)–C139, Aircraft Audio Systems and Equipment. The proposed TSO is for audio systems designers, manufacturers, and installers seeking a TSO authorization or letter of design approval. In it, we (the Federal Aviation Administration, or FAA) describe what minimum performance standards (MPS) their audio systems and equipment must meet for approval and identification with applicable TSO marking. We also combine and update the requirements of TSO–C50c, Audio Selector Panels and Amplifers; TSO–57a, Headsets and Speakers; and TSO–C58a, Aircraft Microphones (except carbon).

DATES: Comments must be received on or before March 28, 2005.

ADDRESSES: Send all comments on proposed TSO–C139 to: Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, Avionic Systems Branch, Room 815, 800 Independence Avenue SW., Washington, DC 20591. ATTN: Mr. Gregory Frye, AIR–130.

You may also deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Frye, AIR–130, Federal Aviation Administration, Room 815, 800 Independence Avenue SW., Washington, DC 20591. Telephone (202) 385–4649, fax (202) 385–4554, or e-mail *gregory.e.frye@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

You may comment on the proposed TSO by sending written data, views, or arguments to the address listed above. You can also examine comments received on the proposed TSO before and after the comment closing date. Examine comments in room 815, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director, Aircraft Certification Service, will consider all comments received by the closing date before issuing the final TSO.

Background

TSO–C139 contains audio systems characteristics and MPS for aircraft microphones (except carbon), headsets, handsets, speakers, audio selector panels, and amplifiers. These standards specify system characteristics that should be useful if you are a designer, manufacturer, installer, or user of the equipment. If you comply with these standards, the equipment will perform its intended functions satisfactorily under all conditions normally encountered in routine aeronautical operations.

How To Get Copies

You can get a copy of the proposed TSO on the Internet from the FAA's Regulatory and Guidance Library (RGL) at *http://www.airweb.faa.gov/rgl*. On the RGL Web site, select ''Technical Standard Orders (TSO) and Index.'' Or, contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on February 17, 2005.

Susan J.M. Cabler,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 05–3607 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aircraft Clamps

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability and request for public comment.

SUMMARY: This notice announces the availability of, and requests comment on, a proposed Technical Standard Order (TSO) on aircraft clamps. The TSO prescribes minimum performance standards that aircraft clamps must meet to be identified with the making ''TSO–C171.''

DATES: Comments must be received on or before March 28, 2005.

ADDRESSES: Send all comments on this proposed TSO to: Technical Programs

and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Attn: File No. TSO–C171, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

You may deliver comments to: Federal Aviation Administration, Room 804, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Nguyen, AIR–120, Room 804, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone (202) 267–9937.

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the proposed TSO by submitting written Data, views, or arguments to the above address. Comments received may be examined, both before and after the closing date, in room 804 at the above address, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director, Aircraft Certification Service, will consider all comments received on or before the closing date before issuing the final TSO.

Background

Proposed TSO–C171 prescribes the minimum performance standards for aircraft clamps. The TSO references the standard set forth in the manufacturer's part drawing(s), applicable part specification(s) submitted with the clamp manufacturer's application for TSO authorization, and ASTM and SAE standards.

How To Obtain Copies

You can view or download the proposed TSO from its online location at: *http://www.airweb.faa.gov/rgl.* At this Web page, select ''Technical Standard Orders.'' At the TSO page, select ''Proposed Orders.''

For a paper copy, contact the person listed in **FOR FURTHER INFORMATION CONTACT.** You can order copies of American Society for Testing and Materials (ASTM) documents from ASTM, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959. You can order copies of Society of Automotive Engineers (SAE) documents from SAE, 400 Commonwealth Drive, Warrendale, PA 15096–0001.

Issued in Washington, DC, on February 17, 2005.

Susan J.M. Cabler,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 05–3606 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Nickel-Cadmium and Lead-Acid Batteries

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of, and requests comments on, a proposed Technical Standard Order (TSO) on nickel-cadmium and lead-acid batteries. These batteries power aircraft equipment (emergency and standby systems, plus engine or APU starting). The TSO prescribes minimum performance standards for these batteries to be identified with the marking ''TSO–C173.''

DATES: Comments must be received on or before March 28, 2005.

ADDRESSES: Send all comments on this proposed TSO to: Technical Programs Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Attn: File No. TSO–C173, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

You may deliver comments to: Federal Aviation Administration, Room 804, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Nguyen, AIR–120, Room 804, Federal Aviation Administration, 800 Independence Avenue SW., Washington DC 20591. Telephone (202) 267–9937.

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the proposed TSO by submitting written data, views, or arguments to the above address. Comments received may be examined, both before and after the comment closing date, in room 804 at the above address, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director, Aircraft Certification Service, will consider all comments received on or before the closing date before issuing the final TSO.

How To Obtain Copies

You may download a copy of proposed TSO–C173 from the FAA Web site at: *http://www.airweb.faa.gov/rgl.* At the Web page, select ''Technical Standard Orders.'' At the TSO page, select ''Proposed TSOs.'' For a paper copy of the proposed TSO, or for further assistance, contact the individual listed in **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on February 17, 2005.

Susan J.M. Cabler,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 05–3608 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Universal Access Transceiver Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability and requests for public comment.

SUMMARY: This notice announces the availability of, and requests comments on, proposed Technical Standard Order (TSO)–C154a, Universal Access Transceiver (UAT) Automatic Dependent Surveillance–Broadcast (ADS–B) Equipment Operating on the Frequency of 978 MHz. In this TSO, we (the Federal Aviation Administration, or FAA) refer to a revised minimum performance standard (MPS)—RTCA Inc., Document (RTCA/DO)–282A, Minimum Operational Performance Standards for Universal Access Transceiver (UAT) Automatic Dependent Surveillance Broadcast (ADS–B), dated July 29, 2004. We also add Appendix 1, which lists corrections to RTCA/DO–282A since its date of issuance. The TSO also supports an optional frequency Diplexer. The Diplexer allows the ATCRBS/Mode S Transponder and the UAT equipment developed under this TSO to share antennas. This TSO is for manufacturers of Universal Access Transceiver ADS–B equipment or UAT Diplexer seeking a TSO authorization or letter of design approval. In it, we tell them what MPS their UAT equipment must meet for approval and identification with the TSO–C154a marking.

DATES: Comments must be received on or before March 28, 2005.

ADDRESSES: Send all comments on this proposed TSO to: Ms. Bobbie Smith, AIR–103, ATTN: File No. TSO–C154a, Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, Room 815, 800 Independence Avenue, SW., Washington, DC 20591. You may deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Jennings, AIR–130, Federal

Aviation Administration, 1895 Phoenix Blvd., Suite 450, Atlanta, GA 30349. Telephone (770) 703–6090, fax (770) 703–6055. E-mail *richard.jennings@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Submit written data, views, or arguments on the proposed TSO to the above address. Before and after the comment closing date, you can examine comments received in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. Before issuing the final TSO, the director of the Aircraft Certification Service will consider all comments received on or before the closing date for comments.

Background

This proposed TSO prescribes the minimum standards for airborne equipment. It supports ADS–B using UAT equipment operating on the frequency of 978 MHz. ADS–B is a system by which aircraft and certain equipped surface vehicles can share position, velocity, and other information with one another (and with ground-based facilities such as air traffic services) via radio broadcast techniques. UAT is a multipurpose aeronautical datalink system to support not only ADS–B, but also Flight Information Service–Broadcast (FIS–B), Traffic Information Service–Broadcast (TIS–B), and supplementary ranging and positioning capabilities. This TSO supports two major classes of UAT equipment: Class A and Class B equipment. Class A equipment combines a broadcast and receive subsystem. Class B equipment supports broadcast only.

How To Obtain Copies

You can download a copy of proposed TSO–C154a from the FAA Web site at: *http://www.airweb.faa.gov/rgl.* At the Web page, select ''Technical Standard Orders (TSO) and Index.'' At the TSO page, select ''Proposed TSOs.'' For a paper copy of the proposed TSO, or for further assistance, contact the person listed in **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on February 17, 2005.

Susan J.M. Cabler,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 05–3609 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2005–20140]

Notice of Request for Clearance of a New Information Collection: Best Motor Carrier Safety Management Technology Practices

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement in section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (PRA), this notice announces the intention of the FMCSA to request the Office of Management and Budget's (OMB) approval of a new information collection related to a study of how information technology is being used to improve safety management in the motor carrier industry. This study is one element in a larger, multi-year study of the safety and financial performance of the motor carrier industry by commodity segment. This Motor Carrier Industry Profile Study is being performed by the University of Maryland on behalf of the FMCSA.

DATES: Comments must be submitted on or before April 26, 2005.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or envelope.

Electronic Access: An electronic copy of this document may be downloaded using the Internet at the Office of the Federal Register's Home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*. For Internet users, all comments received will be available for examination at the universal source location: *http://dms.dot.gov*. Please follow the instructions on-line for additional information and guidance.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Dale Sienicki, Program Manager, Industry Profile Study, (202) 366–1961, Office of Information Management, Analysis Division, Federal Motor Carrier Safety Administration, 400 7th Street SW., Suite 8214, Washington, DC 20590. Office hours are from 7 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Motor Carrier Industry Profile.

Background: The FMCSA is responsible for enhancing the safety of motor carrier operations and the nation's highway system through fair, uniform and consistent enforcement of the Federal Motor Carrier Safety Regulations and applicable Hazardous Materials Regulations, and through other innovative programmatic approaches. A complicating factor is the sheer size and diversity of the motor carrier industry, and a less than thorough understanding of its diversity. Detailed information about the safety performance differences among segments, and the practices, policies, and programs undertaken by safety leaders within each segment will assist FMCSA in its policy and program development and improve the safety of the industry. This project is being conducted on behalf of FMCSA through a cooperative agreement with the University of Maryland's Smith School of Business.

This project is being conducted in three phases as follows:

Phase 1 (now completed) involved three analyses of the motor carrier industry segmented into its major components. The first analysis consisted of developing financial and operating performance profiles for each of the 13 for-hire commodity segments (Refrigerated; Bulk Materials—Non Tank; Tank Carriers, Moving/Household Goods; Building Materials; Heavy Equipment, General Freight Truck-Load (subdivided into small, medium and large-sized carriers), General Freight Less-Than-Truck-Load, and Other Specialized (subdivided into small, medium and large-sized carriers). The second analysis evaluated detailed safety performance data for 10 commodity segments, including Building Materials, Moving/Household Goods, General Freight (TL and LTL),

Heavy Equipment, Produce, Intermodal, Passenger, Refrigerated (non-produce), Tank Carriers and Bulk Materials Carriers. Each commodity segment was subdivided into its for-hire and private components, and each of the 30 segments was evaluated on recent crash, vehicle, driver and safety management factors. The third analysis combined the financial and safety performance data from the first two analyses to create a profile of the financial and safety performance relationship. Correlation coefficients were calculated for various financial-safety performance measures, and each correlation coefficient was calculated for various financial-safety performance measures and tested for its statistical significance. Phase 1 results are located on the FMCSA Analysis and Information (A&I) online Web site (*http://ai.fmcsa.dot.gov*) under ''Analysis Results and Reports.''

The safety performance results from Phase 1 provided the basis for Phase 2 of this study (also complete).

Phase 2 of the study is an investigation of the safety programs, policies, and procedures undertaken by safety leaders in each commodity segment (commonly known as the ''Best Practices'' Study). Phase 2 included individual interviews with several safety leaders in each segment. Detailed information was collected on driver screening and hiring practices, pre-service and in-service training procedures, incentive awards programs and vehicle maintenance policies. Phase 2 results are also located on FMCSA's A&I Web site (*http://ai.fmcsa.dot.gov*) under Analysis Results and Reports.''

Phase 3: Results from Phase 2 are being shared with FMCSA safety investigators and disseminated to many carriers within the industry, including new entrants and poor performers. Specifically, copies of the ''Best Practices'' final report were provided to national-level industry associations and FMCSA field offices. Summarized brochures have been developed for distribution to the associations, FMCSA field offices, and new entrants upon initial registration with FMCSA. The hope is that these new motor carriers will incorporate these practices into their own safety management programs while they are still in the development stage. Additionally, FMCSA hopes to incorporate the results in material provided at compliance reviews, so that carriers who rate poorly have access to specific, concrete examples of how to revise or improve their safety management programs.

As part of Phase 3, FMCSA and the University of Maryland will seek more detailed information from the motor carrier industry on how technology is being used to improve safety management. FMCSA and the University of Maryland propose to send questionnaires to approximately 1,000 of the largest for-hire and private carriers in the United States. The University of Maryland will also post the questionnaires on-line so that the selected carriers can complete the survey via the Internet, if desired.

Respondents: The total number of respondents is 1,000. The respondents will be the ten largest for-hire and private motor carriers in each State.

Average Burden Per Response: The estimated average burden per response is 45 minutes. Estimated Total Annual Burden: The estimated total annual burden is 750 hours (1,000 questionnaires interviews × 45 minutes per response/60 minutes = 750 hours).

Frequency: Once.

Public Comments Invited: Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FMCSA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended; Pub. L. 106–159, 113 Stat. 1748 (December 9, 1999); and 49 CFR 1.73.

Issued on: February 14, 2005.

Annette M. Sandberg,

Administrator.

[FR Doc. 05–3616 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on August 13, 2004 [FR Doc. 04–18536, Vol. 69, No. 156, Pages 50234–50235].

DATES: Comments must be submitted on or before March 28, 2005.

FOR FURTHER INFORMATION CONTACT: Christina Morgan at the National Highway Traffic Safety Administration, Office of Planning, Evaluation, and Budget (NPO–321), 202–366–2562, 400 Seventh Street, SW., 5208V, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: The Impact of LATCH on Child Restraint Use.

OMB Number: 2127—New.

Type of Request: Request for public comment on proposed collection of information.

Abstract: The data will provide information on the impact of Lower Anchors and Tethers for Children (LATCH) on child safety seat use. Specifically, NHTSA will find out if consumers are using the LATCH system to install child safety seats, if they are easy to install, and the percentage that are being installed correctly. The evaluation is required under Executive Order 12866.

Affected Public: Individuals.

Estimated Total Annual Burden: 832 hours.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC on February 17, 2005.

Noble N. Bowie,

Associate Administrator for Planning, Evaluation, and Budget.

[FR Doc. 05–3617 Filed 2–24–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub-No. 4)]

Railroad Cost Recovery Procedures—Productivity Adjustment

AGENCY: Surface Transportation Board, DOT.

ACTION: Revision to proposed adoption of a Railroad Cost Recovery Procedures productivity adjustment.

SUMMARY: The Surface Transportation Board proposes to adopt 1.029 (2.9%) as the measure of average change in railroad productivity for the 1999–2003 (5-year) period. This proposal is a revision to the proposal published on February 2, 2005, at 70 FR 5509–10. The current value of 2.2% was developed for the 1998 to 2002 period.

DATES: Comments on the revised proposal are due February 25, 2005. *Effective Date:* The proposed productivity adjustment is effective March 31, 2005.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte No. 290 (Sub-No. 4) to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1533. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on our Web site *http://www.stb.dot.gov*. To purchase a copy of the full decision, write to, e-mail or call the Board's contractor, ASAP Document Solutions; 9332 Annapolis Rd., Suite 103, Lanham, MD 20706; e-mail *asapdc@verizon.net*; phone (202) 306–4004. (Assistance for the hearing impaired is available through FIRS: 1–800–877–8339.)

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: February 18, 2005.

By the Board, Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams,

Secretary.

[FR Doc. 05–3673 Filed 2–24–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34663]

BNSF Railway Company—Temporary Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company (UP) has agreed to grant limited temporary overhead trackage rights to BNSF Railway Company (BNSF) over UP's line between Valley Junction, IL, at UP milepost 0.00 and Rockview Junction, MO, at UP milepost 131.3, a distance of approximately 131.3 miles.

The transaction was scheduled to be consummated on February 14, 2005, and the temporary trackage rights are intended to expire on May 13, 2005. The purpose of the temporary trackage rights is to allow BNSF to bridge its train service while its main lines are out of service due to programmed track, roadbed, and structural maintenance.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment-Goshen,* 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34663, 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 Michael E. Roper, 2500 Lou Menk Drive, PO Box 961039, Fort Worth, TX 76161–0039.

Board decisions and notices are available on our Web site at "*http://www.stb.dot.gov.*"

Decided: February 16, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–3554 Filed 2–24–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 17, 2005.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 28, 2005.

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0062.

Form Number: TTB REC 5150/1.

Type of Review: Extension.

Title: Usual and Customary Business Records Relating to Denatured Spirits.

Description: Denatured Spirits are used for nonbeverage industrial purposes in the manufacture of personal household products. Records ensure spirits accountability. Tax revenue and public safety are protected.

Respondents: Business of other for-profit, State, Local or Tribal Government.

Estimated Number of Recordkeepers: 3,111.

Estimated Burden Hours Per Recordkeeper: 0 hours.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 1 hour.

OMB Number: 1513–0069.

Form Number: TTB REC 5210/6.

Type of Review: Extension.

Title: Tobacco Products Manufacturers—Supporting Records for Removals for the Use of the United States.

Description: Used by tobacco products manufacturers to record removals of tobacco products for use of the United States. Used by TTB to verify that

removals were tax exempt. Records are needed to trace transactions for protection of the revenue.

Respondents: Business of other for-profit.

Estimated Number of Recordkeepers: 101.

Estimated Burden Hours Per Recordkeeper: 5 hours.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 505 hours.

Clearance Officer: William H. Foster, (202) 927–8210, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G. Street, NW., Washington, DC 20005.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 05–3652 Filed 2–24–05; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 18, 2005.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 28, 2005 to be assured of consideration.

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0017.

Form Number: TTB F 5130.6.

Type of Review: Extension.

Title: Drawback of Beer Exported.

Description: When tax paid beer is removed from a brewery and ultimately exported, the brewer exporting is eligible for a drawback (refund) of Federal taxes paid. By completing this form and submitting documentation of exportation, the brewer may receive a refund of Federal taxes paid.

Respondents: Business of other for-profit.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 5,000 hours.

OMB Number: 1513–0034.

Form Number: TTB F 5200.7.

Type of Review: Extension.

Title: Tobacco taxes, Excise taxes, Federal Taxes.

Description: TTB F 5200.7 is used by persons who intend to withdraw tobacco products from the market for which the taxes has already been paid or determined. The form notifies TTB when withdrawal or destruction is to take place, and TTB may elect to supervise withdrawal or destruction.

Respondents: Business of other for-profit.

Estimated Number of Respondents: 119.

Estimated Burden Hours Per Respondent: 45 Minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,071 hours.

Clearance Officer: William H. Foster, (202) 927–8210, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G. Street, NW., Washington, DC 20005.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Christopher Davis,

Treasury PRA Assistant.

[FR Doc. 05–3653 Filed 2–24–05; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Financial Literacy and Education Commission's National Strategy Information Gathering Public Meetings

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of various public meetings.

SUMMARY: This notice announces six information-gathering public meetings to be held at various locations on behalf of a financial education national strategy working group of the Financial Literacy and Education Commission (Commission), established by the Financial Literacy and Education Improvement Act (Title V of the Fair and Accurate Credit Transactions Act of 2003).

DATES: *See* **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: *See* **SUPPLEMENTARY INFORMATION** section for meeting addresses.

SUPPLEMENTARY INFORMATION: *First Meeting Dates:* The first Commission public information-gathering meeting for the national strategy on financial education will be held on Friday, February 25, 2005. There will be a two-hour meeting session, which will begin at 9:30 a.m. and end at 11:30 a.m. (e.s.t.).

Addresses: The first Commission public information-gathering meeting for the national strategy on financial education will be held in Room 1C–30 at the Securities and Exchange Commission, located at 450 Fifth Street, NW., Washington, DC. Limited seating is available to the public on a first-come, first-serve basis. Participation in the discussion at each meeting will be limited to the Commission's national strategy working group members, their staffs, and representatives of those that responded to the Commission's request for public comment on the national strategy. For entry into the building, attendees will be required to provide a valid picture I.D. and will be escorted into the meeting room.

For Further Information Contact: For additional information, contact John Nester at the Securities and Exchange Commission by e-mail at: nesterj@sec.gov or by telephone at: (202) 942–0032.

Second Meeting Dates: The second Commission public information-gathering meeting for the national strategy on financial education will be held on Friday, March 4, 2005. Participants at this meeting will be from local, State and Federal government. There will be a two-hour meeting session, which will begin at 8:30 a.m. and end at 10:30 a.m. (e.s.t.).

Addresses: The second Commission public information-gathering meeting for the national strategy on financial education will be held in the 7th Floor Executive Dining Room at the Federal Deposit Insurance Corporation, located at 550 17th Street, NW., Washington, DC. Limited seating is available to the public on a first-come, first-serve basis. Participation in the discussion at each meeting will be limited to the Commission's national strategy working group members, their staffs, and representatives of those that responded to the Commission's request for public comment on the national strategy. For entry into the building, attendees will be required to provide a valid picture I.D. and will be escorted into the meeting room.

For Further Information Contact: For additional information, contact Donna Soto at the Federal Deposit Insurance Corporation by e-mail at: *dsoto@fdic.gov* or by telephone at: (703) 516–1032.

Third Meeting Dates: The third Commission public information-gathering meeting for the national strategy on financial education will be held on Monday, March 7, 2005. Participants at this meeting will be from the academic/educational community. There will be a two-hour meeting session, which will begin at 10:30 a.m. and end at 12:30 p.m. (e.s.t.). If necessary, a second two-hour meeting session will follow beginning at 1 p.m. and ending at 3 p.m. (e.s.t.).

Addresses: The third Commission public information-gathering meeting for the national strategy on financial education will be held at the U.S. Mint, located at 801 9th Street, NW., Washington, DC. Limited seating is available to the public on a first-come, first-serve basis. Participation in the discussion at each meeting will be limited to the Commission's national strategy working group members, their staffs, and representatives of those that responded to the Commission's request for public comment on the national strategy. For entry into the building, attendees will be required to provide a valid picture I.D. and will be escorted into the meeting room.

For Further Information Contact: For additional information, contact Madelyn Simmons Marchessault at the United States Mint by telephone at (202) 354–7200.

Fourth Meeting Dates: The fourth Commission public information-gathering meeting for the national strategy on financial education will be held on Friday, March 11, 2005. Participants at this meeting will be from non-profit organizations. There will be a two-hour meeting session, which will begin at 1:30 p.m. and end at 3:30 p.m. (e.s.t.).

Addresses: The fourth Commission public information-gathering meeting for the national strategy on financial education will be held at the U.S. Office of Personnel Management, located at 1900 E Street, NW., Washington, DC. Limited seating is available to the public on a first-come, first-serve basis. Participation in the discussion at each meeting will be limited to the Commission's national strategy working group members, their staffs, and representatives of those that responded to the Commission's request for public comment on the national strategy. For entry into the building, attendees will be required to provide a valid picture I.D.

For Further Information Contact: For additional information, contact Ray Kirk at the Office of Personnel Management by e-mail at: *rjkirk@opm.gov* or by telephone at: (202) 606–0788.

Fifth Meeting Dates: The fifth Commission public information-gathering meeting for the national strategy on financial education will be held on Monday, March 14, 2005. Participants at this meeting will be from the lending community. There will be a two-hour meeting session, which will begin at 9 a.m. and end at 11 a.m. (e.s.t.). If necessary, a second two-hour meeting session will follow beginning at 1:30 p.m. and ending at 3:30 p.m. (e.s.t.).

Addresses: The fifth Commission public information-gathering meeting for the national strategy on financial education will be held in Room HC–8 at the U.S. Capitol's Cannon House Office Building, Washington, DC. Limited seating is available to the public on a first-come, first-serve basis. Participation in the discussion at each meeting will be limited to the Commission's national strategy working group members, their staffs, and representatives of those that responded to the Commission's request for public comment on the national strategy. For entry into the building, attendees will be required to provide a valid picture I.D.

For Further Information Contact: For additional information, contact Michael Schutt at the Treasury's Office of Financial Education by e-mail at: *michael.schutt@do.treas.gov* or by telephone at: (202) 622–1484.

Sixth Meeting Date: The sixth Commission public information-gathering meeting for the national strategy on financial education will be held on Thursday, March 17, 2005. There will be a two-hour meeting session, which will begin at 10:30 a.m. and end at 12:30 p.m. e.s.t. If necessary, a second two-hour meeting session will follow beginning at 1 p.m. and ending at 3 p.m. e.s.t.

Addresses: The sixth Commission public information-gathering meeting for the national strategy on financial education will be held in Conference Room 5A at the U.S. Department of Health and Human Services' Administration for Children and Families, Office of Community Services, located at 370 L'Enfant Promenade, SW., Washington, DC. Limited seating is available to the public on a first-come, first-serve basis. Participation in the discussion at each meeting will be limited to the Commission's national strategy working group members, their staffs, and representatives of those that responded to the Commission's request for public comment on the national strategy. Attendees will be required to provide the following information at least twenty-four hours prior to the meeting: Visitor name, visitor's organization, and date and time of visit, to Marilyn Henry at: *mhenry@acf.hhs.gov.* For entry into the building, attendees will be required to provide a valid picture I.D.

For Further Information Contact: For additional information, contact Marilyn Henry at Health and Human Services by e-mail at: *mhenry@acf.hhs.gov* or by telephone at: (202) 401–5625.

Background

The Financial Literacy and Education Improvement Act, which is Title V of the Fair and Accurate Credit Transactions Act of 2003 (the ''FACT Act'') (Pub. L. 108–159), established the Financial Literacy and Education Commission (the ''Commission'') to improve financial literacy and education of persons in the United States. The Commission is composed of the Secretary of the Treasury and the head of the Office of the Comptroller of the Currency; the Office of Thrift Supervision; the Federal Reserve; the Federal Deposit Insurance Corporation; the National Credit Union Administration; the Securities and Exchange Commission; the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs; the Federal Trade Commission; the General Services Administration; the Small Business Administration; the Social Security Administration; the Commodity Futures Trading Commission; and the Office of Personnel Management. The FACT Act was enacted on December 4, 2003.

The meetings listed above will be open to the public. Seating is available on a first-come basis. Participation in the discussion at each meeting will be limited to the Commission's national strategy working group members, their staffs, and representatives of those that responded to the Commission's request for public comment on the national strategy.

Dated: February 22, 2005.

Dan Iannicola, Jr.,

Deputy Assistant Secretary for Financial Education.

[FR Doc. 05–3821 Filed 2–24–05; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2002–15

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue procedure 2002–15, Automatic Relief for Late Initial Entity Classification Elections—Check the Box.

DATES: Written comments should be received on or before April 26, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, International Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Automatic Relief for Late Initial Entity Classification Elections—Check the Box.

OMB Number: 1545–1771.

Revenue Procedure Number: Revenue Procedure 2002–15.

Abstract: Revenue Procedure 2002–15 provides that, in certain circumstances, taxpayers whose initial entity classification election was filed late can obtain relief by filing Form 8832 and attaching a statement explaining that the requirements of the revenue procedure have been met.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 16, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 05–3693 Filed 2–24–05; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 4070, 4070A, 4070PR, and 4070A–PR

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4070, Employee's Report of Tips to Employer, Form 4070A, Employee's Daily Record of Tips; Forma 4070PR, Informe al Patrono de Propinas Recibidas por el Empleado; Forma 4070A–PR, Registro Diario de Propinas del Empleado.

DATES: Written comments should be received on or before April 26, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Form 4070, Employee's Report of Tips to Employer, Form 4070A, Employee's Daily Record of Tips; Forma 4070PR, Informe al Patrono de Propinas Recibidas por el Empleado; Forma 4070A–PR, Registro Diario de Propinas del Empleado.

OMB Number: 1545–0065.

Form Number: Forms 4070, 4070A, 4070PR, and 4070A–PR.

Abstract: Employees who receive at least $20 per month in tips must report the tips to their employers monthly for purposes of withholding of employment taxes. Forms 4070 and 4070PR (Puerto Rico only) are used for this purpose. Employees must keep a daily record of tips they receive. Forms 4070A and 4070A–PR (Puerto Rico only) are used for this purpose.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 615,000.

Estimated Time Per Respondent: 63 hours, 50 minutes (Forms 4070 and 4070A); 64 hours, 5 minutes (Forms 4070PR and 4070A–PR).

Estimated Total Annual Burden Hours: 39,265,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 16, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 05–3694 Filed 2–24–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–208156–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final regulations, REG–208156–91 (TD 8929), Accounting for Long-Term Contracts (§ 1.460–1).

DATES: Written comments should be received on or before April 26, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Accounting for Long-Term Contracts.

OMB Number: 1545–1650. Regulation Project Number: REG–208156–91.

Abstract: The regulation requires the Commissioner to be notified of a taxpayer's decision to sever or aggregate one or more long-term contracts under the regulations. The statement is needed so the Commissioner can determine whether the taxpayer properly severed or aggregated its contract(s). The regulations affect any taxpayer that manufactures or constructs property under long-term contracts.

Current Actions: There are no changes to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 12,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 16, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 05–3696 Filed 2–24–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Availability of Report of 2004 Closed Meetings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. app. I section 10(d), of the Federal Advisory Committee Act, and 5 U.S.C. section 552b, the Government in the Sunshine Act, a report summarizing the closed meeting activities of the Art Advisory Panel during 2004 has been prepared. A copy of this report has been filed with the Assistant Secretary of the Treasury for Management.

DATES: *Effective Date:* This notice is effective February 25, 2005.

ADDRESSES: The report is available for public inspection and requests for copies should be addressed to: Internal Revenue Service, Freedom of Information Reading Room, Room 1621, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone number (202) 622–5164 (not a toll free number)

FOR FURTHER INFORMATION CONTACT: Karen Carolan, AP:ART, Internal Revenue Service/Appeals, 1099 14th Street, NW., Washington, DC 20005, telephone (202) 435–5609 (not a toll free telephone number).

SUPPLEMENTARY INFORMATION: The Commissioner of Internal Revenue has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis, therefore, is not required. Neither does this document constitute a

rule subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Mark W. Everson,

Commissioner of Internal Revenue.

[FR Doc. 05–3692 Filed 2–24–05; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Friday,
February 25, 2005

Part II

Environmental Protection Agency

40 CFR Part 52

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revised Format for Materials Being Incorporated by Reference; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA200–4200; FRL–7843–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revised Format for Materials Being Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is revising the format for materials submitted by Pennsylvania that are incorporated by reference (IBR) into its State implementation plan (SIP). The regulations affected by this format change have all been previously submitted by Pennsylvania and approved by EPA. This format revision will primarily affect the ''Identification of plan'' section, as well as the format of the SIP materials that will be available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, D.C., and the EPA Region III Office. EPA is also adding a table in the ''Identification of plan'' section which summarizes the approval actions that EPA has taken on the non-regulatory and quasi-regulatory portions of the Pennsylvania SIP.

DATES: *Effective Date:* This final rule is effective on February 25, 2005.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814–2108 or by e-mail at *frankford.harold@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION:

The supplementary information is organized in the following order:

I. Background
What a SIP is.
How EPA enforces SIPs.
How the State and EPA updates the SIP.
How EPA compiles the SIPs.
How EPA organizes the SIP compilation.
Where you can find a copy of the SIP compilation.
The format of the new Identification of Plan section.
When a SIP revision becomes Federally enforceable.
The historical record of SIP revision approvals.
II. What EPA is doing in this action.
III. Statutory and Executive Order Reviews

I. Background

What a SIP is—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 network, attainment demonstrations, and enforcement mechanisms.

How EPA enforces SIPs—Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them. They are then submitted to EPA as SIP revisions on which EPA must formally act.

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 actual state regulations approved by EPA are not reproduced in their entirety in 40 CFR part 52, but are ''incorporated by reference'' (IBR'd) which means that EPA has approved a given state regulation with a specific effective date. This format allows both EPA and the public to know which measures are contained in a given SIP and ensures that the state is enforcing the regulations. It also allows EPA and the public to take enforcement action, should a state not enforce its SIP-approved regulations.

How the State and EPA updates the SIP—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 must, from time to time, take action on SIP revisions containing new and/or revised regulations in order to make them part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for IBR'ing Federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR).

EPA began the process of developing: (1) A revised SIP document for each state that would be IBR under the provisions of title 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR; and (3) a revised format of the ''Identification of Plan'' sections for each applicable subpart to reflect these revised IBR procedures. The description of the revised SIP document, IBR procedures, and ''Identification of Plan'' format are discussed in further detail in the May 22, 1997, **Federal Register** document.

How EPA compiles the SIPs—The Federally-approved regulations, source-specific permits, and nonregulatory provisions (entirely or portions of) submitted by each state agency have been compiled by EPA into a ''SIP compilation.'' The SIP compilation contains the updated regulations, source-specific permits, and nonregulatory provisions approved by EPA through previous rulemaking actions in the **Federal Register.**

How EPA organizes the SIP compilation—Each compilation contains three parts. Part one contains the regulations, part two contains the source-specific requirements that have been approved as part of the SIP and part three contains nonregulatory provisions that have been EPA approved. Each part consists of a table of identifying information for each SIP-approved regulation, each SIP-approved source-specific permit, and each nonregulatory SIP provision. In this action, EPA is publishing the tables summarizing the applicable SIP requirements for the Commonwealth of Pennsylvania, Allegheny County, and Philadelphia County. The EPA Regional Offices have the primary responsibility for updating the compilations and ensuring their accuracy.

Where you can find a copy of the SIP compilation—EPA Region III developed and will maintain the compilation for Pennsylvania, including Allegheny and Philadelphia Counties. A copy of the full text of regulatory and source-specific SIP compilations for these three jurisdictions will also be maintained at NARA and EPA's Air Docket and Information Center.

The format of the new Identification of Plan section—In order to better serve the public, EPA revised the organization of the ''Identification of Plan'' section and included additional information to clarify the enforceable elements of the

SIP. The revised Identification of Plan section contains five subsections:

1. Purpose and scope.
2. Incorporation by reference.
3. EPA-approved regulations.
4. EPA-approved source-specific requirements.
5. EPA-approved nonregulatory and quasi-regulatory provisions such as air quality attainment plans, rate of progress plans, maintenance plans, monitoring networks, and small business assistance programs.

When a SIP revision becomes Federally enforceable—All revisions to the applicable SIP become Federally enforceable as of the effective date of the revisions to paragraphs (c), (d), or (e) of the applicable Identification of Plan section found in each subpart of 40 CFR part 52. In general, SIP revisions become effective 30 to 60 days after publication of EPA's SIP approval action in the **Federal Register**. In specific cases, a SIP revision action may become effective less than 30 days or greater than 60 days after the **Federal Register** publication date. In order to determine the effective date for a specific Pennsylvania, Allegheny County, or Philadelphia County SIP provision that is listed in paragraphs § 52.2020(c), (d), or (e), consult the **Federal Register** date, volume and page cited in the ''EPA approval date'' column for that particular SIP provision.

The historical record of SIP revision approvals—To facilitate enforcement of previously approved SIP provisions and provide a smooth transition to the new SIP processing system, EPA retains the original Identification of Plan section, previously appearing in the CFR as the first or second section of part 52 for each state subpart. After an initial two-year period, EPA will review its experience with the new system and enforceability of previously approved SIP measures and will decide whether or not to retain the Identification of Plan appendices for some further period.

II. What EPA Is Doing in This Action

Today's rule constitutes a ''housekeeping'' exercise to ensure that all revisions to the state programs that have occurred are accurately reflected in 40 CFR part 52. State SIP revisions are controlled by EPA regulations at 40 CFR part 51. When EPA receives a formal SIP revision request, the Agency must publish the proposed revision in the **Federal Register** and provide for public comment before approval.

EPA has determined that today's rule falls under the ''good cause'' exemption in Section 553(b)(3)(B) of the Administrative Procedures 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 a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs. 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 is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations.

III. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. 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 rule 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 rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This rule 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 rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, 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 the rule 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 rule 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 (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 action simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of February 25, 2005. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal**

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

C. Petitions for Judicial Review

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. Prior EPA rulemaking actions for each individual component of the Pennsylvania SIP compilations had 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. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for these ''Identification of plan'' reorganization actions for Pennsylvania.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 17, 2004.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

■ For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

■ 2. Section 52.2020 is redesignated as Section 52.2063 and the heading and paragraph (a) are revised to read as follows:

§ 52.2063 Original identification of plan section.

(a) This section identifies the original ''Air Implementation Plan for the Commonwealth of Pennsylvania'' and all revisions submitted by Pennsylvania that were federally approved prior to February 10, 2005.

* * * * *

■ 3. A new Section 52.2020 is added to read as follows:

§ 52.2020 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State implementation plan for Pennsylvania under section 110 of the Clean Air Act, 42 U.S.C. 7410, and 40 CFR part 51 to meet national ambient air quality standards.

(b) *Incorporation by reference.* (1) Material listed as incorporated by reference in paragraphs (c) and (d) 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 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) and (d) of this section with EPA approval dates on or after February 10, 2005, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region III certifies that the rules/regulations provided by EPA 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 February 10, 2005.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region III Office at 1650 Arch Street, Philadelphia, PA 19103; the EPA, Air and Radiation Docket and Information Center, Air Docket (6102), 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) *EPA-Approved Regulations.*

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS

State citation	Title subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Title 25. Environmental Protection Article III. Air Resources				
Chapter 121 General Provisions				
Section 121.1	Definitions	12/27/97	2/25/03; 68 FR 8723	(c)(197).
Section 121.2	Purpose	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 121.3	Applicability	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 121.4	Regional Organization of the Department.	5/23/92	12/22/94; 59 FR 65971	(c)(94).
Section 121.7	Prohibition of Air Pollution	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 121.8	Compliance responsibilities	8/13/77	12/17/79; 44 FR 73031	(c)(21); correction published 8/22/80 (45 FR 56060).
Section 121.9	Circumvention	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 121.10	Existing orders	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 121.11	Severability clause	3/20/72	5/31/72; 37 FR 10842	(c)(1); no longer in PA DEP rules.
Chapter 123 Standards for Contaminants				
Fugitive Emissions				
Section 123.1(a) through (c).	Prohibition of certain fugitive emissions	8/29/77	12/17/79; 44 FR 73031	(c)(21); Paragraph 123.1(d) is not in the SIP.
Section 123.2	Fugitive particulate matter	8/13/83	7/27/84; 49 FR 30183	(c)(60).

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Particulate Matter Emissions				
Section 123.11	Combusion units	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Appendix A [Graph]	Particulate Matter-Combustion Units	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 123.12	Incinerators	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 123.13(a) through (c).	Processes	8/27/80	11/13/81; 46 FR 55971	(c)(39) paragraph 123.13(d) is not in the SIP.
Appendix B [Graph]	Particulate Matter-Processes Listed in Table 1.	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Appendix C [Graph]	Particulate Matter-Processes Not Listed in Table 1.	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Sulfur Compound Emissions				
Section 123.21	General	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 123.22	Combustion units. [General provisions—air basins and non-air basins].	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 123.22(a)	Combustion units—non Air basins	8/1/79	8/18/81; 46 FR 43423	(c)(36); approved as part of the control strategy for the Armstrong County sulfur dioxide nonattainment area.
Section 123.22(b)	Combustion units—Erie Air Basin	8/1/79	8/8/79; 44 FR 46465	(c)(20); correction published 1/23/80 (45 FR 5303).
Section 123.22(c)	Combustion units—Southeast PA Air Basin.	10/1/78	6/4/79; 44 FR 31980	(c)(18).
Section 123.22(c)	Combustion units—Upper Beaver Valley Air Basin.	8/21/82	7/5/83; 48 FR 30630	(c)(53).
Section 123.22(d)	Combustion units—Lower Beaver Valley Air Basin.	1/1/81	12/16/81; 46 FR 61267	(c)(40).
Figure 4 [Graph]	Sulfur Oxides—Combustion Units	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 123.24	Primary zinc smelters	8/11/75	4/30/76; 41 FR 18077	(c)(14).
Section 123.25	Monitoring requirements	10/27/90	6/30/93; 58 FR 34911	(c)(81).
Odor Emissions				
Section 123.31	Limitations	3/20/72	5/31/72; 37 FR 10842	(c)(1); SIP version of Section 123.31 is different from State version.
Visible Emissions				
Section 123.41	Limitations	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 123.42 (Except paragraph 123.42(4)).	Exceptions	3/20/72	5/31/72; 37 FR 10842	(c)(1); Paragraph 123.42(4) is declared not in SIP at (c)(21).
Section 123.43	Measuring Techniques	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 123.44	Limitations of visible fugitive air contaminants from operation of any coke oven battery.	12/27/97	6/11/02; 67 FR 39854	(c)(189).
Section 123.45	Alternative opacity limitations	6/20/81	1/19/83; 48 FR 2319	(c)(48).
Appendix D [Chart]	Alternative Opcaity Limitation—Application.	6/20/81	1/19/83; 48 FR 2319	(c)(48).
Section 123.46	Monitoring requirements	6/20/81	1/19/83; 48 FR 2319	(c)(48).
Nitrogen Compound Emissions				
Section 123.51	Monitoring requirements	10/20/90	9/23/92; 57 FR 43905	(c)(74).
NO_X Allowance Requirements				
Section 123.101	Purpose	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.102	Source NO_X allowance requirements and NO_X allowance control period.	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.103	General NO_X allowance provisions	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.104	Source authorized account representative requirements.	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.105	NATS provisions	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.106	NO_X allowance transfer protocol	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.107	NO_X allowance transfer procedures	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.108	Source emissions monitoring requirements.	3/11/00	6/6/00; 65 FR 35840	(c)(145).

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Section 123.109	Source emissions reporting requirements.	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.110	Source compliance requirements	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.111	Failure to meet source compliance requirements.	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.112	Source operating permit provision requirements.	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.113	Source recordkeeping requirements	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.114	General NO_X allocation provisions	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.115	Initial NO_X allowance NO_X allocations	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.116	Source opt-in provisions	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.117	New NO_X affected source provisions	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.118	Emission reduction credit provisions	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.119	Bonus NO_X allowance awards	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Section 123.120	Audit	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Appendix E [Chart]	Appendix E [NO_X Allowances Chart]	3/11/00	6/6/00; 65 FR 35840	(c)(145).
Chapter 126 Standard for Motor Fuels Subchapter A. Oxygenate Content of Gasoline				
Section 126.101	General	8/19/95	12/17/99; 64 FR 70589	(c)(142).
Section 126.102	Sampling and testing	8/19/95	12/17/99; 64 FR 70589	(c)(142).
Section 126.103	Recordkeeping and reporting	8/19/95	12/17/99; 64 FR 70589	(c)(142).
Section 126.104	Labeling requirements	8/19/95	12/17/99; 64 FR 70589	(c)(142).
Subchapter C. Gasoline Volatility Requirements				
Section 126.301 (a) through (c).	Compliant fuel requirement	11/1/97	6/8/98; 63 FR 31116	(c)(131).
Section 126.302 (Except paragraph (a)(6) pertaining to RFG).	Recordkeeping and reporting	11/1/97	6/8/98; 63 FR 31116	(c)(131).
Section 126.303(a)	Compliance and test methods	11/1/97	6/8/98; 63 FR 31116	(c)(131).
Subchapter D. Motor Vehicle Emissions Control Program General Provisions				
Section 126.401	Purpose	12/5/98	12/28/99; 64 FR 72564	(c)(141)(i)(C).
Section 126.402	NLEV scope and applicability	12/5/98	12/28/99; 64 FR 72564	(c)(141)(i)(C).
Pennsylvania Clean Vehicles Program				
Section 126.411	General Requirements	12/5/98	12/28/99; 64 FR 72564	(c)(141)(i)(C).
Section 126.412	Emission requirements	12/5/98	12/28/99; 64 FR 72564	(c)(141)(i)(C).
Section 126.413	Exemptions	12/5/98	12/28/99; 64 FR 72564	(c)(141)(i)(C).
Applicable Motor Vehicle Testing				
Section 126.421	New motor vehicle certification testing	12/5/98	12/28/99; 64 FR 72564	(c)(141)(i)(C).
Section 126.422	New motor vehicle compliance testing	12/5/98	12/28/99; 64 FR 72564	(c)(141)(i)(C).
Section 126.423	Assembly line testing	12/5/98	12/28/99; 64 FR 72564	(c)(141)(i)(C).
Section 126.424	In-use motor vehicle enforcement testing	12/5/98	12/28/99; 64 FR 72564	(c)(141)(i)(C).
Section 126.425	In-use surveillance testing	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Motor Vehicle Manufacturers' Obligations				
Section 126.431	Warranty and recall	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Section 126.432	Reporting requirements	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Motor Vehicle Dealer Responsibilities				
Section 126.441	Responsibilities of motor-vehicle dealers	12/5/98	12/28/99, 64 FR 72564	(c)(141)(i)(C).
Chapter 127 Construction, Modification, Reactivation, and Operation of Sources Subchapter A. General				
Section 127.1	Purpose	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.3	Operational flexibility	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Subchapter B. Plan Approval Requirements				
Section 127.11	Plan approval requirements	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.11a	Reactivation of sources	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.12	Content of application	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.12a	Compliance review	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.12b	Plan approval terms and conditions	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.12c	Plan approval reporting requirements	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.13	Extensions	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.13a	Plan approval changes for cause	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.13b	Denial of Plan approval application	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.13c	Notice of basis for certain plan approval decisions.	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.14	Exemptions	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.25	Compliance requirement	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.32	Transfer of plan approvals	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.35	Maximum achievable control technology standards for hazardous air pollutants.	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C)
Section 127.36	Health risk-based emission standards and operating practice requirements.	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.44	Public Notice	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.45	Contents of notice	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.46	Filing protests	8/13/83	7/27/84, 49 FR 30183	(c)(60).
Section 127.47	Consideration of protests	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.48	Conferences and hearings	8/13/83	7/27/84, 49 FR 30183	(c)(60).
Section 127.49	Conference or hearing procedure	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.50	Conference or hearing record	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Section 127.51	Plan approval disposition	11/26/94	7/30/96, 61 FR 39497	(c)(110)(i)(C).
Subchapter D. Prevention of Significant Deterioration of Air Quality				
Section 127.81	Purpose	6/18/83	8/21/84, 49 FR 33127	(c)(57).
Section 127.82	Scope	6/18/83	8/21/84, 49 FR 33127	(c)(57).
Section 127.83	Adoption of Program	6/18/83	8/21/84, 49 FR 33127	(c)(57).
Subchapter E. New Source Review				
Section 127.201	General requirements	1/15/94	12/9/97, 62 FR 64722	(c)(107).
Section 127.202	Effective date	1/15/94	12/9/97, 62 FR 64722	(c)(107).
Section 127.203	Facilities subject to special permit requirements.	1/15/94	12/9/97, 62 FR 64722	(c)(107).
Section 127.204	Emissions subject to this subchapter	1/15/94	12/9/97, 62 FR 64722	(c)(107).
Section 127.205	Special permit requirements	1/15/94	12/9/97, 62 FR 64722	(c)(107).
Section 127.206	ERC general requirements	1/15/94	12/9/97, 62 FR 64722	(c)(107).
Section 127.207	ERC generation and creation	1/15/94	12/9/97, 62 FR 64722	(c)(107).
Section 127.208	ERC use and transfer requirements	1/15/94	12/9/97, 62 FR 64722	(c)(107).
Section 127.209	ERC registry system	1/15/94	12/9/97; 62 FR 64722	(c)(107).
Section 127.210	Offset ratios	1/15/94	12/9/97; 62 FR 64722	(c)(107).
Section 127.211	Applicability determination	1/15/94	12/9/97; 62 FR 64722	(c)(107).
Section 127.212	Portable facilities	1/15/94	12/9/97; 62 FR 64722	(c)(107).
Section 127.213	Construction and demolition	1/15/94	12/9/97; 62 FR 64722	(c)(107).
Section 127.214	Exemption	1/15/94	12/9/97; 62 FR 64722	(c)(107).
Section 127.215	Reactivation	1/15/94	12/9/97; 62 FR 64722	(c)(107).
Section 127.216	Circumvention	1/15/94	12/9/97; 62 FR 64722	(c)(107).
Section 127.217	Clean Air Act Titles III–V applicability	1/15/94	12/9/97; 62 FR 64722	(c)(107).
Subchapter F. Operating Permit Requirements General				
Section 127.401	Scope	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.402	General provisions	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.403	Permitting of sources operating lawfully without a permit.	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.404	Compliance schedule for repermitting	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Permit Applications				
Section 127.411	Content of applications	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.412	Compliance review forms	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.413	Municipal notification	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Section 127.414	Supplemental information	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Review of Applications				
Section 127.421	Review of Applications	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.422	Denial of permits	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.423	Notice of basis for certain operation permit decisions.	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.424	Public notice	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.425	Contents of notice	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.426	Filing protests	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.427	Consideration of protest	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.428	Conferences and hearings	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.429	Conference or hearing procedure	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.430	Conference or hearing record	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.431	Operating permit disposition	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Operating Permit Conditions				
Section 127.441	Operating permit terms and conditions	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.442	Reporting requirements	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.443	Operating permit requirements	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.444	Compliance requirements	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.445	Operating permit compliance schedules	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.446	Operating permit duration	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.447	Alternate operating scenarios	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.448	Emissions trading at facilities with Federally enforceable emissions cap.	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.449	De minimis emission increases	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.450	Administrative operating permit amendments.	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Operating Permit Modifications				
Section 127.461	Operating permit changes for cause	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.462	Minor operating permit modifications	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.463	Operating permit revisions to incorporate applicable standards.	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.464	Transfer of operating permits	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Subchapter H. General Plan Approvals and Operating Permits General				
Section 127.601	Scope	11/26/94	7/30/96; 61 FR 39494	(c)(111).
Issuance of General Plan Approvals and General Operating Permits				
Section 127.611	General plan approvals and general operating permits.	11/26/94	7/30/96; 61 FR 39494	(c)(111).
Section 127.612	Public notice and review period	11/26/94	7/30/96; 61 FR 39494	(c)(111).
Use of General Plan Approvals and Permits				
Section 127.621	Application for use of general plan approvals and general operating permits.	11/26/94	7/30/96; 61 FR 39494	(c)(111).
Section 127.622	Compliance with general plan approvals and general operating permits.	11/26/94	7/30/96; 61 FR 39494	(c)(111).
Subchapter I. Plan Approval and Operating Permit Fees				
Section 127.701	General provisions	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.702	Plan approval fees	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.703	Operating permit fees under Subchapter F.	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Section 127.707	Failure to pay fee	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(C).
Subchapter J. General Conformity				
Section 127.801	Purpose	11/9/96	9/29/97; 62 FR 50870	(c)(126).
Section 127.802	Adoption of Standards	11/9/96	9/29/97; 62 FR 50870	(c)(126).

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State citation	Title subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Chapter 129 Standards for Sources Miscellaneous Sources				
Section 129.11	Nitric acid plants	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 129.12	Sulfuric acid plants	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 129.13	Sulfur recovery plants	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Appendix A	Allowable emissions, sulfur oxides—sulfur recovery plants.	4/23/94	3/23/98; 63 FR 13789	(c)(129).
Section 129.14	Open burning operations	8/9/76	8/19/80; 45 FR 55178	(c)(33).
Section 129.15	Coke pushing operations	8/29/77; 12/31/77	12/17/79; 44 FR 73031	(c)(21); correction published 8/22/80 45 FR 56060.
Section 129.16	Door maintenance, adjustment and replacement practices.	12/12/77	7/17/79; 44 FR 41429	(c)(19).
Section 129.18	Municipal waste incinerators	10/27/90	6/30/93; 58 FR 34911	(c)(81).
Sources of VOCs				
Section 129.51	General	4/10/99	6/25/01; 66 FR 33645	(c)(155).
Section 129.52	Surface coating processes	6/10/00	7/20/01; 66 FR 37908	(c)(152).
Section 129.54	Seasonal operation of auxiliary incineration equipment.	8/3/91	8/11/92; 57 FR 35777	(c)(79).
Section 129.55	Petroleum refineries—specific sources	6/20/81	1/19/83; 48 FR 2319	(c)(48).
Section 129.56	Storage tanks greater than 40,000 gallons capacity containing VOCs.	9/5/98	7/26/00; 65 FR 45920	(c)(147).
Section 129.57	Storage tanks less than or equal to 40,000 gallons capacity containing VOCs.	6/20/81	1/19/83; 48 FR 2319	(c)(48).
Section 129.58	Petroleum refineries—fugitive sources	8/13/83	7/27/84; 49 FR 30183	(c)(60).
Section 129.59	Bulk gasoline terminals	8/3/91	8/11/92; 57 FR 35777	(c)(79).
Section 129.60	Bulk gasoline plants	8/3/91	8/11/92; 57 FR 35777	(c)(79).
Section 129.61	Small gasoline storage tank control (Stage I control).	8/3/91	8/11/92; 57 FR 35777	(c)(79).
Section 129.62	General standards for bulk gasoline terminals, bulk gasoline plants, and small gasoline storage tanks.	5/23/94	12/22/94; 59 FR 65971	(c)(94).
Section 129.63	Degreasing operations	12/22/01	1/16/03; 68 FR 2208	(c)(195)(i)(B)(*2*).
Section 129.64	Cutback asphalt paving	8/13/83	7/27/84; 49 FR 30183	(c)(60).
Section 129.65	Ethylene production plants	8/1/79	5/20/80	(c)(22).
Section 129.66	Compliance schedules and final compliance dates.	5/23/92	12/22/94; 59 FR 65971	(c)(94).
Section 129.67	Graphic arts systems	9/5/98	7/26/00; 65 FR 45920	(c)(147).
Section 129.68	Manufacture of synthesized pharmaceutical products.	8/3/91	8/11/92; 57 FR 35777	(c)(79).
Section 129.69	Manufacture of pneumatic rubber tires	5/23/92	12/22/94; 59 FR 65971	(c)(94).
Section 129.71	Synthetic organic chemical and polymer manufacturing—fugitive sources.	5/23/92	12/22/94; 59 FR 65971	(c)(94).
Section 129.72	Manufacture of surface active agents	5/23/92	12/22/94; 59 FR 65971	(c)(94).
Section 129.73	Aerospace manufacturing and rework	4/10/99	6/25/01; 66 FR 33645	(c)(155).
Section 129.75	Mobile equipment repair and refinishing	11/27/99	8/14/00; 65 FR 49501	(c)(148).
Mobile Sources				
Section 129.81	Organic liquid cargo vessel loading and ballasting.	9/28/91	9/28/93; 58 FR 50517	(c)(84).
Section 129.82	Control of VOCs from gasoline dispensing facilities (Stage II).	4/10/99	5/21/01; 66 FR 27875	(c)(153).
Stationary Sources of NO_X and VOCs				
Section 129.91	Control of major sources of NO_X and VOCs.	6/10/00	7/20/01; 66 FR 37908	(c)(152).
Section 129.92	RACT proposal requirements	4/23/94	3/23/98; 63 FR 13789	(c)(129).
Section 129.93 [Except for 129.93(c)(6 & 7)].	Presumptive RAC emission limitations	4/23/94	3/23/98; 63 FR 13789	(c)(129).
Section 129.94	NO_X RACT emission averaging general requirements.	4/23/94	3/23/98; 63 FR 13789	(c)(129).
Section 129.95	Recordkeeping	4/23/94	3/23/98; 63 FR 13789	(c)(129).

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State citation	Title subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Wood Furniture Manufacturing Operations				
Section 129.101	General provisions and applicability	6/10/00	7/20/01; 66 FR 37908	(c)(152).
Section 129.102	Emission standards	6/10/00	7/20/01; 66 FR 37908	(c)(152).
Section 129.103	Work practice standards	6/10/00	7/20/01; 66 FR 37908	(c)(152).
Section 129.104	Compliance procedures and monitoring requirements.	6/10/00	7/20/01; 66 FR 37908	(c)(152).
Section 129.105	Recordkeeping requirements	6/10/00	7/20/01; 66 FR 37908	(c)(152).
Section 129.106	Reporting requirements	6/10/00	7/20/01; 66 FR 37908	(c)(152).
Section 129.107	Special provisions for facilities using an emissions averaging approach.	6/10/00	7/20/01; 66 FR 37908	(c)(152).
Chapter 130 Standards for Products Subchapter A Portable Fuel Containers				
Section 130.101	Applicability	10/5/02	12/8/04; 69 FR 70893	(c)(229); The SIP-effective date is 2/7/05.
Section 130.102	Definitions	10/5/02	12/8/04; 69 FR 70893	(c)(229); The SIP-effective date is 2/7/05.
Section 130.103	Performance Standards for portable fuel containers and spill-proof spouts.	10/5/02	12/8/04; 69 FR 70893	(c)(229); The SIP-effective date is 2/7/05.
Section 130.104	Exemptions	10/5/02	12/8/04; 69 FR 70893	(c)(229); The SIP-effective date is 2/7/05.
Section 130.105	Innovative products	10/5/02	12/8/04; 69 FR 70893	(c)(229); The SIP-effective date is 2/7/05.
Section 130.106	Administrative requirements	10/5.02	12/8/04; 69 FR 70893	(c)(229); The SIP-effective date is 2/7/05.
Section 130.107	Variances	10/5/02	12/8/04; 69 FR 70893	(c)(229); The SIP-effective date is 2/7/05.
Section 130.108	Test procedures	10/05/02	12/8/04; 69 FR 70893	(c)(229); The SIP-effective date is 2/7/05.
Subchapter B. Consumer Products General Provisions				
Section 130.201	Applicability	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.202	Definitions	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Standard				
Section 130.211	Table of standards	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.212	Products diluted prior to use	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.213	Products registered under FIFRA	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.214	Requirements for charcoal lighter materials.	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.215	Requirements for aerosol adhesives	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.216	Requirements for floor wax strippers	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Exemptions				
Section 130.331	Products for shipment and use outside this Commonwealth.	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.332	Antiperspirants and deodorants	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.333	LVP–VOC	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.334	Products registered under FIFRA	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.335	Air fresheners	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.336	Adhesives	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.

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Section 130.337	Bait station insecticides	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Innovative Products				
Section 130.351	Innovative products exemption	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.352	Request for exemption	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Administrative Requirements				
Section 130.371	Code-dating	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.372	Most restrictive limit	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.373	Additional labeling requirements for aerosol adhesives.	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Reporting Requirements				
Section 130.391	Required reporting of information to the Department.	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.392	Confidentiality	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Variances				
Section 130.411	Application for variance	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.412	Variance orders	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.413	Termination of variance	10/5/02	12/8/04, 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.414	Modification of variance	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Test Methods				
Section 130.431	Testing for compliance	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
ACP for Consumer Products				
Section 130.451	Alternative methods of compliance	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.452	Exemption	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.453	Request for exemption	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.454	Application for an ACP	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.455	Recordkeeping and availability of requested information.	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.456	Surplus reductions and surplus trading	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.457	Limited-use surplus reduction credits for early reformulations of ACP products.	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.458	Reconciliation of shortfalls	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.459	Notification of modifications to an ACP by the responsible ACP party.	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.460	Modifications that require Department preapproval.	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.461	Other modifications	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.462	Modification of an ACP by the Department.	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.463	Cancellation of an ACP	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.

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Section 130.464	Treatment of information	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Section 130.465	Other applicable requirements	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Public Hearing Requirements				
Section 130.471	Public hearings	10/5/02	12/8/04; 69 FR 70895	(c)(230); The SIP-effective date is 2/7/05.
Subchapter C Architectural and Industrial Maintenance Coatings				
Section 130.601	Applicability	10/25/03	11/23/04; 69 FR 68080	(c)(227).
Section 130.602	Definitions	10/25/03	11/23/04; 69 FR 68080	(c)(227).
Section 130.603	Standards	10/25/03	11/23/04; 69 FR 68080	(c)(227).
Section 130.604	Container labeling requirements	10/25/03	11/23/04; 69 FR 68080	(c)(227).
Section 130.605	Reporting requirements	10/25/03	11/23/04; 69 FR 68080	(c)(227).
Section 130.606	Application for variance	10/25/03	11/23/04; 69 FR 68080	(c)(227).
Section 130.607	Variance orders	10/25/03	11/23/04; 69 FR 68080	(c)(227).
Section 130.608	Termination of variance	10/25/03	11/23/04; 69 FR 68080	(c)(227).
Section 130.609	Extension, modification or revocation of variance.	10/25/03	11/23/04; 69 FR 68080	(c)(227).
Section 130.610	Public hearings	10/25/03	11/23/04; 69 FR 68080	(c)(227).
Section 130.611	Compliance provisions and test methods	10/25/03	11/23/04; 69 FR 68080	(c)(227).
Chapter 131 Ambient Air Quality Standards				
Section 131.1	Purpose	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 131.2	National Ambient Air Quality Standards	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 131.3	Ambient air quality standards	8/13/83	7/27/84; 49 FR 30183	(c)(60); Amendment removed a lead standard provision. The remaining standards are not SIP-related.
Section 131.4	Application for ambient air quality standards.	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Chapter 135 Reporting of Sources General				
Section 135.1	Defintions	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 135.2	Applicability [of sources]	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 135.3	Reporting	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 135.4	Reporting forms and guides	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 135.5	Recordkeeping	10/10/92	1/12/95; 60 FR 2081	(c)(96).
Emission Statements				
Section 135.21	Emission statements	10/10/92	1.12.95; 60 FR 2081	(c)(96).
Chapter 137 Air Pollution Episodes General				
Section 137.1	Purpose	1/28/72	5.31.72; 37 FR 10842	(c)(1).
Section 137.2	Monitoring facilities	1/28/72	5.31.72; 37 FR 10842	(c)(1).
Section 137.3	Episode criteria	6/9/90	6/16/93; 58 FR 33203	(c)(75).
Section 137.4	Standby plans	12/27/97	6/11/02; 67 FR 39854	(c)(189).
Section 137.5	Implementation of emission reduction procedures.	1/28/72	5/31/72; 37 FR 10842	(c)(1).
Level Actions				
Section 137.11	Forecast level actions	1/28/72	5/31/72; 37 FR 10842	(c)(1).
Section 137.12	Alert level actions	1/28/72	5/31/72; 37 FR 10842	(c)(1).
Section 137.13	Warning level actions	1/28/72	5/31/72; 37 FR 10842	(c)(1).
Section 137.14	Emergency level actions	1/28/72	5/31/72; 37 FR 10842	(c)(1).
Chapter 139 Sampling and Testing Subchapter A. Sampling and Testing Methods and Procedures General				
Section 139.1	Sampling by facilities	3/20/72	5/31/72; 37 FR 10842	(c)(1).

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Section 139.2	Sampling by others	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 139.3	General requirements	8/1/79	8/8/79; 44 FR 46465	(c)(20); Correction published 1/23/80 (45 FR 5303).
Section 139.4	References	6/10/00	7/20/01; 66 FR 37908	(c)(152).
Section 139.5	Revisions to the source testing manual and continuous source monitoring manual.	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(D).
Stationary Sources				
Section 139.11	General requirements	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 139.12	Emissions of particulate matter	3/7/98	6/11/02; 67 FR 39854	(c)(189).
Section 139.13 (Except Provisions applicable to H_2S and TRS).	Emissions of SO_2, H_2S, TRS and NO_2	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(D).
Section 139.14	Emissions of VOCs	6/10/00	7/20/01; 66 FR 37908	(c)(152).
Section 139.16	Sulfur in fuel oil	8/13/83	7/27/84; 49 FR 30183	(c)(60).
Section 139.17	General requirements	6/20/81	1/19/83; 48 FR 2319	(c)(48).
Section 139.18	Calculation of alternative opacity limitations.	6/20/81	1/19/83; 48 FR 2319	(c)(48).
Ambient Levels of Air Contaminants				
Section 139.31	General	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Section 139.32	Sampling and analytical procedures	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(D).
Section 139.33	Incorporation of Federal procedures	3/20/72	5/31/72; 37 FR 10842	(c)(1).
Subchapter B. Monitoring Duties of Certain Sources General				
Section 139.51	Purpose	8/29/77	7/17/79; 44 FR 41429	(c)(19).
Section 139.52	Monitoring methods and techniques	8/29/77	7/17/79; 44 FR 41429	(c)(19).
Section 139.53	Filing monitoring reports	8/31/83	7/27/84; 49 FR 30183	(c)(60).
Subchapter C. Requirements for Continuous In-Stack Monitoring for Stationary Sources				
Section 139.101	General Requirements	3/7/98	6/11/02; 67 FR 39854	(c)(189).
Section 139.102	References	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(D).
Section 139.103	Opacity monitoring requirements	11/26/94	7/30/96; 61 FR 39497	(c)(110)(i)(D).
Section 139.111	Waste incinerator monitoring requirements.	12/27/97	6/11/02; 67 FR 39854	(c)(189).
Chapter 141 Alternate Standards				
Section 141.1	Imposing alternate standards authorized	5/14/88	9/17/92; 57 FR 42894	(c)(73).
Chapter 145 Interstate Pollution Transport Reduction Subchapter A. NO_X Budget Trading Program General Provisions				
Section 145.1	Purpose	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.2	Definitions	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.3	Measurements, abbreviations and acronyms.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.4	Applicability	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.5	Retired unit exemption	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.6	Standard requirements	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.7	Computation of time	9/23/00	8/21/01; 66 FR 43795	(c)(168).
NO_x Account				
Section 145.10	Authorization and responsibilities of the NO_X authorized account representative.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.11	Alternate NO_X authorized account representative.	9/23/00	8/21/01; 66 FR 43795	(c)(168).

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Section 145.12	Changing the NO_X authorized account representative; and changes in the Alternate NO_X authorized account representative; changes in the owners and operators.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.13	Account certificate of representation	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.14	Objections concerning the NO_X authorized account representative.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Compliance Certification				
Section 145.30	Compliance certification report	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.31	Department's action on compliance certifications.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
NO_x Allowance Allocations				
Section 145.40	State Trading Program budget	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.41	Timing Requirements for NO_X allowance allocations.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.42	NO_X Allowance allocations	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.43	Compliance supplement pool	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Accounting Process for Deposit Use and Transfer of Allowances				
Section 145.50	NO_X Allowance Tracking System accounts.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.51	Establishment of accounts	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.52	NO_X Allowance Tracking System responsibilities of NO_X authorized account representative.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.53	Recordation of NO_X allowance allocations.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.54	Compliance	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.55	Banking	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.56	Account error	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.57	Closing of general accounts	9/23/00	8/21/01; 66 FR 43795	(c)(168).
NO_X Allowance Transfers				
Section 145.60	Submission of NO_X allowance transfers	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.61	NO_X transfer recordation	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.62	Notification	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Recording and Recordkeeping Requirements				
Section 145.70	General monitoring requirements	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.71	Initial certification and recertification procedures.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.72	Out of control periods	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.73	Notifications	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.74	Recordkeeping and reporting	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.75	Petitions	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.76	Additional requirements to provide heat input data.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
OPT-In Process				
Section 145.80	Applicability for opt-in sources	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.81	Opt-in source general provisions	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.82	NO_X authorized account representatives for opt-in sources.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.83	Applying for a NO_X budget opt-in approval.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.84	Opt-in process	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.85	NO_X budget opt-in application contents	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.86	Opt-in source withdrawal from NO_X Budget Trading Program.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Section 145.87	Opt-in unit change in regulatory status	9/23/00	8/21/01; 66 FR 43795	(c)(168).

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Section 145.88	NO_X allowance allocations to opt-in units.	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Emission Reduction Credit Provisions				
Section 145.90	Emission reduction credit provisions	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Interstate Pollution Transport Reduction Requirements				
Section 145.100	Applicability to upwind states	9/23/00	8/21/01; 66 FR 43795	(c)(168).
Title 67. Transportation Part I. Department of Transportation Subpart A. Vehicle Code Provisions Article VII. Vehicle Characteristics				
Chapter 175 Vehicle Equipment and Inspection Subchapter A. General Provisions				
175.2	Definitions	9/27/97	6/17/99; 64 FR 32411	(c)(139); Definition of ''Temporary inspection approval indicator''.
175.11	Coordination of safety and emission inspection.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Subchapter B. Official Inspection Stations				
175.29(f)(4)	Obligations and responsibilities of stations.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Subchapter C. Certificate of Inspection				
175.41(a), (b)(3), (c), (d)(2)(ii), (d)(2)(iii), (e)(5), (f)(4).	Procedure	9/27/97	6/17/99; 64 FR 32411	(c)(139).
175.42	Recording inspection	9/27/97	6/17/99; 64 FR 32411	(c)(139).
175.43	Security	9/27/97	6/17/99; 64 FR 32411	(c)(139).
175.44	Ordering certificates of inspection	9/27/97	6/17/99; 64 FR 32411	(c)(139).
175.45	Violation of use of certificate of inspection.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Chapter 177 Enhanced Emission Inspection Program Subchapter A. General Provisions				
177.1	Purpose	10/1/97	6/17/99; 64 FR 32411	(c)(139).
177.2	Application of equipment rules	10/1/97	6/17/99; 64 FR 32411	(c)(139).
177.3	Definitions	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Implementation of Enhanced Emission Inspection Program				
177.21	Cessation of current vehicle emission inspection program.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.22	Commencement date	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.23	Notification of requirement for emission inspection.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.24	Program evaluation	9/27/97	6/17/99; 64 FR 32411	(c)(139).
I/M Program				
177.51	Program requirements	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.52	Emission inspection prerequisites	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.53	Vehicle inspection process	10/1/97	6/17/99; 64 FR 32411	(c)(139).
Subchapter B. Subject Vehicles				
177.101	Subject vehicles	10/1/97	6/17/99; 64 FR 32411	(c)(139).
177.102	Inspection of vehicles reentering this Commonwealth.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.103	Used vehicles after sale or resale	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.104	Vehicles registered in nondesignated areas or other states.	9/27/97	6/17/99; 64 FR 32411	(c)(139).

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
177.105	Vehicles requiring emission inspection due to change of address.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.106	Repair technician training and certification.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Subchapter C. Emission Test Procedures and Emission Standards General				
177.201	General requirements	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.202	Emission test equipment	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.203	Test procedures	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.204	Emission standards	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Recall Provisions				
177.231	requirements regarding manufacturer recall notices.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.232	Compliance with recall notices	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.233	Failure to comply	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Emission Inspection Test Report				
177.251	Record of test results	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.252	Emission inspection test report	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.253	Responsibility of the station owner for vehicles which fail the I/M test.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Retest				
177.271	Procedure	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.272	Prerequisites	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.273	Content of repair data form	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.274	Retest fees	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Issuance of Waiver				
177.281	Issuance of waiver	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.282	Annual adjustment of minimum waiver expenditure for enhanced emission inspection areas.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Certificates of Emission Inspection Procedures				
177.291	Certificates of emission inspection procedures.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.292	Recording inspection	9/27/97	6/17/99; 64 FR 32411	(c)(139).
On-Road Testing				
177.301	Authorization to conduct on-road emission testing.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.302	On-road testing devices	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.304	Failure of on-road emission test	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.305	Failure to produce proof of correction of on-road emission test failure.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Subchapter D. Official Emission Inspection Station Requirements General				
177.401	Appointment	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.402	Application	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.403	Approval of emission inspection station	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.404	Required certificates and station signs	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.405	Emission inspection areas	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.406	Tools and equipment	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.407	Hours of operation	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.408	Certified emission inspectors	9/27/97	6/17/99; 64 FR 32411	(c)(139).

(1) EPA-APPROVED PENNSYLVANIA REGULATIONS—Continued

State citation	Title subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Obligations and Responsibilities of Station Owners/Agents				
177.421	Obligations and responsibilities of station owners/agents.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.422	Commonwealth basic and enhanced emission inspection stations.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.423	Fleet basic and enhanced emission inspection stations.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.424	General emission inspection stations	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.425	Security	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.426	Ordering certificates of emission inspection.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.427	Violations of use of certificate of emission inspection.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Quality Assurance				
177.431	Quality assurance	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Subchapter E. Equipment Manufacturers' and Contractors' Requirements and Obligations Equipment Manufacturers' Requirements				
177.501	Equipment approval procedures	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.502	Service commitment	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.503	Performance commitment	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.504	Revocation of approval	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Contractor Obligations				
177.521	Contractor obligations and responsibilities.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Subchapter F. Schedule of Penalties and Hearing Procedure Schedule of Penalties and Suspensions				
177.602	Schedule of penalties for emission inspection stations.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.603	Schedule of penalties for emission inspectors.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Schedule of Penalties for Certified Repair Technicians				
177.605	Subsequent violations	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.606	Multiple violations	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Departmental Hearing Procedure				
177.651	Notice of alleged violation and opportunity for a Department hearing.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.652	Official documents	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Restoration After Suspension				
177.671	Restoration of certification of an emission inspector after suspension.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.672	Restoration of certification of an emission inspection station after suspension.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
177.673	Restoration of certification of certified repair technician after suspension.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Registration Recall Procedure for Violation of §§ 177.301–177.305 (Relating to On-Road Resting)				
177.691	Registration Recall Committee	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Appendix A	Acceleration Simulation Mode: Pennsylvania Procedures, Standards, Equipment Specifications and Quality Control Requirements.	9/27/97	6/17/99; 64 FR 32411	(c)(139).
Appendix B	Department Procedures and Specifications.	9/27/97	6/17/99; 64 FR 32411	(c)(139).

(2) EPA-APPROVED ALLEGHENY COUNTY HEALTH DEPARTMENT (ACHD) REGULATIONS

Article XX or XXI citation	Title/subject	Effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Part A—General				
2101.01	Short Titles	10/20/95	11/14/02; 67 FR 68935	In SIP at 52.2020(c)(92); citation change only at (c)(192).
2101.02.a, .02.c	Declaration of Policy and Purpose	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2101.03	Effective Date and Repealer	10/20/95	11/14/02; 67 FR 68935	In SIP at (c)(92); citation change only at (c)(192).
2101.04	Existing Orders	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2101.05	Existing Permits and Licenses	3/31/98	8/30/04; 69 FR 52831	52.2420(c)(209).
2101.06	Construction and Interpretation	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2101.07 (Except paragraphs .07.c.2 and c.8).	Administration and Organization	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2101.10	Ambient Air Quality Standards (Except: PM10-County & Free silica portion; Pb (1-hr & 8-hr avg.); settled particulates, beryllium, sulfates, fluorides, and hydrogen sulfide).	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2101.11	Prohibition of Air Pollution	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2101.12	Interstate Air Pollution	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2101.13	Nuisances	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2101.14	Circumvention	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2101.20	Definitions	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2101.20	Definitions related to gasoline volatility	5/15/98 9/1/99	4/17/01; 66 FR 19724	(c)(151).
Part B—Permits Generally				
2102.01	Certification	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2102.02	Applicability	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2102.03.a through .k	Permits Generally	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2102.04	Installation Permits	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2102.05	Installation Permits for New and Modified Major Sources.	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2102.06	Major Sources Locating in or Impacting a Nonattainment Area.	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2102.08	Emission Offset Registration	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2102.10	Installation Permit Application and Administration Fees.	10/20/95	11/14/02; 67 FR 68935	(c)(192).
Part C—Operating Permits				
2103.01	Transition	10/20/95	8/30/04; 69 FR 52831	(c)(209).
Subpart 1—Operating Permits (All Major and Minor Permits)				
2103.10.a.,b	Applicability, Prohibitions, Records	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2103.11	Applications	10/20/95	8/30/04; 69 FR 52831	(c)(209).
2103.12	Issuance, Standard Conditions	3/31/98	8/30/04; 69 FR 52831	(c)(209).
2103.13	Expiration, Renewals, Reactivation	10/20/95	8/30/04; 69 FR 52831	(c)(209).
2103.14	Revisions, Amendments, Modifications	1/12/01	8/30/04; 69 FR 52831	(c)(209).
2103.15	Reopenings, Revocations	10/20/95	8/30/04; 69 FR 52831	(c)(209).
Subpart 2—Additional Requirements for Major Permits				
2103.20.b.4	Applicability, Prohibitions, Records	10/20/95	11/14/02; 67 FR 68935	(c)(192).
Part D—Pollutant Emission Standards				
2104.01	Visible Emissions	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2104.02	Particulate Mass Emissions	8/15/97	6/12/98; 63 FR 32126	(c)(133)(i)(B)(*1*); Citation changes approved on 11/12/02 (67 FR 68935) at (c)(192).
2104.03	Sulfur Oxide Emissions	7/10/03	7/21/04; 69 FR 43522	(c)(216)(i)(C).
2104.05	Materials Handling	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2104.06	Violations	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2104.07	Stack Heights	10/20/95	11/14/02; 67 FR 68935	(c)(192).
Part E—Source Emission and Operating Standards				
2105.01	Equivalent Compliance Techniques	10/20/95	11/14/02; 67 FR 68935	(c)(192).

(2) EPA-APPROVED ALLEGHENY COUNTY HEALTH DEPARTMENT (ACHD) REGULATIONS—Continued

Article XX or XXI citation	Title/subject	Effective date	EPA approval date	Additional explanation/ § 52.2063 citation
2105.02	Other Requirements Not Affected	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.03	Operation and Maintenance	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.04	Temporary Shutdown of Incineration Equipment.	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.06	Major Sources of Nitrogen Oxides and Volatile Organic Compounds.	10/20/95	10/07/02; 67 FR 62389	(c)(157).
Subpart 1—VOC Sources				
2105.10	Surface Coating Processes	10/20/95	11/14/02; 67 FR 68935	(c)(192)
2105.11	Graphic Arts Systems	10/20/95	11/14/02; 67 FR 68935	(c)(192)
2105.12	Volatile Organic Compound Storage Tanks.	10/20/95	11/14/02; 67 FR 68935	(c)(192)
2105.13	Gasoline Loading Facilities	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.14	Gasoline Dispensing Facilities	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.15	Degreasing Operations	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.16	Cutback Asphalt Paving	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.17	Ethylene Production Processes	10/20/95	11/14/02; 67 FR 68935	(c)(192).
Article XX Section 532.	Dry Cleaning Facilities	1/1/82	1/21/83; 48 FR 2768	(c)(49).
2105.19	Synthetic Organic Chemical & Polymer Manufacturing—Fugitive Sources.	10/20/95	11/14/02; 67 FR 68935	(c)(192).
Subpart 2—Slag, Coke, and Miscellaneous Sulfur Sources				
2105.20	Slag Quenching	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.21	Coke Ovens and Coke Oven Gas	8/15/97	6/12/98; 63 FR 32126	(c)(133); 1. EPA approved revisions effective 7/11/95 on 9/8/98 (63 FR 47434) at (c)(135). 2. EPA approved revisions effective 10/20/95 on 11/14/02 (67 FR 68935) at (c)(192).
2105.22	Miscellaneous Sulfur Emitting Processes	10/20/95	11/14/02; 67 FR 68935	(c)(192).
Subpart 3—Incineration and Combustion Sources				
2105.30 (except paragraphs .b.3 and .f).	Incinerators	10/20/95	11/14/02; 67 FR 68935	(c)(192); Section 2105.30.f. is Federally enforceable as part of the applicable section 111(d) plan.
Subpart 4—Miscellaneous Fugitive Sources				
2105.40	Permit Source Premises	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.41	Non-Permit Premises	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.42	Parking Lots and Roadways	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.43	Permit Source Transport	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.44	Non-Permit Source Transport	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.45	Construction and Land Clearing	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.46	Mining	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.47	Demolition	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.48	Areas Subject to Sections 2105.40 Through 2105.47.	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.49.a, .b	Fugitive Emissions	10/20/95	11/14/02; 67 FR 68935	(c)(192).
Subpart 5—Open Burning and Abrasive Blasting Sources				
2105.50 (except paragraph .50.d).	Open Burning	10/20/95	11/14/02; 67 FR 68935	(c)(192).
Article XX, Section 533.	Abrasive Blasting	10/9/86	10/19/87; 51 FR 38758	(c)(69).
Subpart 7—Miscellaneous VOC Sources				
2105.70	Petroleum Refineries	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.71	Pharmaceutical Products	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2105.72	Manufacturer of Pneumatic Rubber Tires	10/20/95	11/14/02; 67 FR 68935	(c)(192).

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Article XX or XXI citation	Title/subject	Effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Subpart 9—Transportation Related Sources				
2105.90	Gasoline Volatility	5/15/98 9/1/99	4/17/01; 66 FR 19724	(c)(151).
Part F—Air Pollution Episodes				
2106.01	Air Pollution Episode System	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2106.02	Air Pollution Source Curtailment Plans	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2106.03	Episode Criteria	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2106.04	Episode Actions	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2106.05	USX-Clairton Works PM–10 Self Audit Emergency Action Plan.	8/15/97	6/12/98; 63 FR 32126	(c)(133)(i)(B)(*3*).
Part G—Methods				
2107.01	General	10/20/95	1/14/02; 67 FR 68935	(c)(192).
2107.02	Particulate Matter	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2107.03	Sulfur Oxides	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2107.04 (except paragraph .04.h).	Volatile Organic Compounds	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2107.05	Nitrogen Oxides	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2107.06	Incinerator Temperatures	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2107.07	Coke Oven Emissions	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2107.08	Coke Oven Gas	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2107.10	Sulfur Content of Coke	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2107.11	Visible Emissions	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2107.15	Gasoline Volatility and RFG	5/15/98	4/17/01; 66 FR 19724	(c)(151).
2107.20.c, .g through .j, .m and .n.	Ambient Measurements	10/20/95	11/14/02; 67 FR 68935	(c)(192).
Part H—Reporting, Testing & Monitoring				
2108.01	Reports Required	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2108.01.a.	Termination of Operation	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2108.01.b	Shutdown of Control Equipment	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2108.01.c	Breakdowns	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2108.01.d	Cold Start	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2108.01.e (Except paragrphs e.1.A & .B).	Emissions Inventory Statements	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2108.01.f	Orders	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2108.01.g	Violations	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2108.02	Emissions Testing	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2108.03	Continuous Emissions Monitoring	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2108.04	Ambient Monitoring	10/20/95	11/14/02; 67 FR 68935	(c)(192).
Part I—Enforcement				
2109.01	Inspections	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2109.02 (except paragraph .02.a.7).	Remedies	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2109.03a (introductory sentence), b. through f..	Enforcement Orders	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2109.04	Orders Establishing an Additional or More Restrictive Standard.	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2109.05	Emergency Orders	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2109.06 (Except paragraphs .06.a.2, .a.3, and .a.4).	Civil Proceedings	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2109.10	Appeals	10/20/95	11/14/02; 67 FR 68935	(c)(192).
2109.20	General Federal Conformity	10/20/95	11/14/02; 67 FR 68935	(c)(192).

(3) EPA-APPROVED PHILADELPHIA AMS REGULATIONS

Rule citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Title 3 Air Management Code				
Chapter 3–100	General Provisions	10/20/69	5/31/72; 37 FR 10842	(c)(1).
Chapter 3–200 (Except § 3–207(4)).	Prohibited Conduct	10/4/76	6/4/79; 44 FR 31980	(c)(18).
Chapter 3–300	Administrative Provisions	9/21/72	3/12/79; 44 FR 13480	(c)(15).
Regulation I—General Provisions				
Section I	Definitions	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Section II (Except portions of paragraph II.B).	Source Registration and Emission Reporting	5/4/74	9/9/75; 40 FR 41787	(c)(12).
Section III	Testing and Test Methods	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Section IV	Availability of Technology	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Section V	Improvement and Plan	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Section VI	Pre-existing Regulations	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Section VII	Circumvention	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Section VIII	Severability	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Section IX	Effective Date	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Section XI.D	Compliance with Federal Regulations—Stack Height Regulations.	3/27/86	1/23/89; 54 FR 3029	(c)(70).
Regulation II—Air Contaminant and Particulate Matter Emissions				
Section I	No Title [General Provisions]	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Section II	Open Fires	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Section IV	Visible Emissions	5/4/74	9/9/75; 40 FR 41787	(c)(12).
Section V	Particulate Matter Emissions from the Burning of Fuels.	8/27/81	4/16/82; 47 FR 16325	(c)(43).
Section VI	Selection of Fuel for Particulate Matter Emission Control.	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Section VII	Particulate Matter Emissions from Chemical, Metallurgical, Mechanical and Other Processes.	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Section VIII	Fugitive Dust	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Table 1	No Title [Allowable Process Weight Emissions].	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Regulation III—The Control of Emissions of Oxides and Sulfur Compounds				
Section I	No Title [General Provisions]	4/29/70	5/31/72; 37 FR 10842	(c)(1).
Section II	Control of Emission of Sulfur Compounds	5/10/80	9/17/81; 46 FR 46133	(c)(37).
Section III	Control of Sulfur in Fuels	8/27/81	4/16/82; 47 FR 16325	(c)(43).
Regulation IV—Governing Air Pollution Control Measures During High Air Pollution Episodes				
Section I	Definitions	2/5/71	5/31/72; 37 FR 10842	(c)(1).
Section II	Declaration of Conditions	2/5/71	5/31/72; 37 FR 10842	(c)(1).
Section III	Termination of Conditions	2/5/71	5/31/72; 37 FR 10842	(c)(1).
Section IV	Alert and Notification System by the Health Commissioner and the Emergency Coordinator.	2/5/71	5/31/72; 37 FR 10842	(c)(1).
Section V	Advance Preparation for High Air Pollution Episodes.	2/5/71	5/31/72; 37 FR 10842	(c)(1).
Section VI	Actions and Restrictions	2/5/71	5/31/72; 37 FR 10842	(c)(1).
Section VII	Severability	2/5/71	5/31/72; 37 FR 10842	(c)(1).
Section VIII	Effective Date	2/5/71	5/31/72; 37 FR 10842	(c)(1).
Table I	Minimum Abatement Strategies for Emission Reduction Plans—Stage I Condition.	2/5/71	5/31/72; 37 FR 10842	(c)(1).
Table II	Minimum Abatement Strategies for Emission Reduction Plans—Stage II Condition.	2/5/71	5/31/72; 37 FR 10842	(c)(1).
Table III	Minimum Abatement Strategies for Emission Reduction Plans—Emergency Condition.	2/5/71	5/31/72; 37 FR 10842	(c)(1).
Table IV	Emergency Business and Establishment List	2/5/71	5/31/72; 37 FR 10842	(c)(1).
Regulation V—Control of Emissions of Organic Substances From Stationary Sources				
Section I (Except for definitions related to paragraphs V.C. & V.D.).	Definitions	11/28/86	6/16/93; 58 FR 33200	(c)(83).

(3) EPA-APPROVED PHILADELPHIA AMS REGULATIONS—Continued

Rule citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Section I	Definitions	5/23/88	4/6/93; 48 FR 17778	(c)(78).
Section II	Storage Tanks	7/10/71	5/31/72; 37 FR 10842	(c)(1).
Section III	Oil-Effluent Water Separator	7/10/71	5/31/72; 37 FR 10842	(c)(1).
Section IV	Pumps and Compressors	7/10/71	5/31/72; 37 FR 10842	(c)(1).
Section V (Except paragraphs V.C and V.D).	Organic Material Loading	7/10/71	5/31/72; 37 FR 10842	(c)(1).
Section VI	Solvents	7/10/71	5/31/72; 37 FR 10842	(c)(1).
Section VII	Processing of Photochemically Reactive Materials.	7/10/71	5/31/72; 37 FR 10842	(c)(1).
Section VIII	Architectural Coatings	7/10/71	5/31/72; 37 FR 10842	(c)(1).
Section IX	Disposal of Solvents	7/10/71	5/31/72; 37 FR 10842	(c)(1).
Section X	Compliance with Pennsylvania Standards for Volatile Organic Compounds (VOC).	11/28/86	6/16/93; 58 FR 33192	(c)(82).
Section XI	Petroleum Solvent Dry Cleaning	11/28/86	4/12/93; 58 FR 19066	(c)(77).
Section XII	Pharmaceutical Tablet Coating	11/28/86	6/16/93; 58 FR 33200	(c)(83).
Section XIII	Process Equipment Leaks	5/23/98	4/6/93; 58 FR 17778	(c)(78).
Section XXII	Circumvention	7/10/71; recodified 5/23/88.	5/31/72; 37 FR 10842	(c)(1).
Section XXIII	Severability	7/10/71; recodified 5/23/88.	5/31/72; 37 FR 10842	(c)(1).
Section XXIV	Effective Date	7/10/71; recodified 5/23/88.	5/31/72; 37 FR 10842	(c)(1).
Regulation VII—Control of Emissions of Nitrogen Oxides From Stationary Sources				
Section I	Definitions	7/1/72	5/14/73; 38 FR 12696	(c)(7).
Section II	Fuel Burning Equipment	11/20/85	1/14/87; 52 FR 1456	(c)(65).
Section III	Nitric Acid Plants	7/1/72	5/14/73; 38 FR 12696	(c)(7).
Section IV	Emissions Monitoring	7/1/72	5/14/73; 38 FR 12696	(c)(7).
Section V	Circumvention	7/1/72	5/14/73; 38 FR 12696	(c)(7).
Section VI	Severability	7/1/72	5/14/73; 38 FR 12696	(c)(7).
Section VII	Effective Date	7/1/72	5/14/73; 38 FR 12696	(c)(7).
Regulation VIII—Control of Emissions of Carbon Monoxide From Stationary Sources				
Section I	Definitions	8/20/72	5/14/73; 38 FR 12696	(c)(7).
Section II	General	8/20/72	5/14/73; 38 FR 12696	(c)(7).
Section III	Emissions Monitoring	8/20/72	5/14/73; 38 FR 12696	(c)(7).
Section IV	Circumvention	8/20/72	5/14/73; 38 FR 12696	(c)(7).
Section V	Severability	8/20/72	5/14/73; 38 FR 12696	(c)(7).
Section VI	Effective Date	8/20/72	5/14/73; 38 FR 12696	(c)(7).
Regulation XI—Control of Emissions From Incinerators				
Section I	Definitions	5/4/74	9/9/75; 40 FR 41787	(c)(12).
Section II	General Provisions	5/4/74	9/9/75; 40 FR 41787	(c)(12).
Section III (Except paragraph III.E. (odors)).	Emissions Limitations	5/4/74	9/9/75; 40 FR 41787	(c)(12).
Section IV	Design	5/4/74	9/9/75; 40 FR 41787	(c)(12).
Section V	Operation	5/4/74	9/9/75; 40 FR 41787	(c)(12).
Section VI	Permits and Licenses	5/4/74	9/9/75; 40 FR 41787	(c)(12).
Section VII	Circumvention	5/4/74	9/9/75; 40 FR 41787	(c)(12).
Section VIII	Severability	5/4/74	9/9/75; 40 FR 41787	(c)(12).
Section IX	Effective Date	5/4/74	9/9/75; 40 FR 41787	(c)(12).
Regulation XIII—Construction, Modification, Reactivation and Operation of Sources				
Section I	Introduction	10/30/95	3/28/03; 68 FR 15059	(c)(203).
Section II	Program Adoption	10/30/95	3/28/03; 68 FR 15059	(c)(203).

(d) *EPA-approved source-specific requirements.*

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
For exceptions, *see* the applicable paragraphs in 40 CFR 52.2063(c).					
ARCO Chemical Company	04–313–052	Beaver	12/9/86	5/16/90; 55 FR 20267.	(c)(71).
IMC Chemical Group	39–313–014	Lehigh	12/10/86	5/16/90; 55 FR 20267.	(c)(72).
Aristech Chemical Corp	86–I–0024–P	Allegheny	8/28/86 3/3/87	6/16/93; 58 FR 33197.	(c)(80).
The Knoll Group	46–326–001A	Montgomery	3/24/93	10/19/93; 58 FR 53885.	(c)(87).
ESSROC Materials	PA–48–0004A	Northampton	12/20/94	08/08/95; 60 FR 40292.	(c)(98)(i)(B)(*1*).
Pennsylvania Power and Light Co. (PP&L)—Brunner Island.	PA–67–2005	York	12/22/94	08/08/95; 60 FR 40292.	(c)(98)(i)(B)(*2*).
PPG Industries, Inc.—South Middleton	OP–21–2002	Cumberland	12/22/94	08/08/95; 60 FR 40292.	(c)(98)(i)(B)(*3*).
Stroehmann Bakeries—Dauphin County	PA–22–2003	Dauphin	12/22/94	08/08/95; 60 FR 40292.	(c)(98)(i)(B)(*4*).
General Electric Transportation Systems—Erie.	OP–25–025	Erie	12/21/94	08/08/95; 60 FR 40292.	(c)(98)(i)(B)(*5*).
J.E. Baker Co. (Refractories)—York	OP–67–2001	York	12/22/94	08/08/95; 60 FR 40292.	(c)(98)(i)(B)(*6*).
Lafarge Corp	OP–39–0011	Lehigh	12/23/94	08/08/95; 60 FR 40292.	(c)(98)(i)(B)(*7*).
Lafarge Corp	PA–39–0011A	Lehigh	12/23/94	08/08/95; 60 FR 40292.	(c)(98)(i)(B)(*7*).
West Penn Power—Armstrong	PA–03–000–023	Armstrong	12/29/94	08/08/95; 60 FR 40292.	(c)(98)(i)(B)(*8*).
West Penn Power—Armstrong	PA–03–306–004	Armstrong	3/28/94	08/08/95; 60 FR 40292.	(c)(98)(i)(B)(*8*).
West Penn Power—Armstrong	PA–03–306–006	Armstrong	11/22/94	08/08/95; 60 FR 40292.	(c)(98)(i)(B)(*8*).
Plain and Fancy Kitchens, Inc	PA–38–318–019C	Lebanon	12/23/94	08/08/95; 60 FR 40292.	(c)(98)(i)(B)(*9*).
Stroehmann Bakeries—Bradford County	PA–08–0001	Bradford	2/9/95	08/10/95; 60 FR 40758.	(c)(101)(i)(B).
Stroehmann Bakeries—Bradford County	OP–08–0001A	Bradford	2/9/95	08/10/95; 60 FR 40758.	(c)(101)(i)(B).
Stroehmann Bakeries—Lycoming County.	PA–41–0001	Lycoming	2/9/95	08/10/95; 60 FR 40758.	(c)(101)(i)(B).
Stroehmann Bakeries—Lycoming County.	OP–41–0001A	Lycoming	2/9/95	08/10/95; 60 FR 40758.	(c)(101)(i)(B).
Philadelphia Electric Co. (PECO)—Eddystone.	OP23–0017	Delaware	12/28/94	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*1*).
Philadelphia Electric Co. (PECO)—Eddystone.	PA23–0017	Delaware	12/28/94	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*1*).
Gilberton Power Co.—John Rich Memorial.	OP–54–0004	Schuylkill	12/20/94	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*2*).
Bethlehem Steel—Coke and Chemical Production.	OP–48–0013	Northampton	12/20/94	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*3*).
Bethlehem Steel—Foundry	OP–48–0014	Northampton	12/20/94	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*3*).
Bethlehem Steel—Structural Products	OP–48–0010	Northampton	12/20/94	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*3*).
Bethlehem Steel—Forging	OP–48–0015	Northampton	12/20/94	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*3*).
Westwood Energy Properties, Inc. (CRS Sirrine, Inc.).	OP–54–000–6	Schuylkill	12/27/94	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*4*).
PECO Energy Co.—Front Street	OP–46–0045	Montgomery	3/31/95	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*5*).
Crawford Furniture Manufacturing Corp.—Clarion County.	OP–16–021	Clarion	3/27/95	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*6*).
Schuylkill Energy Resources	OP–54–0003	Schuylkill	5/19/95	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*7*).
Columbia Gas Transmission Corp.—Milford Compressor Station.	OP–52–0001	Pike	4/21/95	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*9*).
Texas Eastern Transmission Corp.—Entriken Compressor Station.	OP–31–2003	Huntingdon	5/16/95	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*10*).

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Columbia Gas Transmission Corp.—Greencastle Compressor Station.	OP–28–2003	Franklin	4/21/95	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*11*).
Lord Corporation—Aerospace Div	OP–25–095	Erie	3/30/95	09/08/95; 60 FR 46768.	(c)(102)(i)(B)(*12*).
Tennessee Gas Pipeline Co. (TENNECO)—Station 313.	PA–53–0001; OP–53–0001; CP–53–0001.	Potter	11/27/95	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*1*).
Corning Asahi Video Products—State College.	OP–14–0003	Centre	12/27/94	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*2*).
Corning Asahi Video Products—State College.	OP–14–309–009C	Centre	5/5/94	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*2*).
Corning Asahi Video Products—State College.	OP–14–309–010A	Centre	8/18/94	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*2*).
Corning Asahi Video Products—State College.	OP–14–309–037A	Centre	5/5/94	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*2*).
Columbia Gas Transmission Corp.—Easton Compressor Station.	OP–48–0001; PA–48–0001A.	Northampton	5/19/95	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*3*).
Texas Eastern Transmission Corp.—Bedford Compressor Station.	OP–05–2007	Bedford	5/16/94	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*4*).
Texas Eastern Transmission Corp.—Marietta Compressor Station.	PA–36–2025	Lancaster	5/16/95	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*5*).
Hercules Cement Co	PA–48–0005; PA–48–0005A.	Northampton	12/23/94	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*6*).
ESSROC (formerly Lone Star Industries, Inc.).	OP–48–0007	Northampton	12/29/94	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*7*).
Pennsylvania Power and Light Co. (PP&L)—Montour.	PA–47–0001; 47–0001A.	Montour	12/27/94	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*8*).
Pennsylvania Electric Co. (PENELEC)—Shawville.	PA–17–0001	Clearfield	12/27/94	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*9*).
Zinc Corp. of America—Potter Twp	OP–04–000–044	Beaver	12/29/94	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*10*).
The Procter and Gamble Paper Products Company Mehoopany.	OP–66–0001; PA–66–0001A.	Wyoming	12/20/94	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*11*).
Columbia Gas Transmission Corp.—Union City Compressor Station.	OP–25–892	Erie	4/11/95	04/09/96; 61 FR 15709.	(c)(103)(i)(B)(*12*).
James River Corp.—Chambersburg	OP–28–2006	Franklin	6/14/95	02/12/96; 61 FR 05303.	(c)(104)(i)(C)(*1*).
Appleton Papers, Inc.—Harrisburg	OP–21–2004	Cumberland	5/24/95	02/12/96; 61 FR 05303.	(c)(104)(i)(C)(*2*).
Air Products and Chemicals, Inc.—Corporate R & D.	OP–39–0008	Lehigh	5/25/95	02/12/96; 61 FR 05303.	(c)(104)(i)(C)(*3*).
Elf Atochem North America, Inc.—King of Prussia.	OP–46–0022	Montgomery	6/27/95	02/12/96; 61 FR 05303.	(c)(104)(i)(C)(*4*).
York City Sewer Authority (Wastewater Treatment Plant).	OP–67–2013	York	3/1/95	02/12/96; 61 FR 05303.	(c)(104)(i)(C)(*5*).
Glasgow, Inc.—Ivy Rock	OP–46–0043	Montgomery	6/7/95	02/12/96; 61 FR 05303.	(c)(104)(i)(C)(*6*).
Glasgow, Inc.—Spring House	OP–46–0029	Montgomery	6/7/95	02/12/96; 61 FR 05303.	(c)(104)(i)(C)(*7*).
Glasgow, Inc.—Catanach	OP–15–0021	Chester	6/7/95	02/12/96; 61 FR 05303.	(c)(104)(i)(C)(*8*).
Glasgow, Inc.—Freeborn	OP–23–0026	Delaware	6/7/95	02/12/96; 61 FR 05303.	(c)(104)(i)(C)(*9*).
UGI Utilities—Hunlock Creek	OP–40–0005; PA–40–0005A.	Luzerne	12/20/94	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*1*).
Solar Turbines, Inc. (York Cogeneration Facility).	PA–67–2009	York	8/17/95	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*2*).
Solar Turbines, Inc. (York Cogeneration Facility).	CP–67–2009	York	8/17/95	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*2*).
Columbia Gas Transmission Corp.—Renovo Compressor Station.	OP–18–0001; PA–18–0001.	Clinton	7/18/95	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*3*).
National Fuel Gas Supply Corp.—East Fork Compressor Station.	OP–53–0007 PA–53–0007A.	Potter	7/17/95	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*4*).
York County Solid Waste & Refuse Authority (Y.C.R.R.C.).	PA–67–2006	York	8/25/95	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*5*).
W. R. Grace and Co.—FORMPAC Div.	PA–06–1036	Berks	5/12/95	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*6*).
W. R. Grace and Co.—Reading Plant	PA–06–315–001	Berks	6/4/92	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*6*).

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
CNG Transmission Corp.—Cherry Tree Sta..	PA–32–000–303	Indiana	7/5/95	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*7*)
EPC Power Corp. of Bethlehem (Crozer Chester CoGen).	OP–23–0007	Delaware	6/8/95	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*8*).
C–P Converters, Inc.—York	OP–67–2030	York	8/30/95	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*9*).
Fisher Scientific Co. International—Indiana.	OP–32–000–100	Indiana	7/18/95	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*10*).
Adelphi Kitchens, Inc.—Robesonia Factory.	OP–06–1001	Berks	4/4/95	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*11*).
Birchcraft Kitchens, Inc.—Reading Factory.	OP–06–1005	Berks	4/4/95	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*12*).
Glasgow, Inc.—Bridgeport Asphalt Plant	OP–46–0044	Montgomery	6/7/95	05/16/96; 61 FR 24706.	(c)(108)(i)(B)(*13*).
Caparo Steel Co.—Farrell	OP–43–285	Mercer	11/3/95	12/20/96; 61 FR 67229.	(c)(113)(i)(B)(*1*); 52.2037(g).
Sharon Steel Corp.—Farrell	OP–43–017	Mercer	11/3/95	12/20/96; 61 FR 67229.	(c)(113)(i)(B)(*2*); 52.2036(f); 52.2037(e).
DMi Furniture, Inc.—Timely Plant #7 (Gettysburg).	OP–01–2001	Adams	6/13/95	03/12/97; 62 FR 11079.	(c)(114)(i)(B)(*1*).
R.R. Donnelley and Sons Co.—Lancaster West Plant.	OP–36–2026	Lancaster	7/14/95	03/12/97; 62 FR 11079.	(c)(114)(i)(B)(*2*).
International Paper Company—Hammermill Papers Division.	OP–18–0005	Clinton	12/27/94	01/29/97; 62 FR 04167.	(c)(115)(i)(B).
Lucent Technology (formerly AT&T Corp.)—Reading.	PA–06–1003	Berks	6/26/95	04/18/97; 62 FR 19051.	(c)(117)(i)(B)(*1*).
Garden State Tanning, Inc.—Fleetwood Plant.	PA–06–1014	Berks	6/21/95	04/18/97; 62 FR 19051.	(c)(117)(i)(B)(*2*).
Glidden Co., The—Reading	OP–06–1035	Berks	2/15/96	04/18/97; 62 FR 19051.	(c)(117)(i)(B)(*3*).
Maier's Bakery—Reading Plant	PA–06–1023	Berks	9/20/95	04/18/97; 62 FR 19047.	(c)(118)(i)(B)(*1*).
Morgan Corp.—Morgantown Plant	OP–06–1025	Berks	8/31/95	04/18/97; 62 FR 19047.	(c)(118)(i)(B)(*2*).
Allentown Cement Co., Inc.—Evansville Plant.	PA–06–1002	Berks	10/11/95	04/18/97; 62 FR 19047.	(c)(118)(i)(B)(*3*).
Quaker Maid (Schrock Cabinet Group)—Leesport.	OP–06–1028	Berks	10/27/95	04/18/97; 62 FR 19047.	(c)(118)(i)(B)(*4*).
Brentwood Industries, Inc.—Reading Plant.	PA–06–1006	Berks	2/12/96	04/18/97; 62 FR 19047.	(c)(118)(i)(B)(*5*).
Metropolitan Edison Co. (MetEd)—Titus Station.	PA–06–1024	Berks	3/9/95	04/18/97; 62 FR 19047.	(c)(118)(i)(B)(*6*).
ICI Fluoropolymers—Downingtown	PA–15–0009; CP–15–0009.	Chester	10/3/95	04/18/97; 62 FR 19047.	(c)(118)(i)(B)(*7*).
Synthetic Thread Co., Inc.—Bethlehem	PA–39–0007A	Lehigh	8/10/95	04/18/97; 62 FR 19047.	(c)(118)(i)(B)(*8*).
Bird-in-Hand Woodwork, Inc. (Childcraft Education Corp.).	OP–36–2022	Lancaster	9/27/95	04/18/97; 62 FR 19047.	(c)(118)(i)(B)(*9*).
Heinz Pet Products—Bloomsburg	OP–19–0003	Columbia	11/27/95	08/21/97; 62 FR 44413.	(c)(119)(i)(B)(*1*).
Graco Children's Products, Inc.—Elverson.	OP–15–0006	Chester	11/30/95	08/21/97; 62 FR 44413.	(c)(119)(i)(B)(*2*).
Texas Eastern Transmission Corp.—Bernville.	OP–06–1033	Berks	1/31/97	04/18/97; 62 FR 19049.	(c)(120)(i)(B)(*1*).
Texas Eastern Transmission Corp.—Bechtelsville.	OP–06–1034	Berks	1/31/97	04/18/97; 62 FR 19049.	(c)(120)(i)(B)(*2*).
Carpenter Technology Corp.—Reading Plant.	OP–06–1007	Berks	9/27/96	04/18/97; 62 FR 19049.	(c)(120)(i)(B)(*3*), (ii)(B).
North American Fluoropolymers Co. (NAFCO).	06–1026; CP–06–1026.	Berks	4/19/95 6/1/95	04/18/97; 62 FR 19049.	(c)(120)(i)(B)(*4*), (ii)(B).
CNG Transmission Corp.—Ellisburg Compressor Station.	PA–53–0004A	Potter	2/29/96	06/11/97; 62 FR 31732.	(c)(121)(i)(B)(*1*).
CNG Transmission Corp.—Ellisburg Compressor Station.	OP–53–0004A	Potter	2/29/96	06/11/97; 62 FR 31732.	(c)(121)(i)(B)(*1*).
CNG Transmission Corp.—Ellisburg Compressor Station.	CP–53–0004A	Potter	2/29/96	06/11/97; 62 FR 31732.	(c)(121)(i)(B)(*1*).
CNG Transmission Corp.—Greenlick Compressor Station.	PA–53–0003A	Potter	12/18/95	06/11/97; 62 FR 31732.	(c)(121)(i)(B)(*2*).

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
CNG Transmission Corp.—Greenlick Compressor Station.	CP–53–0003A	Potter	12/18/95	06/11/97; 62 FR 31732.	(c)(121)(i)(B)(*2*).
CNG Transmission Corp.—Greenlick Compressor Station.	OP–53–0003A	Potter	12/18/95	06/11/97; 62 FR 31732.	(c)(121)(i)(B)(*2*).
CNG Transmission Corp.—Crayne Station.	30–000–089	Greene	12/22/95	06/11/97; 62 FR 31732.	(c)(121)(i)(B)(*3*).
CNG Transmission Corp.—State Line Station.	OP–53–0003A	Potter	1/10/96	06/11/97; 62 FR 31732.	(c)(121)(i)(B)(*4*).
CNG Transmission Corp.—Big Run Station.	PA–33–147	Jefferson	6/27/95	06/11/97; 62 FR 31732.	(c)(121)(i)(B)(*5*).
Medusa Cement Company	OP–37–013	Lawrence	7/27/95	06/03/97; 62 FR 30250.	(c)(122)(i)(B)(*1*).
Keystone Cement Co.	OP–48–0003	Northampton	5/25/95	06/03/97; 62 FR 30250.	(c)(122)(i)(B)(*2*).
Lehigh Portland Cement Company	OP–67–2024	York	5/26/95	06/03/97; 62 FR 30250.	(c)(122)(i)(B)(*3*).
Mercer Lime and Stone Company	OP–10–023	Butler	5/31/95	06/03/97; 62 FR 30250.	(c)(122)(i)(B)(*4*).
Con-Lime, Inc.	OP–14–0001	Centre	6/30/95	06/03/97; 62 FR 30250.	(c)(122)(i)(B)(*5*).
Pennzoil Products Co.—Rouseville	PA–61–016	Venango	9/8/95	06/11/97; 62 FR 31738.	(c)(124)(i)(B).
R.R. Donnelley&Sons Co.—Lancaster East Plant.	OP–36–2027	Lancaster	7/14/95	07/21/97; 62 FR 33891.	(c)(125)(i)(B); 52.2036j.
Panther Creek Partners	OP–13–0003	Carbon	12/2/96	09/29/97; 62 FR 50871.	(c)(128)(i)(B).
Allegro Microsystems, W.G., Inc.—Willow Grove.	OP–46–0006	Montgomery	12/19/97	03/09/98; 63 FR 11370.	(c)(130)(i)(B)(*1*).
Hale Products, Inc.—Conshohocken	OP–46–0057	Montgomery	11/21/97	03/09/98; 63 FR 11370.	(c)(130)(i)(B)(*2*).
Con-Lime, Inc.—Bellefonte	OP–14–0001	Centre	1/7/98	03/09/98; 63 FR 11370.	(c)(130)(i)(B)(*3*).
Coastal Aluminum Rolling Mills. Inc.—Williamsport.	OP–41–0007	Lycoming	11/21/97	03/09/98; 63 FR 11370.	(c)(130)(i)(B)(*4*).
ABP/International Envelope Co.	OP–15–0023	Chester	11/2/95	03/09/98; 63 FR 11370.	(c)(130)(i)(B)(*5*).
Brown Printing Company	CP–46–0018	Montgomery	9/26/96 10/27/97	03/09/98; 63 FR 11370.	(c)(130)(i)(B)(*6*).
Fibre-Metal Products Company	OP–23–0025	Delaware	2/20/98	06/29/98; 63 FR 35145.	(c)(132)(i)(B)(*1*).
Finnaren & Haley, Inc.	OP–46–0070	Montgomery	3/5/98	06/29/98; 63 FR 35145.	(c)(132)(i)(B)(*2*).
Fres-co System USA, Inc.	OP–09–0027	Bucks	3/5/98	06/29/98; 63 FR 35145.	(c)(132)(i)(B)(*3*).
Graphic Packaging Corporation	OP–15–0013	Chester	2/28/98	06/29/98; 63 FR 35145.	(c)(132)(i)(B)(*4*).
Montour Oil Service Company, a division of Sun Company, Inc..	OP–41–0013	Lycoming	3/19/98	06/29/98; 63 FR 35145.	(c)(132)(i)(B)(*5*).
Atlantic Refining and Marketing Corp. (Sun Co., Inc. (R & M)).	OP–49–0015	Northampton	3/19/98	06/29/98; 63 FR 35145.	(c)(132)(i)(B)(*6*).
Transwall Corporation	OP–15–0025	Chester	3/10/98	06/29/98; 63 FR 35145.	(c)(132)(i)(B)(*7*).
Tavo Packaging (formerly Mead Packaging Company).	OP–09–0008	Bucks	11/8/95	06/29/98; 63 FR 35145.	(c)(132)(i)(B)(*8*).
CNG Transmission Corp.—Harrison Compressor Station.	PA–53–0005A	Potter	4/16/96	10/08/98; 63 FR 54050.	(c)(134)(i)(B)(*1*).
CNG Transmission Corp.—Harrison Compressor Station.	OP–53–0005A	Potter	4/16/96	10/08/98; 63 FR 54050.	(c)(134)(i)(B)(*1*).
CNG Transmission Corp.—Harrison Compressor Station.	CP–53–0005A	Potter	4/16/96	10/08/98; 63 FR 54050.	(c)(134)(i)(B)(*1*).
CNG Transmission Corp.—Leidy Station	PA–18–0004A	Clinton	3/25/96	10/08/98; 63 FR 54050.	(c)(134)(i)(B)(*2*).
CNG Transmission Corp.—Leidy Compressor Station.	OP–18–0004	Clinton	2/29/96	10/08/98; 63 FR 54050.	(c)(134)(i)(B)(*2*).
CNG Transmission Corp.—Leidy Station	CP–18–0004A	Clinton	3/25/96	10/08/98; 63 FR 54050.	(c)(134)(i)(B)(*2*).
CNG Transmission Corp.—Sabinsville Compressor Station.	PA–59–0002A	Tioga	12/18/95	10/08/98; 63 FR 54050.	(c)(134)(i)(B)(*3*).

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
CNG Transmission Corp.—Sabinsville Compressor Station.	OP–59–0002	Tioga	12/18/95	10/08/98; 63 FR 54050.	(c)(134)(i)(B)(*3*).
CNG Transmission Corp.—Sabinsville Station.	CP–59–0002A	Tioga	12/18/95	10/08/98; 63 FR 54050.	(c)(134)(i)(B)(*3*).
CNG Transmission Corp.—Tioga Station.	OP–59–0006	Tioga	1/16/96	10/08/98; 63 FR 54050.	(c)(134)(i)(B)(*4*).
Eldorado Properties Corp.—Northumberland Terminal.	OP–49–0016	Northumberland	5/1/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*1*).
Endura Products, Inc.	OP–09–0028	Bucks	5/13/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*2*).
Ford Electronics & Refrigeration Company.	OP–46–0036	Montgomery	4/30/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(3).
H & N Packaging., Inc. (formerly Paramount Packaging Corp.).	OP–09–0038	Bucks	6/8/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*4*).
Lancaster County Solid Waste Management Authority.	36–02013	Lancaster	6/3/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*5*).
Monsey Products Co.—Kimberton	OP–15–0031	Chester	6/4/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*6*).
Ortho-McNeil Pharamaceutical—Spring House.	OP–46–0027	Montgomery	6/4/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*7*).
Piccari Press, Inc.	OP–09–0040	Bucks	4/29/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*8*).
Pierce and Stevens Corp.—Kimberton	OP–15–0011	Chester	3/27/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*9*).
PQ Corporation—Chester	OP–23–0016	Delaware	6/16/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*10*).
Reynolds Metals Company Downington	OP–15–0004	Chester	5/8/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*11*).
Rhone-Poulenc Rorer Pharmaceutical, Inc.	OP–46–0048B	Montgomery	4/2/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*12*).
Superior Tube Company	OP–46–0020	Montgomery	4/17/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*13*).
Uniform Tubes Inc	OP–46–0046A	Montgomery	3/26/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*14*).
U.S. Air Force—Willow Grove Air Reserve Station.	OP–46–0072	Montgomery	5/1/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*15*).
Naval Air Station, Joint Reserve Base—Willow Grove.	OP–46–0079	Montgomery	5/4/98	11/06/98; 63 FR 59884.	(c)(136)(i)(B)(*16*).
Columbia Gas Transmission Corp.—Artemas Compressor Station.	05–2006	Bedford	4/19/95	12/03/98; 63 FR 66755.	(c)(137)(i)(B)(*1*).
Columbia Gas Transmission Corp.—Donegal Compressor Station.	63–000–631	Washington	7/10/95	12/03/98; 63 FR 66755.	(c)(137)(i)(B)(*2*).
Columbia Gas Transmission Corp.—Gettysburg Compressor Station.	01–2003	Adams	4/21/95	12/03/98; 63 FR 66755.	(c)(137)(i)(B)(*3*).
Columbia Gas Transmission Corp.—Eagle Compressor Station.	OP–15–0022	Chester	2/1/96	12/03/98; 63 FR 66755.	(c)(137)(i)(B)(*4*).
Columbia Gas Transmission Corp.—Downingtown.	CP–15–0020	Chester	9/15/95	12/03/98; 63 FR 66755.	(c)(137)(i)(B)(*5*).
GKN Sinter Metals, Inc.	OP–12–0002	Cameron	10/30/98	04/16/99; 64 FR 18821.	(c)(138)(i)(B)(*1*).
Cabinet Industries, Inc.—Water Street Plant.	OP–47–0005	Montour	9/21/98	04/16/99; 64 FR 18821.	(c)(138)(i)(B)(*2*).
Springs Window Fashions Division, Inc.	OP–41–0014	Lycoming	9/29/98	04/16/99; 64 FR 18821.	(c)(138)(i)(B)(*3*).
Centennial Printing Corp.	OP–46–0068	Montgomery	10/31/96 5/11/98	04/16/99; 64 FR 18821.	(c)(138)(i)(B)(*4*).
Strick Corp.—Danville	OP–47–0002	Montour	8/28/96	04/16/99; 64 FR 18821.	(c)(138)(i)(B)(*5*).
Handy and Harmon Tube Co.—Norristown.	OP–46–0016	Montgomery	9/25/95	04/16/99; 64 FR 18821.	(c)(138)(i)(B)(*6*).
Boeing Defense & Space Group—Helicopters Div.	CP–23–0009	Delaware	9/3/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*1*).
Delaware County Regional Authority's Western Regional Treatment Plant (DELCORA WRTP).	OP–23–0032	Delware	3/12/97 5/16/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*2*).
Delbar Products, Inc.—Perkasie	OP–09–0025	Bucks	2/1/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*3*).
Department of Public Welfare (NSH)—Norristown.	OP–46–0060	Montgomery	1/21/98	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*4*).

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Dopaco, Inc.—Downingtown	CP–15–0029	Chester	3/6/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*5*).
Garlock, Inc. (Plastomer Products)	PA–09–0035	Bucks	3/12/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*6*).
Interstate Brands Corporation (formerly, Continental Baking Company).	PLID (51–)5811	Philadelphia	4/10/95	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*7*).
J. B. Slevin Company Inc.—Lansdowne	OP–23–0013	Delaware	9/3/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*8*).
Laclede Steel Co.—Fairless Hills	OP–09–0023	Bucks	7/17/95	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*9*).
LNP Engineering Plastics, Inc.—Thorndale.	OP–15–0035	Chester	10/31/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*10*).
Lukens Steel Co.—Coatesville	OP–15–0010	Chester	5/6/99	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*11*).
Nabisco Biscuit Co.	PLID (51–)3201	Philadelphia	4/10/95	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*12*).
PECO Energy Co.—Croydon Generating Station.	OP–09–0016A	Bucks	12/20/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*13*).
PECO Energy Co.—Limerick Generating Station.	OP–46–0038	Montgomery	7/25/95	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*14*).
PECO Energy Co.—USX Fairless Works Powerhouse.	OP–09–0066	Bucks	12/31/98 4/6/99	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*15*).
PECO Energy Co.—West Conshocken Plant.	OP–46–0045A	Montgomery	12/4/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*16*).
Pennsylvania Electric Co.—Front Street Station.	25–0041	Erie	2/25/99	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*17*).
American Inks and Coatings Corp.—Valley Forge.	OP–15–0026A	Chester	1/10/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*18*).
Avery Dennison Co. (Fasson Roll Division)—Quakertown.	OP–09–0001A	Bucks	10/2/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*19*).
Cabot Performance Materials—Boyertown.	OP–46–0037	Montgomery	4/13/99	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*20*).
Cleveland Steel Container Corp.—Quakertown.	OP–09–0022	Bucks	9/30/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*21*).
CMS Gilbreth Packaging Systems—Bristol.	OP–09–0036	Bucks	1/7/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*22*).
CMS Gilbreth Packaging Systems—Bensalem.	OP–09–0037	Bucks	4/10/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*23*).
Congoleum Corp.—Marcus Hook	OP–23–0021	Delaware	12/31/98	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*24*).
Epsilon Products Co.—Marcus Hook	OP–23–0012	Delaware	2/15/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*25*).
Foamex International, Inc.—Eddystone	OP–23–0006A	Delaware	3/30/99	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*26*).
Forms, Inc., Spectra Graphics—Willow Grove.	OP–46–0023	Montgomery	11/9/95/ 3/25//98	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*27*).
Global Packaging, Inc. (formerly BG Packaging—Oaks).	OP–46–0026	Montgomery	8/30/96 12/24/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*28*).
Jefferson Smurfit Corp. (Container Corp. of Amer.)—Oaks.	OP–46–0041	Montgomery	4/18/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*29*).
Jefferson Smurfit Corp. (Container Corp. of Amer.)—North Wales.	OP–46–0062	Montgomery	7/15/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*30*).
Lonza, Inc.—Conshohocken	OP–46–0025	Montgomery	4/22/97 6/16/98	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*31*).
Markel Corporation	OP–46–0081	Montgomery	4/9/99	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*32*).
McCorquodale Security Cards, Inc.—West Whiteland.	OP–15–0037	Chester	9/3/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*33*).
Mike—Rich, Inc. (MRI)—Newtown	OP–09–0021	Bucks	12/20/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*34*).
Minnesota Mining and Manufacturing (3M) Company—Bristol.	CP–09–0005	Bucks	8/8/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*35*).
MM Biogas Power LLC (formerly O'Brien Environmental Energy, Inc.).	CP–46–0067	Montgomery	10/31/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*36*).
Norwood Industries, Inc.—Frazer	OP–15–0014A	Chester	12/20/96 12/2/99	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*37*).
NVF Company	OP–15–0030	Chester	4/13/99	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*38*).

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Occidental Chemical Corp. (Vinyls Div.)—Pottstown.	OP–46–0015	Montgomery	11/7/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*39*).
Philadelphia Newspapers, Inc. (Schuylkill Printing Plant).	OP–46–0012	Montgomery	8/30/96 3/15/00	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*40*).
The Proctor and Gamble Paper Products Co..	OP–66–0001	Wyoming	4/4/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*41*).
Quebecor Printing Atglen, Inc.—Atglen	OP–15–0002	Chester	12/10/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*42*).
Sartomer Company, Inc	OP–15–0015	Chester	1/17/96 3/25/98	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*43*).
Siberline Manufacturing Co.	OP–54-0041	Schuylkill	4/19/99	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*44*).
SmithKline Beecham Research Co. (formerly Sterling Winthrop, Inc.).	OP–46–0031	Montgomery	10/31/97 5/1/98	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*45*).
Sullivan Graphics, Inc.—York	OP–67–2023	York	8/22/95	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*46*).
Sun Company, Inc (R&M) (formerly Chevron USA)—Tinicum.	OP–23–0010	Delaware	10/31/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*47*).
Sun Company, Inc (R&M) (formerly Chevron USA)—Darby.	OP–23–0011	Delaware	10/31/96	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*48*).
Universal Packaging Corporation	OP–46–0156	Montgomery	4/8/99	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*49*).
Zenith Products Corp.—Aston	OP–23–0008	Delaware	4/7/97	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*50*).
Budd Company	PLID 51–1564	Philadelphia	12/28/95	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*51*).
Bellevue Cogeneration Plant	PLID (51–) 6513	Philadelphia	4/10/95	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*52*).
MSC Pre-Finish Metals, Inc.—Morrisville	OP–09–0030	Bucks	11/7/96 3/31/98	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*53*).
Temple University, Health Sciences Center.	PLID (51–) 8906	Philadelphia	5/27/95	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*54*).
TRIGEN—Schuylkill Station	PLID (51–)4942	Philadelphia	5/29/95	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*55*).
TRIGEN—Edison Station	PLID (51–)4902	Philadelphia	5/29/95	12/15/00; 65 FR 78418.	(c)(143)(i)(B)(*56*).
Advanced Glassfiber Yarns LLC (formerly Owens Corning)—Huntingdon.	OP–31–02002	Huntingdon	4/13/99	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*1*).
Armstrong World Industries, Inc.—Beech Creek.	OP–18–0002	Clinton	7/6/95	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*2*).
Bemis Company, Film Division	OP–40–0007A	Luzerne	10/10/95	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*3*).
Brentwood Industries, Inc	PA–06–1006A	Berks	6/3/99	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*4*).
Certainteed Corp.—Mountaintop	OP–40–0010	Luzerne	5/31/96	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*5*).
CNG Transmission Corp.—Ardell Station.	OP–24–120	Elk	9/30/95	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*6*).
CNG Transmission Corp.—Finnefrock Station.	PA–18–0003A	Clinton	2/29/96	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*7*).
Consol Pennsylvania Coal Company—Bailey Prep Plant.	OP–30–000–072	Greene	3/23/99	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*8*).
Consolidated Rail Corp. (CONRAIL)—Hollidaysburg Car Shop.	OP–07–2002	Blair	8/29/95	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*9*).
Consolidated Rail Corp. (CONRAIL)—Juniata.	OP–07–2003	Blair	8/29/95	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*10*).
Containment Solutions, Inc. (formerly called Fluid Containment—Mt. Union).	OP– 31–02005	Huntingdon	4/9/99	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*11*).
Cooper Energy Systems, Grove City	OP– 43–003	Mercer	7/25/96	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*12*).
Cyprus Cumberland Resources Corp	OP–30–000–040	Greene	3/26/99	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*13*).
Defense Distribution—Susquehanna	OP–67–02041	York	2/1/00	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*14*).
EMI Company	OP–25–070	Erie	10/24/96	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*15*).
Empire Sanitary Landfill, Inc.	OP–35–0009	Lackawanna	10/17/96	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*16*).

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Equitrans, Inc.—Rogersville Station	(OP)30–000–109	Greene	7/10/95	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*17*).
Equitrans, Inc.—Pratt Station	(OP)30–000–110	Greene	7/10/95	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*18*).
Erie Coke Corporation—Erie	OP–25–029	Erie	6/27/95	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*19*).
Fleetwood Folding Trailers, Inc.—Somerset.	(OP)56–000–151	Somerset	2/28/96	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*20*).
Gichner Systems Group, Inc	(OP)67–2033	York	8/5/97	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*21*).
Offset Paperback Manufacturers, Inc.—Dallas.	(OP)40–0008	Luzerne	4/16/99	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*22*).
Overhead Door Corporation—Mifflin County.	(OP)44–2011	Mifflin	6/4/97	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*23*).
SANYO Audio Manufacturing (USA) Corp.	(OP)44–2003	Mifflin	6/30/95	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*24*).
Stroehmann Bakeries—Luzerne County	(OP)40–0014A	Luzerne	5/30/95	08/06/01; 66 FR 40891.	(c)(149)(i)(B)(*25*).
Merck and Co., Inc.—West Point Facility.	OP–46–0005	Montgomery	1/13/97 6/23/00	04/18/01; 66 FR 19858.	(c)(154)(i)(D).
Amerada Hess Corp	PA–PLID (51–)5009	Philadelphia	5/29/95	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*1*).
Amoco Oil Company	PA–PLID (51–)5011	Philadelphia	5/29/95	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*2*).
Cartex Corporation	OP–09–0076	Bucks	4/9/99	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*3*).
Exxon Company, USA	PA–PLID (51–)5008	Philadelphia	5/29/95	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*4*).
GATX Terminals Corporation	PA–PLID (51–)5003	Philadelphia	5/29/95	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*5*).
Hatfield Quality Meats, Inc.—Hatfield	OP–46–0013A	Montgomery	1/9/97 10/1/98	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*6*).
J. L. Clark, Inc	OP–36–02009	Lancaster	4/16/99	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*7*).
Johnson Matthey, Inc.—Wayne	OP–15–0027	Chester	8/3/98 4/15/99	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*8*).
Kurz Hastings, Inc.	PA–PLID (51–)1585	Philadelphia	5/29/95	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*9*).
Lawrence McFadden, Inc.	PA–PLID (51–)2074	Philadelphia	6/11/97	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*10*).
Philadelphia Baking Company	PA–PLID (51–)3048	Philadelphia	4/10/95	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*11*).
Philadelphia Gas Works—Passyunk	PA–PLID (51–)4921	Philadelphia	5/29/95	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*12*).
PPG Industries, Inc. (BASF)	OP–23–0005	Delaware	6/4/97	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*13*).
SmithKline Beecham Pharmaceuticals	OP–46–0035	Montgomery	3/27/97 10/20/98	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*14*).
Teva Pharmaceuticals USA (formerly Lemmon company).	OP–09–0010	Bucks	4/9/99	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*15*).
The Philadelphian Condominium Building.	PA–PLID (51–)6512	Philadelphia	5/29/95	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*16*).
Warner Company	OP–15–0001	Chester	7/17/95	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*17*).
Webcraft Technologies, Inc	OP–09–0009	Bucks	4/18/96 10/15/98	10/31/01; 66 FR 54936.	(c)(156)(i)(B)(*18*).
Latrobe Steel Company—Latrobe	OP– 65–000–016	Westmoreland	12/22/95	10/16/01; 66 FR 52517.	(c)(158)(i)(B).
Allegheny Ludlum Corporation—Brackenridge.	CO–260	Allegheny	12/19/96	10/18/01; 66 FR 52851.	(c)(159)(i)(B).
Kosmos Cement Co.—Neville Island Facility.	EO–208	Allegheny	12/19/96	10/18/01; 66 FR 52857.	(c)(160)(i)(B)(*1*).
Armstrong Cement and Supply Company.—Cabot.	OP–10–028	Butler	3/31/99	10/18/01; 66 FR 52857.	(c)(160)(i)(B)(*2*).
Duquesne Light Company—Cheswick Power Station.	CO–217	Allegheny	3/8/96	10/18/01; 66 FR 52867.	(c)(161)(i)(B)(*1*).
Duquesne Light Company—Elrama Plant.	(PA)63–000–014	Washington	12/29/94	10/18/01; 66 FR 52867.	(c)(161)(i)(B)(*2*).

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Pennsylvania Electric Co. (PENELEC)—Keystone Generating Station.	(PA–)03–000–027	Armstrong	12/29/94	10/18/01; 66 FR 52867.	(c)(161)(i)(B)(*3*).
IDL, Incorporated	CO–225	Allegheny	7/18/96	10/18/01; 66 FR 52862.	(c)(162)(i)(B)(*1*).
Oakmont Pharmaceutical, Inc	CO–252	Allegheny	12/19/96	10/18/01; 66 FR 52862.	(c)(162)(i)(B)(*2*).
U.S. Air, Inc	CO–255	Allegheny	1/14/97	10/18/01; 66 FR 52862.	(c)(162)(i)(B)(*3*).
Lukens Steel Corporation—Houston Plant.	(OP)63–000–080	Washington	2/22/99	10/16/01; 66 FR 52522.	(c)(163)(i)(B)(*1*).
Allegheny Ludlum Steel Corporation—West Leechburg Plant.	(OP)65–000–183	Westmoreland	3/23/99	10/16/01; 66 FR 52522.	(c)(163)(i)(B)(*2*).
(Allegheny Ludlum Corporation) Jessop Steel Company—Washington Plant.	(OP)63–000–027	Washington	3/26/99	10/16/01; 66 FR 52522.	(c)(163)(i)(B)(*3*).
Koppel Steel Corporation—Koppel Plant	(OP)04–000–059	Beaver	3/23/01	10/16/01; 66 FR 52522.	(c)(163)(i)(D).
Consolidated Natural Gas (CNG) Transmission Corp.—Beaver Station.	OP–04–000–490	Beaver	6/23/95	10/12/01; 66 FR 52055.	(c)(164)(i)(B)(*1*).
Consolidated Natural Gas (CNG) Transmission Corp.—Oakford Compressor Station.	OP–65–000–837—	Westmoreland	10/13/95	10/12/01; 66 FR 52055.	(c)(164)(i)(B)(*2*).
Consolidated Natural Gas (CNG) Transmission Corp.—South Oakford Station.	(OP)65–000–840	Westmoreland	10/13/95	10/12/01; 66 FR 52055.	(c)(164)(i)(B)(*3*).
Consolidated Natural Gas (CNG) Transmission Corp.—Tonkin Compressor Station.	(OP)65–000–634	Westmoreland	10/13/95	10/12/01; 66 FR 52055.	(c)(164)(i)(B)(4).
Consolidated Natural Gas (CNG) Transmission Corp.—Jeannette Station.	(OP)65–000–852	Westmoreland	10/13/95	10/12/01; 66 FR 52055.	(c)(164)(i)(B)(*5*).
Carnegie Natural Gas Co.—Creighton Station.	EO–213	Allegheny	5/14/96	10/12/01; 66 FR 52055.	(c)(164)(i)(B)(*6*).
Texas Eastern Transmission Corp.—Uniontown Station.	(OP)26–000–413	Fayette	12/20/96	10/12/01; 66 FR 52055.	(c)(164)(i)(B)(*7*).
Consolidated Natural Gas (CNG) Transmission Corp.—South Bend Station.	OP–03–000–180	Armstrong	12/2/98	10/12/01; 66 FR 52055.	(c)(164)(i)(B)(*8*).
Pruett Schaffer Chemical Company	CO–266	Allegheny	9/2/98	10/12/01; 66 FR 52050.	(c)(165)(i)(B)(*1*).
PPG Industries, Inc.—Spingdale	CO–254	Allegheny	12/19/96	10/12/01; 66 FR 52050.	(c)(165)(i)(B)(*2*).
Reichhold Chemicals, Inc.—Bridgeville	CO–218	Allegheny	12/19/96	10/12/01; 66 FR 52050.	(c)(165)(i)(B)(*3*) [NO_X RACT].
Reichhold Chemicals, Inc.—Bridgeville	CO–219	Allegheny	2/21/96	10/12/01; 66 FR 52050.	(c)(165)(i)(B)(*4*) [VOC RACT].
Valspar Corporation—Pittsburgh	CO–209	Allegheny	3/8/96	10/12/01; 66 FR 52050.	(c)(165)(i)(B)(*5*).
Ashland Chemical Corporation	CO–227	Allegheny	12/30/96	10/16/01; 66 FR 52506.	(c)(166)(i)(B)(*1*).
Hercules, Inc.—West Elizabeth	EO–216	Allegheny	3/8/96	10/16/01; 66 FR 52506.	(c)(166)(i)(B)(*2*).
Hercules, Inc.—West Elizabeth	CO–257	Allegheny	1/14/97 11/1/99	10/16/01; 66 FR 52506.	(c)(166)(i)(B)(*3*).
Neville Chemical Company	CO–230	Allegheny	12/13/96	10/16/01; 66 FR 52506.	(c)(166)(i)(B)(*4*).
Anchor Glass Container Corp.—Plant 5	(PA)26–000–119	Fayette	12/20/96	10/16/01; 66 FR 52527.	(c)(167)(i)(B)(*1*).
Anchor Hocking Specialty Glass Co.—Phoenix Glass Plant.	(OP)04–000–084	Beaver	10/13/95	10/16/01; 66 FR 52527.	(c)(167)(i)(B)(*2*).
Corning Consumer Products Co.—Charleroi Plant.	(PA)63–000–110	Washington	1/4/96	10/16/01; 66 FR 52527.	(c)(167)(i)(B)(*3*).
General Electric Company	CO–251	Allegheny	12/19/96	10/16/01; 66 FR 52527.	(c)(167)(i)(B)(*4*).
Glenshaw Glass Company, Inc	CO–270	Allegheny	3/10/00	10/16/01; 66 FR 52527.	(c)(167)(i)(B)(*5*).
Guardian Industries Corp	CO–242	Allegheny	8/27/96	10/16/01; 66 FR 52527.	(c)(167)(i)(B)(*6*).
Allegheny County Sanitary Authority	CO–222	Allegheny	5/14/96	10/16/01; 66 FR 52527.	(c)(167)(i)(B)(*7*).
Browning-Ferris Industries	CO–231A	Allegheny	4/28/97	10/16/01; 66 FR 52527.	(c)(167)(i)(B)(*8*).

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Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Chambers Development Company—Monroeville Borough Landfill.	CO–253	Allegheny	12/30/96	10/16/01; 66 FR 52527.	(c)(167)(i)(B)(*9*).
Kelly Run Sanitation, Forward Township Landfill.	CO–236	Allegheny	1/23/97	10/16/01; 66 FR 52527.	(c)(167)(i)(B)(*10*).
Stroehmann Bakeries—Montgomery County (Norristown).	PA–46–0003	Montgomery	5/4/95	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*1*).
Schlosser Steel, Inc	OP–46–0051	Montgomery	2/1/96	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*2*).
Perkasie Industries Corp.—Perkasie	OP–09–0011	Bucks	8/14/96	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*3*).
Quaker Chemical Corporation—Conshohocken.	OP–46–0071	Montgomery	9/26/96	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*4*).
Worthington Steel Company	OP–15–0016	Chester	7/23/96	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*5*).
Transcontinental Gas Pipeline Corp.—Sta. 200, Frazer.	PA–15–0017	Chester	6/5/95	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*6*).
Rohm and Haas Company, Bucks County Plant.	OP–09–0015	Bucks	4/20/99	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*7*).
SEPTA-Berridge/Courtland Maintenance Shop.	PA–51–4172	Philadelphia	7/27/99	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*8*).
Southwest Water Pollution Control Plant/Biosolids Recycling Center.	PA–51–9515	Philadelphia	7/27/99	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*9*).
Rohm and Haas Company—Philadelphia Plant.	PA–51–1531	Philadelphia	7/27/99	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*10*).
Sunoco Inc. (R&M)—Philadelphia	PA(51–)1501 PA(51–)1517.	Philadelphia	8/1/00	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*11*).
SBF Communications (owned by Avant Garde Ent.).	PA(51–)2197	Philadelphia	7/21/00	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*12*).
Smith-Edwards-Dunlap Company	PA–(51–)2255	Philadelphia	7/14/00	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*13*).
Tasty Baking Co	PLID (51–)2054	Philadelphia	4/9/95	10/31/01; 66 FR 54942.	(c)(169)(i)(B)(*14*).
Armstrong World Industries, Inc.—Beaver Falls Plant.	(OP)04–000–108	Beaver	5/29/96	10/17/01; 66 FR 52695.	(c)(170)(i)(B)(*1*).
Bacharach, Inc	CO–263	Allegheny	10/10/97	10/17/01; 66 FR 52695.	(c)(170)(i)(B)(*2*).
Bakerstown Container Corporation	CO–221	Allegheny	5/14/96	10/17/01; 66 FR 52695.	(c)(170)(i)(B)(*3*).
Chestnut Ridge Foam, Inc.—Latrobe	(OP)65–000–181	Westmoreland	12/29/95	10/17/01; 66 FR 52695.	(c)(170)(i)(B)(*4*).
Flexsys America LP, Monongahela Plant.	(OP)63–000–015	Washington	3/23/01	10/17/01; 66 FR 52695.	(c)(170)(i)(B)(*5*).
Haskell of Pittsburgh, Inc	CO–224	Allegheny	12/19/96	10/17/01; 66 FR 52695.	(c)(170)(i)(B)(*6*).
Three Rivers Aluminum Company (TRACO).	OP–10–267	Butler	3/1/01	10/17/01; 66 FR 52695.	(c)(170)(i)(B)(*7*).
Tuscarora Plastics, Inc	(OP)04–000–497	Beaver	4/3/96	10/17/01; 66 FR 52695.	(c)(170)(i)(B)(*8*).
Witco Corporation	CO–210	Allegheny	5/14/96	10/17/01; 66 FR 52695.	(c)(170)(i)(B)(*9*).
GenCorp (Plastic Films Division)—Jeannette Plant.	(OP)65–000–207	Westmoreland	1/4/96	10/15/01; 66 FR 52322.	(c)(171)(i)(B).
CENTRIA—Ambridge Coil Coating Operations Plant.	(OP)04–000–043	Beaver	5/17/99	10/15/01; 66 FR 52322.	(c)(171)(i)(D).
J & L Structural, Inc.—Aliquippa	OP–04–000–467	Beaver	6/23/95	10/16/01; 66 FR 52511.	(c)(172)(i)(B)(*1*).
Universal Stainless & Alloy Products, Inc.	CO–241	Allegheny	12/19/96	10/16/01; 66 FR 52511.	(c)(172)(i)(B)(*2*).
Shenango, Inc	CO–233	Allegheny	12/30/96	10/16/01; 66 FR 52511.	(c)(172)(i)(B)(*3*).
LTV Steel Company	CO–259	Allegheny	12/30/96	10/16/01; 66 FR 52511.	(c)(172)(i)(B)(*4*).
U.S. Steel (USX Corporation.)—Clairton Works.	CO–234	Allegheny	12/30/96	10/16/01; 66 FR 52511.	(c)(172)(i)(B)(*5*).
USX Corporation—Edgar Thomson Works.	CO–235	Allegheny	12/30/96	10/16/01; 66 FR 52511.	(c)(172)(i)(B)(*6*).
USX, Inc.—Irvin Works	CO–258	Allegheny	12/30/96	10/16/01; 66 FR 52511.	(c)(172)(i)(B)(*7*).

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Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Wheeling-Pittsburgh Steel Corporation—Allenport Plant.	(OP)63–000–066	Washington	2/8/99	10/16/01; 66 FR 52511.	(c)(172)(i)(B)(*8*).
Koppers—Monessen Coke Plant	(OP)65–000–853	Westmoreland	3/20/98	10/16/01; 66 FR 52511.	(c)(172)(i)(B)(*9*).
J & L Specialty Steel, Inc.—Midland Facility.	(OP)04–000–013	Beaver	3/23/01	10/16/01; 66 FR 52511.	(c)(172)(i)(B)(*10*).
Washington Steel Corp.—Washington Plant.	(OP)63–000–023	Washington	9/12/96	10/16/01; 66 FR 52511.	(c)(172)(i)(B)(*11*).
Equitrans, Inc.—Hartson	(OP)63–000–642	Washington	7/10/95	10/17/01; 66 FR 52705.	(c)(173)(i)(B)(*1*).
Witco Corp.—Petrolia Facility	PA–10–037	Butler	6/27/95	10/17/01; 66 FR 52705.	(c)(173)(i)(B)(*2*).
Ranbar Electrical Materials Inc. (formerly Westinghouse Electric Co. EMD—Manor.	(OP)65–000–042	Westmoreland	2/22/99	10/17/01; 66 FR 52705.	(c)(173)(i)(B)(*3*).
Nova Chemicals, Inc. (formerly Arco Chemical Co.—Beaver Valley).	(OP)04–000–033	Beaver	4/16/99 1/24/01	10/17/01; 66 FR 52705.	(c)(173)(i)(B)(*4*).
BASF Corporation—Monaca Site	(OP)04–000–306	Beaver	3/23/01	10/17/01; 66 FR 52705.	(c)(173)(i)(B)(*5*).
Cardone Industries—Rising Sun Ave	PA(51–) PLID 3887	Philadelphia	5/29/95	10/30/01; 66 FR 54710.	(c)(174)(i)(B)(*1*).
Cardone Industries—Chew St	PA(51–) PLID 2237	Philadelphia	5/29/95	10/30/01; 66 FR 54710.	(c)(174)(i)(B)(*2*).
U.S. Navy, Naval Surface Warfare Center—Carderock Division.	PA(51–)9724	Philadelphia	12/27/97	10/30/01; 66 FR 54710.	(c)(174)(i)(B)(*3*).
Wheelabrator Falls, Inc	OP–09–0013	Bucks	1/11/96 5/17/96	10/30/01; 66 FR 54710.	(c)(174)(i)(B)(*4*).
US Steel Group/USX Corporation—Fairless Works.	OP–09–0006	Bucks	4/8/99	10/30/01; 66 FR 54710.	(c)(174)(i)(B)(*5*).
Brown Printing Company	OP–46–0018A	Montgomery	5/17/00	10/30/01; 66 FR 54710.	(c)(174)(i)(B)(*6*).
Sun Chemical—General Printing Ink Division.	PA(51–)2052	Philadelphia	7/14/00	10/30/01; 66 FR 54710.	(c)(174)(i)(B)(*7*).
Sunoco Chemicals, Frankford Plant	PA(51–)1551	Philadelphia	7/27/99	10/30/01; 66 FR 54710.	(c)(174)(i)(B)(*8*).
Armco, Inc. Butler Operations Main Plant.	PA–10–001M	Butler	2/23/96	10/15/01; 66 FR 52338.	(c)(175)(i)(B).
Armco, Inc. Butler Operations Stainless Plant.	PA–10–001S	Butler	2/23/96	10/15/01; 66 FR 52338.	(c)(175)(i)(C).
Pennsylvania Power Co.—Bruce Mansfield Plant.	(PA)04–000–235	Beaver	12/29/94	10/15/01; 66 FR 52333.	(c)(176)(i)(B)(*1*).
West Penn Power Co.—Mitchell Station	(PA)63–000–016	Washington	6/12/95	10/15/01; 66 FR 52333.	(c)(176)(i)(B)(*2*).
Carnegie Natural Gas Company—Fisher Station.	(OP)03–000–182	Armstrong	12/2/98	10/15/01; 66 FR 52333.	(c)(176)(i)(B)(*3*).
Apollo Gas Company—Shoemaker Station.	(OP)03–000–183	Armstrong	9/12/96	10/15/01; 66 FR 52333.	(c)(176)(i)(B)(*4*).
Texas Eastern Transmission Corp.—Delmont Station.	(OP)65–000–839	Westmoreland	1/9/97	10/15/01; 66 FR 52333.	(c)(176)(i)(B)(*5*).
The Peoples Natural Gas Co.—Valley Station.	(OP)03–000–125	Armstrong	10/31/94	10/15/01; 66 FR 52333.	(c)(176)(i)(B)(*6*).
The Peoples Natural Gas Co.—Girty Compressor Station.	(PA)03–000–076	Armstrong	10/27/95	10/15/01; 66 FR 52333.	(c)(176)(i)(B)(*7*).
AES Beaver Valley Partners—Monaca Plant.	(OP)04–000–446	Beaver	3/23/01	10/15/01; 66 FR 52333.	(c)(176)(i)(B)(*8*).
Penreco—Karns City	OP10–0027	Butler	5/31/95	10/12/01; 66 FR 52044.	(c)(177)(i)(B)(*1*).
Ashland Petroleum Company	CO–256	Allegheny	12/19/96	10/12/01; 66 FR 52044.	(c)(177)(i)(B)(*2*).
Bellefield Boiler Plant—Pittsburgh	EO–248	Allegheny	12/19/96	10/12/01; 66 FR 52044.	(c)(177)(i)(B)(*3*).
Gulf Oil, L.P	CO–250	Allegheny	12/19/96	10/12/01; 66 FR 52044.	(c)(177)(i)(B)(*4*).
PA Dept. of Corrections	EO–244	Allegheny	1/23/97	10/12/01; 66 FR 52044.	(c)(177)(i)(B)(*5*).
Pittsburgh Thermal Limited Partnership	CO–220	Allegheny	3/4/96	10/12/01; 66 FR 52044.	(c)(177)(i)(B)(*6*).
BP Exploration & Oil, Inc.—Greensburg Terminal.	(OP)65–000–378	Westmoreland	3/23/01	10/12/01; 66 FR 52044.	(c)(177)(i)(B)(*7*).

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Pittsburgh Allegheny County Thermal, Ltd.	CO–265	Allegheny	11/9/98	10/12/01; 66 FR 52044.	(c)(177)(i)(B)(*8*).
Aristech Chemical Corporation	CO–232	Allegheny	12/30/96	10/17/01; 66 FR 52700.	(c)(178)(i)(B)(*1*).
Heinz U.S.A.—Pittsburgh	EO–211	Allegheny	3/8/96	10/17/01; 66 FR 52700.	(c)(178)(i)(B)(*2*).
Heinz U.S.A.—Pittsburgh	CO–247	Allegheny	10/24/96	10/17/01; 66 FR 52700.	(c)(178)(i)(B)(*2*).
Koppers Industries, Inc. (Aristech Chem. Corp).	CO–223	Allegheny	8/27/96	10/17/01; 66 FR 52700.	(c)(178)(i)(B)(*3*).
Nabisco Biscuit Co	CO–246	Allegheny	12/19/96	10/17/01; 66 FR 52700.	(c)(178)(i)(B)(*4*).
Pressure Chemical Co	CO–261	Allegheny	6/11/97	10/17/01; 66 FR 52700.	(c)(178)(i)(B)(*5*).
General Carbide Corp	(OP)65–000–622	Westmoreland	12/29/95	10/17/01; 66 FR 52700.	(c)(178)(i)(B)(*6*).
Fansteel Hydro Carbide	(OP)65–000–860	Westmoreland	12/12/97	10/17/01; 66 FR 52700.	(c)(178)(i)(B)(*7*).
Carbide Corporation	(OP)65–000–720	Westmoreland	7/31/98	10/17/01; 66 FR 52700.	(c)(178)(i)(B)(*8*).
Dyno Nobel Inc—Donora	(OP)63–000–070	Washington	3/31/99	10/17/01; 66 FR 52700.	(c)(178)(i)(B)(*9*).
Newcomer Products, Inc	(OP)65–000–851	Westmoreland	8/7/97	10/17/01; 66 FR 52700.	(c)(178)(i)(B)(*10*).
PECO Energy Company—Cromby Generating Station.	OP–15–0019	Chester	4/28/95	10/30/01; 66 FR 54699.	(c)(179)(i)(B)(*1*).
Waste Resource Energy, Inc. (Operator); Shawmut Bank, Conn. National Assoc. (Owner); Delaware County Resource Recovery Facility.	OP–23–0004	Delaware	11/16/95	10/30/01; 66 FR 54699.	(c)(179)(i)(B)(*2*).
G-Seven, Ltd	OP–46–0078	Montgomery	4/20/99	10/30/01; 66 FR 54699.	(c)(179)(i)(B)(*3*).
Leonard Kunkin Associates	OP–09–0073	Bucks	6/25/01	10/30/01; 66 FR 54699.	(c)(179)(i)(B)(*4*).
Kimberly-Clark Corporation	OP–23–0014A	Delaware	6/24/98 8/1/01	10/30/01; 66 FR 54699.	(c)(179)(i)(B)(*5*).
Sunoco, Inc. (R&M); Marcus Hook Plant	CP–23–0001	Delaware	6/8/95 8/2/01	10/30/01; 66 FR 54699.	(c)(179)(i)(B)(*6*).
Waste Management Disposal Services of Pennsylvania, Inc. (GROWS Landfill).	OP–09–0007	Bucks	12/19/97 7/17/01	10/30/01; 66 FR 54699.	(c)(179)(i)(B)(*7*).
Koppel Steel Corporation—Ambridge Plant.	OP–04–000–227	Beaver	10/12/00	10/15/01; 66 FR 52317.	(c)(180)(i)(B).
General Motors Corporation	CO–243	Allegheny	8/27/96	10/15/01; 66 FR 52327.	(c)(181)(i)(B)(*1*).
Oakmont Steel, Inc	CO–226	Allegheny	5/14/96	10/15/01; 66 FR 52327.	(c)(181)(i)(B)(*2*).
The Peoples Natural Gas Co	CO–240	Allegheny	8/27/96	10/15/01; 66 FR 52327.	(c)(181)(i)(B)(*3*).
U.S. Bureau of Mines	EO–215	Allegheny	3/8/96	10/15/01; 66 FR 52327.	(c)(181)(i)(B)(*4*).
Waste Management Disposal Services of Pennsylvania (Pottstown Landfill).	OP–46–0033	Montgomery	4/20/99	10/30/01; 66 FR 54704.	(c)(182)(i)(B)(*1*).
FPL Energy MH50, LP (Sunoco, Inc. (R&M)).	PA–23–0084	Delaware	7/26/99	10/30/01; 66 FR 54704.	(c)(182)(i)(B)(*2*).
Exelon Generation Company—(PECO)—Richmond Generating Station.	PA–51–4903	Philadelphia	7/11/01	10/30/01; 66 FR 54704.	(c)(182)(i)(B)(*3*).
Jefferson Smurfit Corp./Container Corp. of America.	PLID (PA–51–)1566	Philadelphia	4/10/95	10/31/01; 66 FR 54947.	(c)(184)(i)(B)(*1*).
Maritank Philadelphia, Inc	PLID (PA–51–)5013	Philadelphia	12/28/95	10/31/01; 66 FR 54947.	(c)(184)(i)(B)(*2*).
Moyer Packing Company	OP–46–0001	Montgomery	3/15/96	10/31/01; 66 FR 54947.	(c)(184)(i)(B)(*3*).
Tullytown Resource Recovery Facility (Waste Management of Pa., Inc.).	OP–09–0024	Bucks	7/14/97	10/31/01; 66 FR 54947.	(c)(184)(i)(B)(*4*).
SPS Technologies, Inc	OP–46–0032	Montgomery	10/30/97	10/31/01; 66 FR 54947.	(c)(184)(i)(B)(*5*).

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
PECO Energy Company	OP–09–0077	Bucks	12/19/97	10/31/01; 66 FR 54947.	(c)(184)(i)(B)(*6*).
Philadelphia Gas Works—Richmond Plant.	PA–51–4922	Philadelphia	7/27/99	10/31/01; 66 FR 54947.	(c)(184)(i)(B)(*7*).
Exelon Generation Company—Delaware Generating Station.	PA–51–4901	Philadelphia	7/11/01	10/31/01; 66 FR 54947.	(c)(184)(i)(B)(*8*).
Exelon Generation Company—Schuylkill Generating Station.	PA–51–4904	Philadelphia	7/11/01	10/31/01; 66 FR 54947.	(c)(184)(i)(B)(*9*).
International Business Systems, Inc	OP–46–0049	Montgomery	10/29/98	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*1*).
Bethlehem Lukens Plate	OP–46–0011	Montgomery	12/11/98	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*2*).
Montenay Montgomery Limited Partnership.	OP–46–0010A	Montgomery	4/20/99 6/20/00	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*3*).
Northeast Foods, Inc. (Bake Rite Rolls)	OP–09–0014	Bucks	4/9/99	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*4*).
Aldan Rubber Company	PA–(51–)1561	Philadelphia	7/21/00	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*5*).
Braceland Brothers, Inc	PA–(51–)3679	Philadelphia	7/14/00	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*6*).
Graphic Arts, Incorporated	PA–(51–)2260	Philadelphia	7/14/00	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*7*).
O'Brien (Philadelphia) Cogeneration, Inc.—Northeast Water Pollution Control Plant.	PA–(51–)1533	Philadelphia	7/21/00	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*8*).
O'Brien (Philadelphia) Cogeneration, Inc.—Southwest Water Pollution Control Plant.	PA–(51–)1534	Philadelphia	7/21/00	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*9*).
Pearl Pressman Liberty	PA–(51–)7721	Philadelphia	7/24/00	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*10*).
Arbill Industries, Inc	PA–51–3811	Philadelphia	7/27/99	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*11*).
McWhorter Technologies, Inc	PA–51–3542	Philadelphia	7/27/99	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*12*).
Northeast Water Pollution Control Plant	PA–51–9513	Philadelphia	7/27/99	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*13*).
Newman and Company	PLID (51–)3489	Philadelphia	6/11/97	10/30/01; 66 FR 54691.	(c)(185)(i)(B)(*14*).
Allegheny Ludlum Steel Corporation	(OP–)65–000–137	Westmoreland	5/17/99	10/19/01; 66 FR 53090.	(c)(186)(i)(B)(*1*).
INDSPEC Chemical Corporation	PA10–021	Butler	10/19/98	10/19/01; 66 FR 53090.	(c)(186)(i)(B)(*2*).
Stoney Creek Technologies, L.L.C	PA–23–0002	Delaware	2/24/99	11/5/01; 66 FR 55880.	(c)(187)(i)(B)(*1*).
Superpac, Inc	OP–09–0003	Bucks	3/25/99	11/5/01; 66 FR 55880.	(c)(187)(i)(B)(*2*).
Transit America, Inc	PLID (51–)1563	Philadelphia	6/11/97	11/5/01; 66 FR 55880.	(c)(187)(i)(B)(*3*).
American Bank Note Company	OP–46–0075	Montgomery	5/19/97 8/10/98	11/5/01; 66 FR 55880.	(c)(187)(i)(B)(*4*).
Atlas Roofing Corporation—Quakertown	OP–09–0039	Bucks	3/10/99	11/5/01; 66 FR 55880.	(c)(187)(i)(B)(*5*).
Beckett Corporation	OP–15–0040	Chester	7/8/97	11/5/01; 66 FR 55880.	(c)(187)(i)(B)(*6*).
Klearfold, Inc	OP–09–0012	Bucks	4/15/99	11/5/01; 66 FR 55880.	(c)(187)(i)(B)(*7*).
National Label Company	OP–46–0040	Montgomery	7/28/97	11/5/01; 66 FR 55880.	(c)(187)(i)(B)(*8*).
Bethlehem Steel Corporation	OP–22–02012	Dauphin	4/9/99	5/23/02; 67 FR 36108.	(c)(191).
Hershey Chocolate USA	OP–22–2004A	Dauphin	1/24/00	6/26/02; 67 FR 43002.	(c)(194)(i)(B)(*1*).
Pennsylvania Power Company New Castle Plant.	OP–37–0023	Lawrence	4/8/99	6/26/02; 67 FR 43002.	(c)(194)(i)(B)(*2*).
Lafarge Corporation	OP–39–0011B	Lehigh	5/19/97	4/1/03; 68 FR 15661.	(c)(196)(i)(B)(*1*).
The Peoples Natural Gas Company	(OP–)11–000–356	Cambria	11/23/94	4/1/03; 68 FR 15661.	(c)(196)(i)(B)(*2*).

(1) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Horsehead Resource Development Company, Inc.	OP–13–0001	Carbon	5/16/95	4/1/03; 68 FR 15661.	(c)(196)(i)(B)(*3*).
Williams Generation Company—Hazelton.	OP–40–0031A	Luzerne	3/10/00	4/1/03; 68 FR 15661.	(c)(196)(i)(B)(*4*).
Pennsylvania Power and Light Company, Holtwood Steam Electric Station.	PA–36–2016	Lancaster	5/25/95	4/1/03; 68 FR 15661.	(c)(196)(i)(B)(*5*).
General Electric Transportation Systems	OP–25–025A	Erie	8/26/02	4/7/03; 68 FR 16724.	(c)(198)(i)(B).
Bethlehem Structural Products Corporation.	OP–48–0013	Northampton	10/24/96	5/2/03; 68 FR 23404.	(c)(200)(i)(B)(*1*).
International Paper Company, Erie Mill	PA–25–028	Erie	12/21/94	5/2/03; 68 FR 23404.	(c)(200)(i)(B)(*2*).
National Fuel Gas Supply—Heath Compressor Station.	PA–33–144A	Jefferson	10/5/98	5/2/03; 68 FR 23404.	(c)(200)(i)(B)(*3*).
PPG Industries, Inc	OP–20–145	Crawford	5/31/95	3/24/03; 68 FR14154.	(c)(201)(i)(B).
Dominion Trans., Inc.—Finnefrock Station.	Title V–18–00005	Clinton	2/16/00	5/7/03; 68 FR 24365.	(c)(202)(i)(B)(*1*).
Textron Lycoming—Oliver Street Plant	Title V–41–00005	Lycoming	1/12/01	5/7/03; 68 FR 24365.	(c)(202)(i)(B)(*2*).
Lafayette College, Easton Campus	OP–48–0034	Northampton	8/18/97	5/20/03; 68 FR 27471.	(c)(205)(i)(B).
Keystone Carbon Company	OP–24–016	Elk	5/15/95	10/17/03; 68 FR 59741.	(c)(207)(i)(B)(*1*).
Mack Trucks, Inc	OP–39–0004	Northampton	5/31/95	10/17/03; 68 FR 59741.	(c)(207)(i)(B)(*1*).
Owens-Brockway Glass Container, Inc	OP–33–033	Jefferson	3/27/95	10/17/03; 68 FR 59741.	(c)(207)(i)(B)(*1*).
Resilite Sport Products, Inc	OP–49–0003	Northumberland	12/3/96	10/17/03; 68 FR 59741.	(c)(207)(i)(B)(*1*).
Westfield Tanning Company	OP–59–0008	Tioga	11/27/96	10/17/03; 68 FR 59741.	(c)(207)(i)(B)(*1*).
Tarkett, Incorporated	OP–39–0002	Lehigh	5/31/95	8/6/03 68 FR 46487	(c)(208)(i)(B)(*1*).
Hacros Pigments, Inc	OP–48–0018	Northampton	7/31/96	8/6/03; 68 FR 46487.	(c)(208)(i)(B)(*2*).
GPU Generation Corp., Homer City Station.	(OP–)32–000–055	Indiana	10/29/98	10/15/03; 68 FR 59321.	(c)(212)(i)(B)(*1*).
GPU Generation Corp., Seward Station	(OP–)32–000–040	Indiana	4/30/98	10/15/03; 68 FR 59321.	(c)(212)(i)(B)(*2*).
Ebensburg Power Company, Ebensburg Cogeneration Plant.	(OP–)11–000–318	Cambria	3/28/01	10/15/03; 68 FR 59321.	(c)(212)(i)(B)(*3*).
Sithe Pennsylvania Holdings, LLC, Warren Station.	OP–62–012B	Warren	1/20/00	10/15/03; 68 FR 59321.	(c)(212)(i)(B)(*4*).
Pennsylvania Power & Light Company, Sunbury SES.	OP–55–0001A	Snyder	7/7/97	10/15/03; 68 FR 59321.	(c)(212)(i)(B)(*5*).
Lakeview Landfill	OP–25–920	Erie	5/29/97	10/15/03; 68 FR 59321.	(c)(212)(i)(B)(*6*).
National Fuel Gas Supply Corp.—Roystone Compressor Station.	OP 62–141F	Warren	4/1/0369	10/27/04; FR 62583	(c)(213)(i)(B)(*1*).
Crompton Corporation, Fairview Township.	OP–10–037	Butler	6/4/03	5/25/04; 69 FR 29444.	(c)(213)(i)(B)(*2*).
Andritz, Inc	41–00010C	Lycoming	4/30/03	10/15/03; 68 FR 59318.	(c)(214)(i)(B)(*1*).
Brodart Company	18–0007A	Clinton	4/8/03	10/15/03; 68 FR 59318.	(c)(214)(i)(B)(*2*).
Erie Sewer Authority	OP–25–179	Erie	6/5/03	10/15/03; 68 FR 59318.	(c)(214)(i)(B)(*3*).
Hercules Cement Company	OP–48–0005A	Northampton	4/16/99	11/24/03; 68 FR 65846.	(c)(217)(i)(B).
Tennessee Gas Pipeline Company, Station 321.	OP 58–00001A	Susquehanna	4/16/98	10/27/04; 69 FR 62585.	(c)(218)(i)(B)(*1*); The SIP effective date is 12/27/04.
Tennessee Gas Pipeline Company, Station 219.	OP 43–0272	Mercer	4/7/99	10/27/04; 69 FR 62585.	(c)(218)(i)(B)(*2*); The SIP effective date is 12/27/04.

(2) EPA-APPROVED VOLATILE ORGANIC COMPOUNDS (VOC) EMISSIONS TRADING PROGRAMS

Name of source	Permit Number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
National Can Company Fres-co Systems, USA Inc. Paramount Packaging Corp.	85–524; 85–525	Bucks	3/1/85	4/21/88; 53 FR 13121.	(c)(68); transfer of offsets from NCCo to Fres-co and Paramount.

(3) EPA-APPROVED SOURCE SPECIFIC SULFUR DIOXIDE (SO_2) REQUIREMENTS

Name of source	Permit Number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
USX Corporation, Clairton Coke Works	200	Allegheny	11/17/94	8/18/95; 60 FR 43012.	(c)(99).
Reliant Energy Mid-Atlantic Power Holdings LLC, Warren Generating Station.	SO2–62–00012	Warren	11/21/01	1/17/03; 68 FR 2459.	(c)(190)(i)(C)(1).
United Refining Company	SO2–62–017E	Warren	6/11/01	1/17/03; 68 FR 2459.	(c)(190)(i)(C)(2).
Trigen-Philadelphia Energy Corporation	SO2–95–002	Philadelphia	7/27/00	9/9/02; 67 FR 57155.	(c)(193)(i)(B)(*1*).
Grays Ferry Cogeneration Partnership	SO2–95–002A	Philadelphia	7/27/00	9/9/02; 67 FR 57155.	(c)(193)(i)(B)(*2*).
PECO Energy Company, Schuylkill Generating Station.	SO2–95–006	Philadelphia	7/27/00	9/9/02; 67 FR 57155.	(c)(193)(i)(B)(*3*).
Sunoco, Inc. (R&M) Philadelphia Refinery.	SO2–95–039	Philadelphia	7/27/00	9/9/02; 67 FR 57155.	(c)(193)(i)(B)(*4*).

(4) EPA-APPROVED SOURCE SPECIFIC LEAD (PB) REQUIREMENTS

Name of source	Permit Number	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
East Penn Manufacturing Corp.	[None]	Berks	5/29/84	7/27/84; 49 FR 30179.	(c)(62).
General Battery Corporation	[None]	Berks	5/29/84	7/27/84; 49 FR 30179.	(c)(62).
Tonolli Corporation (Closed)	[None]	Carbon	5/29/84	7/27/84; 49 FR 30179.	(c)(62).
Franklin Smelting and Refining Corporation.	[None]	Philadelphia	9/21/94	12/20/96; 61 FR 67275.	(c)(112).
MDC Industries, Inc	[None]	Philadelphia	9/21/94	12/20/96; 61 FR 67275.	(c)(112).
Anzon, Inc	[None]	Philadelphia	9/21/94	12/20/96; 61 FR 67275.	(c)(112).

(e) *EPA-approved nonregulatory and quasi-regulatory material.*

(1) EPA-APPROVED NONREGULATORY AND QUASI-REGULATORY MATERIAL

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Sulfur Dioxide Attainment Demonstration	Conewego, Pleasant, and Glade Townships; City of Warren (Warren Co.).	8/20/01	1/17/03; 68 FR 2454.	52.2033(b).
Sulfor Dioxide Attainment Demonstration	Allegheny County-sulfur dioxide area defined in 40 CFR 81.339.	8/15/03	7/21/04; 69 FR 43522.	52.2033(c).
Photochemical Assessment Monitoring Stations (PAMS) Program.	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	9/23/04	9/11/05; 60 FR 47081.	52.2035.
1990 Base Year Emission Inventory—Carbon Monoxide.	Philadelphia County	9/8/95; 10/30/95	1/30/96; 61 FR 2982.	52.2036(a).
1990 Base Year Emission Inventory—VOC.	Pittsburgh-Beaver Valley Ozone Nonattainment Area.	3/22/96; 2/18/97; 7/22/98	4/3/01; 66 FR 17634.	52.2036(d).

(1) EPA-APPROVED NONREGULATORY AND QUASI-REGULATORY MATERIAL—Continued

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
1990 Base Year Emission Inventory—VOC, CO, NO_X.	Reading Area (Berks County)	1/28/97	5/7/97; 62 FR 24846.	52.2036(e).
1990 Base Year Emission Inventory—VOC.	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	9/12/96	6/9/97; 62 FR 31343.	52.2036(i).
1990 Base Year Emission Inventory—NO_X.	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	7/31/98	6/17/99; 64 FR 32422.	52.2036(l).
1990 Base Year Emission Inventory—NO_X.	Pittsburgh-Beaver Valley Ozone Nonattainment Area.	3/22/96; 2/18/97	10/19/01; 66 FR 53094.	52.2036(m).
1990 Base Year Emission Inventory-Carbon Monoxide.	City of Pittsburgh-CBD & Oakland	11/12/92; 8/17/01	11/12/02; 67 FR 68521.	52.2036(n).
Post 1996 Rate of Progress Plan	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	7/31/98; 2/25/00	10/26/01; 66 FR 54143.	52.2037(i).
One-Hour Ozone Attainment Demonstration.	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	4/30/98; 8/21/98; 2/25/00; 7/19/01	10/26/01; 66 FR 54143.	52.2037(j).
Mobile Budgets for Post-1996 and 2005 attainment plans.	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	2/25/00	10/26/01; 66 FR 54143.	52.2037(k).
51% Rate of Progress Plan	Pittsburgh-Beaver Valley Ozone Nonattainment Area.	3/22/96; 2/18/97; 7/22/98;	4/3/01; 66 FR 17634.	52.2038(a).
15% Rate of Progress Plan	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	9/12/96; 4/10/97; 6/5/98	8/24/01; 66 FR 44547.	52.2038(b).
Control of Asphalt Paving Material (Emission offset).	Defined 16-county area in Western PA and Southwestern PA.	5/20/77; 7/15/77	10/6/77; 42 FR 54417.	52.1120(c)(15) [1]; 52.2054.
Particulate matter SIP	Allegheny County-Clairton PM_{10}	1/6/94	9/8/98; 63 FR 47434.	52.2059.
Small Business Assistance Program	Statewide	2/1/93	1/6/95; 60 FR 1738	52.2060.
Source Testing Manual	Allegheny County	9/10/79	10/21/81; 46 FR 51607.	52.2063(c)(4).
Ozone Nonattainment Plan	Statewide	4/24/79	5/20/80; 46 FR 33607.	52.2063(c)(22).
Non-regulatory measures	Southwest Pa. AQCR	9/17/79	5/20/80; 46 FR 33607.	52.2063(c)(30).
Air Quality Monitoring Network	Statewide (except Allegheny County)	1/25/80	8/5/81; 46 FR 39822.	52.2063(c)(34).
Attainment plan for sulfur dioxide	Armstrong County	4/9/81	8/18/81; 46 FR 43423.	52.2063(c)(36).
Air Quality Monitoring Network	Allegheny County	12/24/80	9/15/81; 46 FR 45762.	52.2063(c0(38).
Expanded Ridesharing Program	Metro. Philadelphia AQCR	12/9/81	10/7/82; 47 FR 44259.	52.2063(c)(46).
Lead (Pb) SIP	Allegheny County	9/6/83	2/6/84; 49 FR 4379	52.2063(c)(59).
Lead (Pb) SIP	Philadelphia	8/29/83; 5/15/84	8/1/84; 49 FR 30696.	52.2063(c)(61).
Lead (Pb) SIP	Statewide (except Philadelphia and Allegheny Counties).	9/30/82; 6/8/84	7/27/84; 49 FR 30179.	52.2063(c)(62).
Ozone and Carbon Monoxide Plan	Metro. Philadelphia AQCR	6/30/82; 10/24/83	2/26/85; 45 FR 7772.	52.2063(c)(63).
Ozone and Carbon Monoxide Plan	Southwestern Pa. AQCR	6/30/82; 10/24/83	2/26/85; 45 FR 7772.	52.2063(c)(63).
Ozone and Carbon Monoxide Plan	Allentown-Bethlehem-Easton Air Basin	6/30/82; 10/24/83	2/26/85; 45 FR 7772.	52.2063(c)(63).
Carbon Monoxide Maintenance Plan	Philadelphia County	9/8/95; 10/30/95	1/30/96; 61 FR 2982.	52.2063(c)(105).
Source Testing Manual	Statewide	11/26/94	7/30/96; 61 FR 39497.	52.2063(c)(110)(i)(D); cross-referenced in Section 139.5.
Continuous Source Testing Manual	Statewide	11/26/94	7/30/96; 61 FR 39497.	52.2063(c)(110)(i)(D); cross-referenced in Section 139.5.
Ozone Maintenance Plan	Reading Area (Berks County)	1/28/97	5/7/97; 62 FR 24846.	52.2063(c)(123).
Ozone Maintenance Plan	Pittsburgh-Beaver Valley Ozone Nonattainment Area.	5/21/01	10/19/01; 66 FR 53094.	52.2063(c)(188).
		4/11/03	8/5/03; 68 FR 46099.	52.2063(c)(210).

(1) EPA-APPROVED NONREGULATORY AND QUASI-REGULATORY MATERIAL—Continued

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
		4/22/04	12/10/04; 69 FR 71212.	52.2063(c)(226); The SIP effective date is 1/10/05.
Carbon Monoxide Maintenance Plan	City of Pittsburgh-CBD & Oakland	8/17/01	11/12/02; 67 FR 68521.	52.2063(c)(189).
PM_{10} Maintenance Plan	Allegheny County-Clairton PM_{10} non-attainment area.	9/14/02	9/11/03; 68 FR 53515.	52.2063(c)(215).
Sulfur Dioxide Maintenance Plan	Allegheny County-sulfur dioxide area defined in 40 CFR 81.339.	8/15/03	7/21/04; 69 FR 43522.	52.2063(c)(216)(i)(B).
Sulfur Dioxide Maintenance Plan	Conewego, Pleasant, and Glade Townships; City of Warren (Warren Co.).	5/7/04	7/1/04; 69 FR 39860.	52.2063(c)(224).

[1] Because of an editing error, this section was placed in the wrong subpart of 40 CFR part 52 (subpart W instead of subpart NN), and subsequently removed. However, EPA considers this provision to be a current Federally-enforceable portion of the SIP. The ''removed'' paragraph reads as follows: ''Pennsylvania Department of Transportation change to section 7.5.9.8 of the Paving Maintenance Manual creditable as emission offsets submitted by the Secretary of the Pennsylvania Department of Environmental Resources on July 15, 1997, as addenda to the Pennsylvania Air Quality Implementation Plan.''

(2) EPA-APPROVED SOURCE-SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NOX) NOT INCORPORATED BY REFERENCE

Name of source	Permit No.	County	State submittal date	EPA approval date	Additional explanation/ § 52.2063 citation
USX Corp./U.S. Steel Group—Fairless Hills.	09–0006	Bucks	8/11/95 11/15/95	04/09/96; 61 FR 15709.	52.2036(b); 52.2037(c); source shutdown date is 8/1/91.
General Glass—Jeannette	65–0675	Westmoreland	7/5/95	05/16/96; 61 FR 24727.	52.2036(c); 52.2037(d).
Sharon Steel Company	43–0017	Mercer	12/8/95	12/20/96; 61 FR 67275.	52.2036(f); 52.2037(e).
R.R. Donnelley and Sons Co.—Lancaster East Plant.	36–2027	Lancaster	9/20/95	07/21/97; 62 FR 33891.	52.2036(j).
Rockwell Heavy Vehicle, Inc.—New Castle Forge Plant.	37–065	Lawrence	4/8/98	04/16/99; 64 FR 18818.	52.2036(k); source shutdown date is 4/1/93.
Pennsylvania Electric Co.—(PENELEC)—Williamsburg Station.	07–2006	Blair	8/1/95	12/20/96; 61 FR 67275.	52.2037(f); 52.2063(c)(113)(i)(A) & (ii)(A).
Caparo Steel Company	43–0285	Mercer	12/8/95	12/20/96; 61 FR 67275.	52.2037(g).
Mercerburg Tanning Co.	28–2008	Franklin	4/26/95	03/12/97; 62 FR 11079.	52.2037(h); 52.2063(c)(114)(i)(A)(3) & (ii)(A).
Duquesne Light Co.—Brunot Island Station.	214	Allegheny	3/5/01	10/18/01; 66 FR 52867.	52.2063(c)(161)(ii)(A).
Duquesne Light Co.—Phillips Station	212	Allegheny	4/15/99	10/18/01; 66 FR 52867.	52.2063(c)(161)(ii)(B).

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Part III

Department of Housing and Urban Development

24 CFR Part 1000

Native American Housing Assistance and Self-Determination Act (NAHASDA); Revisions to the Indian Housing Block Grant Program Formula; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 1000

[Docket No. FR–4938–P–01; HUD–2005–0003]

RIN 2577–AC57

Native American Housing Assistance and Self-Determination Act (NAHASDA); Revisions to the Indian Housing Block Grant Program Formula

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would make several revisions to the Indian Housing Block Grant (IHBG) Program allocation formula authorized under section 302 of the Native American Housing Assistance and Self-Determination Act of 1996. Through the IHBG Program, HUD provides Federal housing assistance for Indian tribes in a manner that recognizes the right of Indian self-determination and tribal self-government. HUD negotiated the proposed rule with active tribal participation and using the procedures of the Negotiated Rulemaking Act of 1990. The proposed regulatory changes reflect the consensus decisions reached by HUD and the tribal representatives on ways to improve and clarify the current regulations governing the IHBG Program formula.

DATES: *Comment Due Date:* April 26, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Electronic comments may be submitted through either:

- The Federal eRulemaking Portal: at *www.regulations.gov*; or
- The HUD electronic Web site at: *www.epa.gov/feddocket.* Follow the link entitled ''View Open HUD Dockets.'' Commenters should follow the instructions provided on that site to submit comments electronically.

Facsimile (fax) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Copies are also available for inspection and downloading at *www.epa.gov/feddocket.*

FOR FURTHER INFORMATION CONTACT: Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, Room 4126, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–5000, telephone, (202) 401–7914 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (NAHASDA) changed the way that housing assistance is provided to Native Americans. NAHASDA eliminated several separate assistance programs and replaced them with a single block grant program, known as the Indian Housing Block Grant (IHBG) Program. NAHASDA and its implementing regulations recognize tribal self-determination and self-governance while establishing reasonable standards of accountability.

The regulations governing the IHBG Program are located in part 1000 of HUD's regulations in title 24 of the Code of Federal Regulations. The part 1000 regulations were established as part of a March 12, 1998 final rule implementing NAHASDA. In accordance with section 106 of NAHASDA, HUD developed the March 12, 1998, final rule with active tribal participation and using the procedures of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561–570). The basic concept of negotiated rulemaking is to have the agency that is considering drafting a rule bring together representatives of the agency and affected interests for face-to-face negotiations. HUD has issued a limited number of changes to the March 12, 1998, final rule since publication of the final rule.

Under the IHBG Program, HUD makes assistance available to eligible Indian tribes for affordable housing activities. The amount of assistance made available to each Indian tribe is determined using a formula that was developed as part of the NAHASDA negotiated rulemaking process (IHBG Formula). A regulatory description of the IHBG Formula is located in subpart D of 24 CFR part 1000 (§§ 1000.301–1000.340). Under section 302 of NAHASDA, the allocation formula must be based on factors that reflect the need of Indian tribes for affordable housing activities. In implementing the need-based IHBG Formula, the negotiated rulemaking committee concluded that tribal need would most appropriately be measured by two components: Need and Formula Current Assisted Stock (FCAS). Generally, the amount of annual funding for an Indian tribe is the sum of the Need component (subject to a minimum funding amount authorized by § 1000.328) and the FCAS component. Based on the amount of funding appropriated annually for the IHBG Program, HUD calculates the annual grant for each Indian tribe and provides this information to the Indian tribes. An Indian Housing Plan (IHP) for the Indian tribe is then submitted to HUD. If the IHP is found to be in compliance with statutory and regulatory requirements, the grant is made.

II. The IHBG Formula Negotiated Rulemaking Committee

Section 1000.306 of the IHBG Program regulations provides that the IHBG Formula shall be reviewed within five years after issuance. On July 16, 2001 (66 FR 37098) and July 5, 2002 (67 FR 44787), HUD published notices in the **Federal Register** announcing HUD's intent to establish a negotiated rulemaking committee for the purposes of reviewing the regulations at 24 CFR part 1000, subpart D, and negotiating recommendations for a possible proposed rule modifying the IHBG Formula. These notices also solicited public comments on the proposed membership of the Committee, and explained how persons could be nominated for membership. On January 22, 2003 (68 FR 3112), HUD published an additional **Federal Register** notice, announcing the list of proposed members for the negotiated rulemaking committee and requesting additional public comment on the proposed membership.

On April 8, 2003 (68 FR 17000), HUD published a notice in the **Federal Register** announcing the establishment of its IHBG Formula Negotiated Rulemaking Committee (Committee) and announcing the final list of Committee members. The Committee membership consisted of 24 elected officers of tribal governments (or authorized designees of those tribal governments). The Committee membership reflected a balanced representation of Indian tribes, both geographically and based on size. In addition to the tribal members, there were two HUD representatives on the Committee.

The first meeting of the Committee took place in April 2003 and continued to meet thereafter on approximately a monthly basis. The Committee met a total of seven times, with the final meeting being held in January 2004. The Committee agreed to operate based on consensus rulemaking and its approved charter and protocols. HUD committed to using, to the maximum extent feasible consistent with its legal obligations, all consensus decisions as the basis for the proposed rule. When an issue was raised for consensus, only those members objecting to the proposed change were asked to raise their hands. Silence indicated that the Committee member did not wish to object to the proposal. The Committee's premise was that existing regulations were sufficient if not amended by consensus of the full Committee.

The Committee divided itself into two workgroups to analyze specified provisions of the IHBG Formula and to draft any new or revised regulatory language it believed was necessary. The workgroups were not authorized to reach any final or binding decisions but, rather, reported to the full Committee. One workgroup was responsible for analyzing the regulations for the Need component, while the other group reviewed the provisions regarding the FCAS component. The draft regulatory language developed by the workgroups was then brought before the full Committee for review, amendment, and approval. Also, some issues discussed by the workgroups, but not agreed upon, were also raised by the Committee members for consideration by the full Committee. In some cases, ideas were brought forward for Committee consideration without accompanying draft language and consensus was reached with the understanding that a drafting workgroup would subsequently craft the language to effect the desired change. The meetings were divided between workgroup sessions, at which regulatory language and proposals were developed. Full Committee sessions were held to discuss the draft regulations produced by the workgroups. It was the Committee's policy to provide for public participation in the rulemaking process. All of the Committee sessions were announced in the **Federal Register** and were open to the public, and interested members of the public actively participated in the workgroup sessions.

Subsequent to the conclusion of the Committee meetings, two additional workgroups were established. One workgroup was assigned the task of reviewing the approved regulatory language for content, format, style, and consistent use of terminology. The second workgroup was charged with developing the preamble to this proposed rule. The membership of both workgroups consisted of HUD and tribal representatives.

III. This Proposed Rule

The Committee undertook a comprehensive review of the IHBG Formula, and thoroughly analyzed all aspects of both the Need and FCAS components. The Committee identified certain areas of the IHBG Formula that required clarification, were outdated, or were not operating as intended by the original negotiated rulemaking committee. This proposed rule reflects the consensus decisions reached by the Committee during the negotiated rulemaking process on the best way to address these issues. The following section of this preamble provides a summary of the recommended changes to the IHBG Formula by this proposed rule. HUD welcomes public comment on the proposed regulatory changes. The Committee will consider all comments in the development of the final rule.

A. Definition of Formula Area

This proposed rule would revise the definition of the term ''Formula Area'' located in § 1000.302. Section 1000.302 contains the definitions that apply to the IHBG Formula. Several of the proposed changes are editorial and non-substantive, and are designed to clarify the current definition. Other proposed revisions are more substantive and expand upon current regulatory language. Specifically, the proposed rule would define the term ''Formula Area'' to mean:

1. Reservations for federally recognized Indian tribes, as defined by the U.S. Census;
2. Trust lands;
3. Department of the Interior Near-Reservation Service Area;
4. Former Indian Reservation Areas in Oklahoma Indian Areas, as defined by the U.S. Census as Oklahoma Tribal Statistical Areas (OTSAs);
5. Congressionally Mandated Service Areas;
6. State Tribal Areas as defined by the U.S. Census as State Designated American Indian Statistical Areas (SDAISAs);
7. Tribal Designated Statistical Areas (TDSAs);
8. California Tribal Jurisdictional Areas established or reestablished by federal court judgment; and
9. Alaska formula areas (which are further defined by the proposed rule, as described in section II.B. of this preamble below).

The proposed rule would contain a ''grandfather'' provision that ensures Indian tribes will continue to be assigned their current Formula Area despite the proposed changes to the definition. The ''grandfather'' provision would apply to Indian tribes assigned a Formula Area that is not included within the geographies listed above. Specifically, the proposed rule provides that such a federally recognized Indian tribe will continue to be assigned the Formula Area geography it was assigned in Fiscal Year 2003, provided that the Indian tribe continues to provide an appropriate level of housing services within the Formula Area. HUD will monitor the level of housing assistance provided by the Indian tribe using the new proposed definition of the term ''substantial housing services'' as a guideline but not a requirement (see section III.E. of this preamble for more information regarding the definition of ''substantial housing services'').

To reflect special circumstances within OTSAs, the rule would authorize a challenge by such tribes to the ''grandfathering'' of current Formula Areas. This language was added to reflect possible challenges regarding Formula Areas in Oklahoma. The grandfather provision, however, would not apply in Alaska.

B. Definition of Alaska Formula Area

Given the unique circumstances of Indian tribes in Alaska, the proposed rule would establish a separate provision clarifying how the Formula Area for these tribes will be determined. The proposed rule provides that Alaska needs data shall be credited, as currently described in § 1000.327 of the IHBG Program regulations, to the Alaska Native Village (ANV), the regional Indian tribe, or to the regional corporation established pursuant to the Alaska Native Claims Settlement Act (33 U.S.C. 1601 *et seq.*) (ANCSA).

The Formula Area of the ANV shall be the geographic area of the village or that area delineated by the TDSA established for the ANV for purposes of the 1990 U.S. Census or the Alaska Native Village Statistical Area (ANVSA) established for the ANV. To the extent the area encompassed by such designation may substantially exceed the actual geographic area of the village, such designation is subject to challenge pursuant to revised § 1000.336 (see section III.L. of this preamble below). If the ANVSA or the TDSA is determined pursuant to such challenge to substantially exceed the actual area of the village, then the geographic formula area of the ANV for purposes of § 1000.327 shall be such U.S. Census

designation as most closely approximates the actual geographic area of the village. The Formula Area of the regional corporation shall be the area established for the corporation by the ANCSA.

An Indian tribe may seek to expand its Alaska Formula Area within its ANCSA region pursuant to the proposed new procedures described in section III.D. of this preamble. Formula Area added in this way shall be treated as overlapping pursuant to § 1000.326 of the IHBG Program regulations, unless the Indian tribe's members in the expanded area is less than 50 percent of the American Indian/Alaska Native (AIAN) population. In cases where the Indian tribe is not treated as overlapping, the tribe shall be credited with population and housing data only for its own tribal members resident within the new or added area. All other population and housing data for the area shall remain with the Indian tribe or tribes previously credited with such data.

C. Population Cap in Determining Formula Area

The proposed rule would retain the existing ''cap'' on the population data that will be attributed to an Indian tribe within its Formula Area. The Committee determined that the cap was necessary to maintain fairness for all Indian tribes. In general, population data may not exceed twice an Indian tribe's enrolled population. However, the proposed rule continues to provide that an Indian tribe may exceed this cap under certain specified circumstances, and makes the following clarification to these requirements.

The clarification concerns state-recognized Indian tribes. The proposed rule provides that, for state-recognized tribes, the population data and formula allocation shall be limited to tribal enrollment figures as determined under enrollment criteria in effect in 1996. This provision is derived from the definition of state-recognized tribes in section 4(12)(C)(ii) of title I of NAHASDA, which states that the allocation for a state-recognized Indian tribe shall be determined based on tribal membership eligibility criteria in existence on the date of enactment of NAHASDA (October 26, 1996). The clarification is intended to ensure that state-recognized Indian tribes will not be credited for any new members who do not meet the enrollment criteria that was in place in 1996. However, it does not prohibit a state-recognized Indian tribe from being credited with new members who meet the enrollment criteria in place in 1996 and it does not freeze or grandfather a state-recognized Indian tribe's population data or formula allocation at 1996 levels.

D. Expansion and Re-Definition of Formula Areas

The proposed rule would establish new procedures governing the expansion or re-definition of an Indian tribe's Formula Area. The proposed requirements are designed to ensure that an Indian tribe seeking to include additional geography within its approved Formula Area has the authority to provide housing services within the new geography, and will serve the housing needs of Native Americans within the expanded Formula Area.

The Indian tribe must submit proof that it either: (1) Could exercise court jurisdiction within the new geography; or (2) is providing substantial housing services and will continue to expend or obligate funds for substantial housing services within the new geographic area. Further, where applicable, the Indian tribe must submit proof that it has agreed to provide housing services pursuant to a Memorandum of Agreement (MOA) with the tribal and public governing entity or entities of the area, or has attempted to establish such an MOA in good faith. The geographic area into which the Indian tribe may expand shall be the smallest U.S. Census unit or units that encompass the physical location of the substantial housing services that have been provided by the Indian tribe.

HUD will make a preliminary decision upon receipt of the tribal request for recognition of an expanded or re-defined Formula Area. HUD shall notify all potentially affected Indian tribes of the basis for its preliminary determination by certified mail and provide the Indian tribes with the opportunity to comment for a period of not less than 90 days. After consideration of the comments, HUD shall announce its final determination through **Federal Register** notice.

E. Definition of ''Substantial Housing Services''

As noted above in this preamble, this proposed rule would establish a new definition of the term ''substantial housing services'' that would be used in determining whether an Indian tribe may expand or re-define its Formula Area (see section II.D. of this preamble). The new definition would clarify these provisions of the IHBG Formula and help to ensure consistent administration of these program requirements.

In the case of the expansion or redefinition of the Formula Area, the term ''substantial housing services'' would mean affordable housing activities funded from any source provided to AIAN households with incomes 80 percent of the median income as defined in NAHASDA (25 U.S.C. 4103(14)) or lower, equivalent to 100 percent or more of the increase in the IHBG formula allocation that the Indian tribe would receive as a result of adding the proposed geography to its Formula Area. Alternatively, the term ''substantial housing services'' would mean affordable housing activities funded with IHBG funds provided to AIAN households with incomes 80 percent of the median income as defined in NAHASDA (25 U.S.C. 4103(14)) or lower, equivalent to 51 percent or more of the Indian tribe's current total IHBG grant, and either: (1) 51 percent or more of the Indian tribe's official enrollment resides within the geographic area; or (2) the Indian tribe's official enrollment constitutes 51 percent or more of the total AIAN persons within the geography.

HUD shall require that the Indian tribe annually provide written verification, on a form approved by HUD, that the affordable housing activities it is providing meet the proposed new definition of substantial housing services.

F. Use of U.S. Census Data for Determining Tribal Membership in Overlapping Formula Areas

The regulation at § 1000.326 specifies how IHBG funds will be allocated where the Formula Area of one or more tribes overlap. Among other factors, the allocation will be based upon the Indian tribe's proportional share of the population in the geographic area. Tribal membership in the geographic area (not including dually enrolled tribal members) will be based on data that all Indian tribes involved agree to use. The current regulation lists several suggested data sources, including tribal enrollment lists, Indian Health Service User Data, and Bureau of Indian Affairs data. This list is not exclusive, and the data used for this purpose has sometimes included U.S. Census data. For purposes of clarity, the proposed rule would expand the list of suggested data sources to explicitly include data from the U.S. Census.

G. Required Use of Formula Response Form for Reporting Changes to FCAS

The proposed rule would add a new § 1000.315 clarifying that the Formula Response Form is the only mechanism a recipient may use to report changes to the FCAS. This is the existing practice under the IHBG Program, and

codification of this policy will clarify that a recipient must use the Formula Response Form to report any changes to information related to the IHBG Formula.

Further, the proposed rule would add a new § 1000.319 that specifies what happens if a recipient misreports or fails to correct FCAS information on the Formula Response Form. Proposed § 1000.319 provides that if a recipient receives an overpayment of funds because it failed to report changes on the Formula Response Form in a timely manner, the recipient is required to repay the funds within five fiscal years. HUD shall subsequently distribute the funds to all Indian tribes in accordance with the next IHBG Formula allocation.

New § 1000.319 would also cover the issue of back funding for FCAS units that a recipient failed to report on the Formula Response Form in a timely manner. The proposed rule specifies that if a recipient subsequently seeks credit for those unreported units, the recipient will not be provided back funding for such units. HUD shall have three years from the date a Formula Response Form is sent out to take action against any recipient that fails to correct or make appropriate changes on that Formula Response Form.

The language of proposed new §§ 1000.315 and 1000.319 was adopted by the Committee based on HUD's agreement to provide back funding for any undercount of units that occurred and was reported or challenged prior to October 30, 2003. It was further agreed by the Committee that such back funding would be provided only after publication of a final rule adopting the policies contained in proposed §§ 1000.315 and 1000.319.

H. Calculating Operating Subsidy Component of FCAS

The proposed rule would make a minor, non-substantive modification to § 1000.316(a)(1) for purposes of clarity. The current language of the regulation provides that the first of the three variables comprising the operating subsidy component of FCAS is ''the number of low-rent FCAS units multiplied by the FY 1996 national per-unit subsidy (adjusted to full funding level) multiplied by an adjustment factor for inflation.'' The proposed rule would simplify this provision by establishing a separate definition of the term ''national per unit subsidy'' in § 1000.302, which contains the definitions applicable to the IHBG Program. Under the new definition, the term ''national per unit subsidy'' would be defined to mean the Fiscal Year 1996 national per unit subsidy (adjusted to full funding level) multiplied by an adjustment factor for inflation. Accordingly, § 1000.316(a)(1) would then be streamlined to provide that the operating subsidy component of FCAS is ''the number of low-rent FCAS units multiplied by the national per-unit subsidy.''

I. Calculating the FCAS Modernization Allocation for Indian Tribes That Owned or Operated Less Than 250 Public Housing Units Under the United States Housing Act of 1937

This proposed rule would implement a statutory amendment to NAHASDA made by the Omnibus Indian Advancement Act (Pub. L. 106–568, approved December 27, 2000) (Omnibus Act). Section 1003(g) of the Omnibus Act added a new subsection 302(d)(1)(B) to NAHASDA regarding operating and modernization funding for Indian tribes with Indian Housing Authorities (IHAs) that owned or operated fewer than 250 units developed under the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (1937 Act). Specifically, section 302(d)(1)(B) provides that in any fiscal year in which the total amount made available under the IHBG Program is equal to or greater than the amount made available in Fiscal Year 1996 for the operation and modernization of housing units developed under the 1937 Act, the modernization allocation provided to Indian tribes with IHAs that owned or operated fewer than 250 units shall equal the average annual funding provided to the Indian tribe under section 14 of the 1937 Act (other than funds provided for emergency assistance) for Fiscal Years 1992 through 1997. Section 14 of the 1937 Act, which has been repealed, formerly contained the requirements for public housing modernization.

The proposed rule would implement this statutory provision by revising § 1000.316(b), which concerns calculation of the modernization allocation of the FCAS component of the IHBG Formula. The substance of existing paragraph (b) would be re-designated as paragraph (b)(1), and would concern the calculation of the FCAS modernization allocation for Indian tribes with IHAs that owned or operated 250 or more public housing units on October 1, 1997. The modernization allocation for these Indian tribes will continue to equal the number of Low Rent, Mutual Help, and Turnkey III FCAS units multiplied by the national per unit amount of allocation for Fiscal Year 1996 modernization multiplied by an adjustment factor for inflation.

A new § 1000.316(b)(2) would be added to address section 302(d)(1)(B) of NAHASDA. New paragraph (b)(2) would provide that the FCAS modernization allocation for Indian tribes with an IHA that owned or operated fewer than 250 public housing units on October 1, 1997, shall equal the average amount of funds received under the assistance program authorized by section 14 of the 1937 Act (not including funds provided as emergency assistance) for Fiscal Years 1992 through 1997.

This proposed rule would also make a conforming change to § 1000.340, which concerns the funding of an Indian tribe that is allocated less funding under the IHBG Formula than it received in Fiscal Year 1996 for operating subsidy and modernization. Specifically, the proposed rule would designate the existing substance of § 1000.340 as paragraph (b) and add a new paragraph (a) that addresses the effect of the amendment to section 302(d) of NAHASDA.

New § 1000.340(a) provides that if an Indian tribe is allocated less funding under the modernization allocation of the IHBG Formula than the number of Low Rent, Mutual Help, and Turnkey III FCAS units multiplied by the national per unit amount of allocation for Fiscal Year 1996 modernization multiplied by an adjustment factor for inflation, its modernization allocation will be increased to that amount. The remaining grants would be adjusted to keep the allocation within available appropriations. The Committee determined that the change was required to ensure that all Indian tribes are treated equitably, and to maintain fairness in the allocation of IHBG funds.

J. Small Programs/Minimum Funding

The proposed rule would significantly revise the minimum funding provisions of § 1000.328. First, the proposed rule would remove the current provisions regarding the minimum IHBG Formula Need allocation for an Indian tribe in its first year of participation in the IHBG Program. Currently, the regulation provides for a minimum allocation of $50,000 for an Indian tribe in its first program year. The proposed change to § 1000.328 would treat all Indian tribes equally in setting a minimum amount of funding, regardless of their length of participation in the IHBG Program.

The proposed rule would also revise the minimum formula allocation an Indian tribe will receive under the Need component of the IHBG Formula after its first year of participation in the program. The regulation currently in effect provides that the minimum

amount an Indian tribe will receive under the Need component after its first year of participation in the program is $25,000. The proposed rule would replace this dollar amount with a percentage of the available fiscal year appropriations (after set asides). Specifically, under the proposed rule, the minimum allocation in any fiscal year to an Indian tribe under the Need component shall equal 0.007826% of the available appropriations for that fiscal year after set asides. The Committee chose this percentage because, if the provision were effective for Fiscal Year 2004, the minimum funding amount under the proposed rule would equal approximately $50,000. The Committee wished to set a percentage that reflected a minimum of approximately $50,000 based on current IHBG appropriations.

The use of a percentage rather than a fixed dollar amount will help to ensure that Indian tribes receiving minimum funding will benefit proportionally with other Indian tribes from any increases in Congressional appropriations over the coming years. Conversely, the use of a percentage will also ensure that any reductions in appropriations are shared on a proportional basis among all Indian tribes.

The proposed rule would also establish new eligibility requirements for minimum funding. The Indian tribe must receive less than $200,000 under the FCAS component for the fiscal year, and must demonstrate the presence of any households at or below 80 percent of median income. These eligibility requirements are designed to ensure that the minimum funding provisions benefit Indian tribes that would otherwise be unable to provide even minimal housing services, and that have a demonstrable need for such services.

K. Adjustment of Need Variables Using Census Birth and Death Data

The proposed rule would revise § 1000.330, which describes the data sources used for the Need component, to codify existing procedures regarding the annual adjustment of these data to reflect birth and death rates. Specifically, new § 1000.330(b) would specify that the data for the Need variables shall be adjusted annually beginning the year after the need data is collected, using Indian Health Service projections based upon birth and death rate data as provided by the National Center for Health Statistics.

L. Data Challenges and Appeal of HUD Formula Determinations

The proposed rule would clarify and elaborate upon existing § 1000.336, which describes the procedures that an Indian tribe, tribally designated housing entities (TDHE), and HUD may use to challenge data. As revised by this proposed rule, § 1000.336 would continue to authorize data challenges, but also provide for appeal of certain HUD formula determinations. Specifically, Indian tribes and TDHEs would be authorized to appeal formula determinations regarding, among others: (1) U.S. Census data; (2) tribal enrollment; (3) Formula Area; (4) FCAS; (5) Total Development Cost (TDC); (6) Fair Market Rents (FMRs); and (7) Indian Health Service projections based upon birth and death rate data provided by the National Center for Health Statistics. An Indian tribe, however, would not be permitted to challenge data or HUD formula determinations regarding Allowable Expense Level (AEL) and the inflation factor used to adjust AEL. As currently authorized for data challenges, the proposed rule would provide that the appeal of HUD formula determinations is an allowable cost for IHBG funds.

The proposed rule would also clarify that data used to challenge U.S. Census data must meet the requirements described in § 1000.330(a). Specifically, the data must be collected in a uniform manner that can be confirmed and verified for all AIAN households and persons living in an identified area. Further, the proposed rule would revise the date by which the data challenge must be submitted to HUD in order for a U.S. Census challenge to be considered for the upcoming fiscal year allocation. The current regulation establishes a June 15 deadline date. This proposed rule would require that the documentation be submitted by no later than March 15. The Committee decided to shorten the deadline after consideration of the time and resources required by HUD staff to process challenge requests in a timely manner and without delay to the calculation of formula allocations for all Indian tribes.

The proposed rule would continue to provide that HUD shall respond to all challenges or appeals not later than 45 days after receipt and either approve or deny the validity of such data or challenge to a formula determination. The proposed rule would clarify that HUD shall provide the Indian tribe with the reasons for its determination in writing. The proposed rule would continue to provide that in the event HUD challenges the validity of the submitted data, the Indian tribe or TDHE and HUD shall attempt in good faith to resolve any discrepancies so that such data may be included in the formula allocation. The proposed rule would also clarify the steps that HUD and Indian tribes must follow should they be unable to reach resolution on these issues. Specifically, should the Indian tribe or TDHE and HUD be unable to resolve any discrepancy within 30 calendar days of receipt of HUD's denial, the Indian tribe or TDHE may request reconsideration of HUD's denial in writing. The request shall set forth justification for reconsideration. Within 20 calendar days of receiving the request, HUD shall reconsider the Indian tribe or TDHE's submission and either affirm or reverse its initial decision in writing, setting forth HUD's reasons for the decision.

If the Indian tribe or TDHE prevails, an adjustment to the Indian tribe's or TDHE's subsequent allocation for the subsequent year shall be made retroactive to include only the disputed fiscal year(s). If HUD prevails, it shall issue a written decision denying the Indian tribe or TDHE's petition for reconsideration, which shall constitute final agency action.

In the event HUD questions that the data contained in the formula does not accurately represent the Indian tribe's need, HUD shall request the Indian tribe to submit supporting documentation to justify the data and provide a commitment to serve the population indicated in the geographic area.

M. Review of IHBG Formula Within Five Years

Section 1000.306 provides that the IHBG Formula shall be reviewed within five years after promulgation to determine whether changes are required. The Committee has agreed to interpret this provision to mean that the IHBG Formula regulations will again be reviewed within five years following the effective date of the final rule implementing this proposed rule. For purposes of clarity, and consistent with this consensus decision, the proposed rule would revise § 1000.306 to state that the IHBG Formula regulations will be reviewed within five years following the effective date of the final rule.

IV. Nonconsensus Items; Other Issues for Consideration

In addition to the proposed regulatory changes described above, the Committee considered other issues that, although not resulting in proposed revisions to the IHBG Formula, it wishes to bring to the attention of the public. The Committee considered a variety of proposals for suggested changes during the course of the negotiations for which consensus was not achieved.

In some cases, the Committee considered possible changes for which

no draft regulatory language was developed and, therefore, consensus could not be reached. These proposals included: (1) The revised weighting of the Need component to better reflect the need of low-income families; (2) the inclusion of separate variables under the Need component to reflect overcrowding and lack of plumbing (which are currently reflected by a single formula variable under the Need component); (3) retaining the Current Assisted Stock portion of the IHBG Formula without change; (4) revising the determination of Total Development Cost; and (5) reviewing the eligibility of state-recognized Indian tribes to receive funding under NAHASDA.

The Committee also considered six draft rule changes upon which consensus could not be reached. The following discussion summarizes these proposals.

A. Definition of Formula Median Income

The Committee considered removing the definition of ''formula median income'' used in calculating the Need component of the IHBG Formula and, in its place, using the definition of ''median income'' provided under section 4 of NAHASDA. Under the NAHASDA definition, median income equals the greater of the median income for the Indian area as determined by the Secretary of HUD, or the median income for the United States. The IHBG Formula regulations use the term ''formula median income,'' which is determined in accordance with section 567 of the Housing and Community Development Act of 1987 (42 U.S.C. 1437a note). Section 567 provides that median income is the higher of the median income of the county in which the area is located or the median income of the entire nonmetropolitan area of the state.

The Committee members advocating this change took the position that the formula allocation should be based in part on the statutory definition of median income contained in NAHASDA. These Committee members expressed concern that the regulatory definition unfairly results in some Indian tribes not receiving IHBG funding for low-income Indian families who must be served by the Indian tribe. Other Committee members, however, noted that the revision would result in a shift in funding and authorize the use of a national income standard not reflective of local conditions.

There was one objection to the proposed removal of formula median income. Later, at the conclusion of negotiations of all issues, but prior to adjournment of the Committee session, the member disagreeing with the change offered to withdraw the objection if the Committee wished to revisit the item. There were 10 objections to revisiting the proposal and, therefore, consensus was not reached on this change.

B. Elimination of Section 8 Inflation Adjustment Factor in Calculating FCAS

Under § 1000.316, the FCAS component considers the number of Section 8 units operated by the Indian tribe as of September 30, 1997, multiplied by the FY1996 national per unit subsidy adjusted for inflation. The Committee considered various proposals to remove the inflation adjustment factor for Section 8 units. One proposal would have simply removed the inflation factor. A compromise proposal offered by the same Committee member would also have removed the inflation factor, but provided that the number of Section 8 units would be adjusted by the FY2003 national per unit subsidy. The Committee members advocating this change stated that the adjustment factor results in the diversion of scarce IHBG funds and encourages the retention of Section 8 units at the expense of other affordable housing activities. Other Committee members stated that the Section 8 units were a valuable housing resource in their communities, and that the inflation factor was necessary to ensure that families could continue to afford residing in these units.

There were seven objections to the proposed removal of the Section 8 inflation factor in the calculation of FCAS and, therefore, consensus was not reached.

C. Definition of Substantial Noncompliance

Section 1000.534 of the IHBG Program regulations describes those tribal actions that constitute substantial noncompliance with IHBG Program requirements. As explained in § 1000.538, HUD may take certain actions against an Indian tribe that has failed to comply substantially with the IHBG Program requirements, but only after reasonable notice and opportunity for a hearing conducted in accordance with 24 CFR part 24. The Committee considered expanding the actions deemed to constitute substantial noncompliance and, therefore, entitle the Indian tribe to a formal hearing prior to any reduction or adjustment of its IHBG grant. Specifically, the Committee considered proposed language providing that an Indian tribe is entitled to a formal hearing if HUD takes any action or makes any determination that would reduce, withdraw, or adjust an Indian tribe's grant by an amount of at least $50,000 or 20 percent of the Indian tribe's grant for the fiscal year.

The Committee members advocating this change stated that HUD determinations that might result in a reduction of the Indian tribe's grant in an amount exceeding the proposed thresholds should, in the interest of fairness, be considered ''substantial'' and entitle the Indian tribe with the opportunity to a hearing. A Committee member noted that the current procedures are fair and work effectively to safeguard the interests of Indian tribes and the federal government for all Indian tribes. This member also expressed concerns that the proposed regulatory change would result in a large increase in hearing requests, thereby creating undue administrative burden and delaying formula calculations.

There were two objections to the proposed expansion of substantial noncompliance and therefore consensus was not reached on this proposal.

D. Replacement of Allowable Expense Level (AEL)

The IHBG Formula currently uses an adjustment factor known as the Allowable Expense Level (AEL), which serves as a substitute measurement of geographic and other differences in the monthly per-unit operating costs incurred by an Indian tribe to operate Current Assisted Stock. The individual AEL determinations for each Indian tribe vary, sometimes greatly, across the country. Pursuant to § 1000.320, either the relative difference between local area AEL and the national weighted average for AEL, or the fair market rent factor, is used to allocate operating subsidies among Indian tribes under the CAS component of the IHBG Formula. The use of the AEL and the existing AEL levels are a carry-over from the Performance Funding System under which HUD, prior to enactment of NAHASDA, provided operating subsidy to IHAs. The fair market rent factors have a challenge or appeal process, but there is no such right or procedure for the AELs.

Some members of the Committee expressed dissatisfaction with the AEL, stating that it is not reflective of the true costs of operating affordable housing units and that individual AEL levels were often inaccurately calculated. Some other Committee members felt that generally use of the AEL is an acceptable method for allocating IHBG operating funds among the Indian tribes but that individual AEL determinations should be subject to challenge by

individual Indian tribes. The Committee considered a consensus proposal to retain the AEL but also permit individual tribal challenges to AEL determinations. However, other Committee members noted that the revision would result in a shift in funding. There were seven objections to the proposal, resulting in nonconsensus. Accordingly, this rule does not propose any changes to the AEL.

During Committee deliberations, several members, including HUD, expressed a desire to replace the AEL with a more current, accurate, asset-based measure of the costs to operate well-run housing in tribal areas. It was acknowledged, moreover, that at this time the data and methodologies necessary to implement such a system have not been developed. HUD has begun to undertake a comprehensive study of well-run tribal housing. HUD will consult with, and seek the active participation of, Indian tribes, TDHEs, and other Native American and Alaska Native organizations in the development and implementation of the cost study. HUD advised the Committee that it will make its best efforts to develop an acceptable replacement for the AEL no later than the next five-year review of the IHBG Formula under § 1000.306, consistent with any applicable negotiated rulemaking requirements.

E. Alternative Data Sources

Section 1000.330 provides that the data sources for the Need component shall be available data that is collected in a uniform manner that can be confirmed and verified for all AIAN households. Section 1000.330 further provides that initially the data used will be U.S. Census data.

Several Committee members expressed concerns about the use of U.S. Census Data, stating that it does not accurately reflect the population of tribal areas. These members proposed a regulatory change that would have permitted an Indian tribe to elect the use of other data sources in calculation of its Need component. These data sources would have included a tribal census, Indian Health Service data, and tribal enrollment data. Other Committee members, while acknowledging imperfections in the census data, stated that the U.S. Census is the only data source that satisfies the criteria contained in § 1000.330, which requires that the data be verifiable for all Indian tribes and collected in a uniform manner. These members were also concerned that opening formula calculations to a variety of data sources, rather than a single source agreed upon by all Indian tribes, would jeopardize the speed, accuracy, and fairness of IHBG Formula determinations.

There were nine objections to the use of alternative data sources other than the U.S. Census and, therefore, consensus was not reached on the proposal.

F. Use of Multi-Race U.S. Census Data

In calculating the Need component, pursuant to § 1000.330, HUD uses U.S. Census population data. When § 1000.330 was adopted by the original negotiated rulemaking committee, the U.S. Census population data at that time reflected only those persons who identified solely as AIAN. However, the 2000 U.S. Census reported for the first time both those persons who identify themselves solely as AIAN and those who also identify with another race. HUD's current calculation of the Need component incorporates all persons who identify as AIAN, without regard to whether they also identify as another race. Proponents of using this data stated that the use of single-race data reflects the best available information and would exclude some persons who identified as multi-race and are eligible to be served under NAHASDA. These members stressed the importance of allowing tribal members, as determined by individual tribal membership criteria, to be counted and served. Other Committee members, however, expressed objections to the use of this multi-race data, stating that the purpose of NAHASDA to assist Native Americans would be better served by limiting the population data to those persons designating themselves as being solely AIAN. These Committee members expressed concern that HUD, not the individual Indian tribes, had determined whether to use multi-race data in the calculation of the Need component. The Committee considered a compromise proposal that would have provided for the calculation of the Need component based on the average of the number of individuals designating themselves solely as AIAN and the number of persons also designating themselves as belonging to other racial categories. There were ten objections to the proposal and consensus was not reached to amend HUD's current practice to use multi-race AIAN data for formula purposes.

G. Calculation of the Need Component Housing Shortage Variable

Section 1000.324(c) provides that in calculating the Need component housing shortage variable, HUD shall consider, among other factors, the number of ''units developed under NAHASDA.'' There is currently no regulatory provision defining which units are considered to have been developed under NAHASDA. Accordingly, HUD has not taken these ''NAHASDA units'' into account when calculating the housing shortage variable.

The Committee attempted unsuccessfully to develop a definition of NAHASDA units. The Committee then considered a proposal to remove the reference to these units from § 1000.324(c). The members advocating the proposal indicated that the change was necessary for purposes of clarity. Other Committee members, however, noted that a definition could be established at a later date, and that Indian tribes should be afforded the opportunity to develop, and receive funding for, NAHASDA units. There were five objections to the proposed removal of the reference to NAHASDA units and, therefore, consensus was not reached on this issue.

V. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant action, as provided under section 3(f)(1) of the Order). Any changes made to the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the Regulations Division, Room 10276, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

The burden of the information collections in this proposed rule is estimated as follows:

Reporting and Recordkeeping Burden:

Section reference	Number of parties	Number of responses per respondent	Estimated average time for requirement (in hours)	Estimated annual burden (in hours)
§ 1000.315	579	1	.60	347
§ 1000.336	15	1	170	2,550
Total burden				2,897

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this rule. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after today's publication date. Therefore, a comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of today's publication. This time frame does not affect the deadline for comments to the agency on the interim rule, however. Comments must refer to the proposal by name and docket number (FR–4676) and must be sent to:

Mark Menchik, HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Fax number: (202) 395–6947, E-mail: *Mark_D._Menchik@omb.eop.gov*; and

Sherry Fobear-McKown, Reports Liaison Officer, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4116, Washington, DC 20410–5000.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would not impose substantive new requirements on Indian tribes. Rather, the proposed rule addresses those areas of the IHBG Formula that HUD and Indian tribal representatives determined require clarification, are outdated, or are not operating as intended. Moreover, HUD negotiated the amendments contained in this proposed rule with representatives of Indian tribes, and the proposed rule reflects the consensus decisions reached by HUD and its tribal negotiating partners on the best way to address the required changes to the IHBG Formula. The potential burden of the proposed regulatory changes on Indian tribes were considered and addressed as part of the negotiated rulemaking process. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule does not impose any Federal mandate on State, local, or tribal government or the private sector within the meaning of UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the IHBG Program is 14.867.

List of Subjects in 24 CFR Parts 1000

Aged, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

Accordingly, for reasons discussed above, HUD proposes to amend 24 CFR part 1000 as follows:

PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES

1. The authority citation for 24 CFR part 1000 continues to read as follows:

Authority: 25 U.S.C. 4101 *et seq.*; 42 U.S.C. 3535(d).

2. In § 1000.302, revise the definition of ''*Formula Area*'' and add, in alphabetical order, definitions of the terms ''*National Per Unit Subsidy*'' *and* ''*Substantial Housing Services*'' to read as follows:

§ 1000.302 What are the definitions applicable to the IHBG formula?

* * * * *

Formula area. (1) Formula areas are:

(i) Reservations for federally recognized Indian tribes, as defined by the U.S. Census;

(ii) Trust lands;

(iii) Department of the Interior Near-Reservation Service Area;

(iv) Former Indian Reservation Areas in Oklahoma Indian Areas, as defined by the U.S. Census as Oklahoma Tribal Statistical Areas (OTSAs);

(v) Congressionally Mandated Service Areas;

(vi) State Tribal Areas as defined by the U.S. Census as State Designated American Indian Statistical Areas (SDAISAs);

(vii) Tribal Designated Statistical Areas (TDSAs);

(viii) California Tribal Jurisdictional Areas established or reestablished by Federal court judgment; and

(ix) Alaska formula areas described in paragraph (4) of this definition.

(2)(i) For a geographic area not identified in paragraph (1) of this definition, and for expansion or re-definition of a geographic area from the prior year, including those identified in paragraph (1) of this definition, the Indian tribe must submit, on a form agreed to by HUD, information about the geographic area it wishes to include in its Formula Area, including proof that the Indian tribe, where applicable, has agreed to provide housing services pursuant to a Memorandum of Agreement (MOA) with the tribal and public governing entity or entities of the area, or has attempted to establish such an MOA; and either:

(A) Could exercise court jurisdiction, or

(B) Is providing substantial housing services and will continue to expend or obligate funds for substantial housing services as reflected in the form agreed to by HUD for this purpose.

(ii) Upon receiving a request for recognition of a geographic area not identified in paragraph (1) of this definition, HUD shall make a preliminary determination. HUD shall notify all potentially affected Indian tribes of the basis for its preliminary determination by certified mail and provide the Indian tribes with the opportunity to comment for a period of not less than 90 days. After consideration of the comments, HUD shall announce its final determination through **Federal Register** notice.

(iii) No Indian tribe may expand or redefine its Formula Area without complying with the requirements of paragraphs (2)(i) and (ii) of this definition, notwithstanding any changes recognized by the U.S. Census Bureau.

(iv) The geographic area into which an Indian tribe may expand under this paragraph (2) shall be the smallest U.S. Census unit or units encompassing the physical location where substantial housing services have been provided by the Indian tribe.

(3) Subject to a challenge by an Indian tribe with a Formula Area described under paragraph (1)(iv) of this definition, any federally recognized Indian tribe assigned Formula Area geography in Fiscal Year 2003 not identified in paragraphs (1) and (2) of this definition, shall continue to be assigned such Formula Area in subsequent fiscal years, provided that the Indian tribe continues to provide an appropriate level of housing services within the Formula Area as monitored by HUD using the definition of substantial housing services contained in this section as a guideline but not a requirement.

(4) Notwithstanding paragraphs (1), (2), and (3) of this definition, Alaska needs data shall be credited as set forth in § 1000.327 to the Alaska Native Village (ANV), the regional Indian tribe, or to the regional corporation established pursuant to the Alaska Native Claims Settlement Act (33 U.S.C. 1601 *et seq.*) (ANCSA). For purposes of § 1000.327 and this definition:

(i) The formula area of the ANV shall be the geographic area of the village or that area delineated by the TDSA established for the ANV for purposes of the 1990 U.S. Census or the Alaska Native Village Statistical Area (ANVSA) established for the ANV. To the extent the area encompassed by such designation may substantially exceed the actual geographic area of the village, such designation is subject to challenge pursuant to § 1000.336. If the ANVSA or the TDSA is determined pursuant to such challenge to substantially exceed the actual area of the village, then the geographic formula area of the ANV for purposes of § 1000.327 shall be such U.S. Census designation as most closely approximates the actual geographic area of the village.

(ii) The geographic formula area of the regional corporation shall be the area established for the corporation by the ANCSA.

(iii) An Indian tribe may seek to expand its Alaska formula area within its ANCSA region pursuant to the procedures set out in paragraph (2) of this definition. Formula Area added in this way shall be treated as overlapping pursuant to § 1000.326 unless the Indian tribe's members in the expanded area is less than 50 percent of the AIAN population. In cases where the Indian tribe is not treated as overlapping, the Indian tribe shall be credited with population and housing data only for its own tribal member residents within the new or added area. All other population and housing data for the area shall remain with the Indian tribe or tribes previously credited with such data.

(5) In some cases the population data for an Indian tribe within its Formula Area is greater than its tribal enrollment. In general, to maintain fairness for all Indian tribes, the tribe's population data will not be allowed to exceed twice an Indian tribe's enrolled population. However, an Indian tribe subject to this cap may receive an allocation based on more than twice its total enrollment if it can show that it is providing housing assistance to substantially more non-member Indians and Alaska Natives who are members of another federally recognized Indian tribe than it is to members. For state-recognized Indian tribes, the population data and formula allocation shall be limited to their tribal enrollment figures as determined under enrollment criteria in effect in 1996.

(6) In cases where an Indian tribe is seeking to receive an allocation more than twice its total enrollment, the tribal enrollment multiplier will be determined by the total number of Indians and Alaska Natives to which the Indian tribe is providing housing assistance (on July 30 of the year before funding is sought) divided by the number of members to which the Indian tribe is providing housing assistance. For example, an Indian tribe which provides housing to 300 Indians and Alaska Natives, of which 100 are members, the Indian tribe would then be able to receive an allocation for up to three times its tribal enrollment if the Indian and Alaska Native population in the area is three or more times the tribal enrollment.

* * * * *

National per unit subsidy is the Fiscal Year 1996 national per unit subsidy (adjusted to full funding level) multiplied by an adjustment factor for inflation.

* * * * *

Substantial housing services are:

(1) Affordable housing activities funded from any source provided to AIAN households with incomes 80 percent of the median income as defined in NAHASDA (25 U.S.C. 4103 (14)) or lower, equivalent to 100 percent or more of the increase in the IHBG formula allocation that the Indian tribe would receive as a result of adding the proposed geography; or

(2) Affordable housing activities funded with IHBG funds provided to AIAN households with incomes 80 percent of the median income as defined in NAHASDA (25 U.S.C. 4104(14)) or lower, equivalent to 51 percent or more of the Indian tribe's current total IHBG grant; and either:

(i) Fifty-one percent or more of the Indian tribe's official enrollment resides within the geographic area; or

(ii) The Indian tribe's official enrollment constitutes 51 percent or more of the total AIAN persons within the geography.

(3) HUD shall require that the Indian tribe annually provide written

verification, on a form approved by HUD, that the affordable housing activities it is providing meet the definition of substantial housing services.

* * * * *

3. Revise § 1000.306(b) to read as follows:

§ 1000.306 How can the IHBG Formula be modified?

* * * * *

(b) The IHBG Formula shall be reviewed not later than [date that is five years from the effective date of final rule] to determine if subsidy is needed to operate and maintain NAHASDA units or any other changes are needed in respect to funding under the Formula Current Assisted Stock component of the formula.

* * * * *

4. Add § 1000.315 to read as follows:

§ 1000.315 Is a recipient required to report changes to the Formula Current Assisted Stock (FCAS) on the Formula Response Form?

(a) A recipient shall report changes to information related to the IHBG formula on the Formula Response Form, including corrections to the number of Formula Current Assisted Stock (FCAS), during the time period required by HUD. This time period shall be not less than 60 days from the date of the HUD letter transmitting the form to the recipient.

(b) The Formula Response Form is the only mechanism that a recipient shall use to report changes to number of FCAS.

5. In § 1000.316, revise paragraph (a)(1) and paragraph (b) to read as follows:

§ 1000.316 How is the Formula Current Assisted Stock (FCAS) Component developed?

* * * * *

(a) * * *

(1) The number of low-rent FCAS units multiplied by the national per-unit subsidy;

* * * * *

(b) *Modernization allocation.* (1) For Indian tribes with an Indian Housing Authority that owned or operated 250 or more public housing units on October 1, 1997, the modernization allocation equals the number of Low Rent, Mutual Help, and Turnkey III FCAS units multiplied by the national per unit amount of allocation for FY1996 modernization multiplied by an adjustment factor for inflation.

(2) For Indian tribes with an Indian Housing Authority that owned or operated fewer than 250 public housing units on October 1, 1997, the modernization allocation equals the average amount of funds received under the assistance program authorized by section 14 of the 1937 Act (not including funds provided as emergency assistance) for fiscal years 1992 through1997.

6. Add § 1000.319 to read as follows:

§ 1000.319 What would happen if a recipient misreports or fails to correct Formula Current Assisted Stock (FCAS) information on the Formula Response Form?

(a) A recipient is responsible for verifying and reporting changes to their Formula Current Assisted Stock (FCAS) on the Formula Response Form to ensure that data used for the IHBG Formula are accurate (*see* § 1000.315). Reporting shall be completed in accordance with requirements in this subpart D and the Formula Response Form.

(b) If a recipient receives an overpayment of funds because it failed to report such changes on the Formula Response Form in a timely manner, the recipient shall be required to repay the funds within five fiscal years. HUD shall subsequently distribute the funds to all Indian tribes in accordance with the next IHBG Formula allocation.

(c) A recipient will not be provided back funding for any units that the recipient failed to report on the Formula Response Form in a timely manner.

(d) HUD shall have three years from the date a Formula Response Form is sent out to take action against any recipient that fails to correct or make appropriate changes on that Formula Response Form. Review of FCAS will be accomplished by HUD as a component of A–133 audits, routine monitoring, FCAS target monitoring or other reviews.

7. Revise § 1000.326(b) to read as follows:

§ 1000.326 What if a formula area is served by more than one Indian tribe?

* * * * *

(b) Tribal membership in the geographic area (not to include dually enrolled tribal members) will be based on data that all Indian tribes involved agree to use. Suggested data sources include tribal enrollment lists, the U.S. Census, Indian Health Service User Data, and Bureau of Indian Affairs data.

* * * * *

8. Revise § 1000.328 to read as follows:

§ 1000.328 What is the minimum amount that an Indian tribe may receive under the need component of the formula?

(a) Subject to the eligibility criteria described in paragraph (b) of this section, the minimum allocation in any fiscal year to an Indian tribe under the need component of the IHBG Formula shall equal 0.007826% of the available appropriations for that fiscal year after set asides.

(b) To be eligible for the minimum allocation described in paragraph (a) of this section, an Indian tribe must:

(1) Receive less than $200,000 under the FCAS component of the IHBG Formula for the fiscal year; and

(2) Demonstrate the presence of any households at or below 80 percent of median income.

9. In § 1000.330, designate the existing text as paragraph (a) and add new paragraphs (b) and (c) to read as follows:

§ 1000.330 What are the data sources for the need variable?

* * * * *

(b) The data for the need variables shall be adjusted annually beginning the year after the need data is collected, using Indian Health Service projections based upon birth and death rate data as provided by the National Center for Health Statistics.

(c) Indian tribes may challenge the data described in paragraphs (a) and (b) of this section pursuant to § 1000.336.

10. Revise § 1000.336 to read as follows:

§ 1000.336 How may an Indian tribe, TDHE, or HUD challenge data or appeal HUD formula determinations?

(a) An Indian tribe, TDHE, or HUD may challenge data used in the IHBG Formula and HUD formula determinations regarding:

(1) U.S. Census data;

(2) Tribal enrollment;

(3) Formula area

(4) Formula Current Assisted Stock (FCAS);

(5) Total Development Cost (TDC);

(6) Fair Market Rents (FMRs); and

(7) Indian Health Service projections based upon birth and death rate data provided by the National Center for Health Statistics.

(b) An Indian tribe or TDHE may not challenge data or HUD formula determinations regarding Allowable Expense Level (AEL) and the inflation factor.

(c) The challenge and the collection of data and the appeal of HUD formula determinations is an allowable cost for IHBG funds.

(d) An Indian tribe or TDHE that: seeks to appeal data or a HUD formula

determination, and has data in its possession that are acceptable to HUD, may submit the data and proper documentation to HUD. Data used to challenge data contained in the U.S. Census must meet the requirements described in § 1000.330(a). Further, in order for a census challenge to be considered for the upcoming fiscal year allocation, documentation must be submitted by March 30th.

(e) HUD shall respond to all challenges or appeals not later than 45 days after receipt and either approve or deny the validity of such data or challenge to a HUD formula determination in writing, setting forth the reasons for its decision. Pursuant to HUD's action, the following shall apply:

(1) In the event HUD challenges the validity of the submitted data, the Indian tribe or TDHE and HUD shall attempt in good faith to resolve any discrepancies so that such data may be included in the formula allocation.

(2) Should the Indian tribe or TDHE and HUD be unable to resolve any discrepancy within 30 calendar days of receipt of HUD's denial, the Indian tribe or TDHE may request reconsideration of HUD's denial in writing. The request shall set forth justification for reconsideration.

(3) Within 20 calendar days of receiving the request, HUD shall reconsider the Indian tribe or TDHE's submission and either affirm or reverse its initial decision in writing, setting forth HUD's reasons for the decision.

(4) Pursuant to resolution of the dispute:

(i) If the Indian tribe or TDHE prevails, an adjustment to the Indian tribe's or TDHE's subsequent allocation for the subsequent year shall be made retroactive to include only the disputed fiscal year(s); or

(ii) If HUD prevails, it shall issue a written decision denying the Indian tribe or TDHE's petition for reconsideration, which shall constitute final agency action.

(f) In the event HUD questions that the data contained in the formula does not accurately represent the Indian tribe's need, HUD shall request the Indian tribe to submit supporting documentation to justify the data and provide a commitment to serve the population indicated in the geographic area.

11. Revise § 1000.340 to read as follows:

§ 1000.340 What if an Indian tribe is allocated less funding under the IHBG Formula than it received in Fiscal Year 1996 for operating subsidy and modernization?

(a) If an Indian tribe is allocated less funding under the modernization allocation of the formula pursuant to § 1000.316(b)(2) than the calculation of the number of Low Rent, Mutual Help, and Turnkey III FCAS units multiplied by the national per unit amount of allocation for Fiscal Year 1996 modernization multiplied by an adjustment factor for inflation, the Indian tribe's modernization allocation is calculated under § 1000.316(b)(1). The remaining grants are adjusted to keep the allocation within available appropriations.

(b) If an Indian tribe is allocated less funding under the formula than an IHA received on its behalf in Fiscal Year 1996 for operating subsidy and modernization, its grant is increased to the amount received in Fiscal Year 1996 for operating subsidy and modernization. The remaining grants are adjusted to keep the allocation within available appropriations.

Dated: January 28, 2005.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

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